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KASHMIR PAPERS

REPORTS OF THE
UNITED NATIONS COMMISSION
FOR INDIA AND PAKISTAN

(June 1948 to December 1949)

MINISTRY OF EXTERNAL AFFAIRS
GOVERNMENT OF INDIA
NEW DELHI

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PART - I

FIRST INTERIM REPORT

INTERIM REPORT OF THE UNITED NATIONS COMMISSION FOR
INDIA AND PAKISTAN

Sir,

We have the honour to present herewith the Interim Report of the United Nations Commission for India and Pakistan covering the period of the Commission's activities from the date of its first meeting in Geneva on 15th June 1948 to the date of its departure from the Indian Sub-continent on 22nd September 1948.

The Interim Report was adopted by the Commission unanimously at its eighty-second meeting held in Paris on 9 November 1948, and is signed by the representatives.

Please accept the assurance of our highest consideration.

(Sd.) EGBERT GRAEFFE, *Chairman.*

(Sd.) ALFREDO LOZANO.

The President of the Security Council.

A. PURPOSE OF THE REPORT

1. The Commission submits this INTERIM REPORT in pursuance of the Security Council's resolutions of 20 January, 21 April and 8 June 1948, instructing it to keep the Security Council informed on matters concerning the situation in the State of Jammu and Kashmir and on actions taken under the resolutions.

2. In accordance with the instructions contained in the resolution of 21 April, the Commission proceeded to the Indian Sub-continent and placed its good offices and mediation at the disposal of the Governments of India and Pakistan. However, the situation that confronted the Commission upon its arrival was different from that which had been envisaged by the Security Council during the deliberations which preceded the formulation of its resolutions, inasmuch as regular Pakistan troops were within the frontiers of the State of Jammu and Kashmir participating in the fighting.

3. This new element necessarily influenced the approach of the Commission with regard to the implementation of the Security Council's resolution of 21 April. Agreement between the Governments of India and Pakistan on the terms for cessation of hostilities became the first prerequisite for the ultimate settlement.

4. After thorough consultations with the Governments concerned, and consideration of the military aspects of the problem as explained by the High Commands of the Indian and Pakistan Armies, the Commission submitted its Resolution of 13 August 1948, for a cease-fire and truce agreement, through which it sought to achieve this immediate objective, linking it at the same time with the study of conditions for a peaceful and final settlement of the dispute between the two Dominions.

5. The Commission furnished both Governments with detailed written and oral elucidations regarding all points of its proposals upon which clarification was requested. The Government of India signified their acceptance of the Resolution as a whole. The Government of Pakistan attached to their acceptance certain conditions which went beyond the compass of the Resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations to bring about a peaceful and final settlement in the State of Jammu and Kashmir.

6. The text of the Resolution and the related correspondence with India and Pakistan were released to the press in order that the public might have a complete picture of the aims and purposes of the Resolution as interpreted by the Commission to both Governments.

7. The Commission, having no enforcement measures at its disposal and being an organ of good offices and mediation, felt that it had temporarily exhausted the possibilities of further negotiations in the Sub-continent. Consequently, the Commission decided that it should prepare an INTERIM REPORT informing the Security Council of its endeavours to the date of departure from the Sub-continent and the circumstances which determined its actions.

B. STRUCTURE, SCOPE AND COMPETENCE OF THE COMMISSION

8. The genesis of the Commission is composed of two main stages: the resolution of 20 January which created a Commission of mediation and led to the resolution of 21 April, which, in turn, explicitly formed the Com-

mission and gave it terms of reference. Its structure, scope and competence are derived as follows:

1. Resolution of 20 January 1948

9. By the resolution of 20 January 1948 (doc. S/654, Annex 1), the Security Council established a Commission composed of three members, one to be selected by India, the second by Pakistan, and the third to be designated by the two members so selected. The resolution instructed the Commission to proceed to the Sub-continent as quickly as possible, to act under the authority of the Security Council, and, in accordance with its directions, to keep the Security Council currently informed of its activities and of developments of the situation; and, to report to the Security Council regularly, submitting its conclusions and proposals.

10. The resolution invested the Commission with a dual function (1) to investigate the facts pursuant to Article 34 of the Charter; (2) to exercise any mediatory influence likely to smooth away difficulties, carry out the directions of the Security Council, and to report how far the advice and direction of the Security Council had been implemented.

11. It empowered the Commission to perform these functions in regard to: (1) the situation in the State of Jammu and Kashmir; and (2) other situations when the Security Council would so direct.

12. The Council instructed the Commission to take its decisions by a majority vote and to determine its own procedure. It authorized the Commission to journey separately or together wherever the necessities of its tasks required, and directed the Secretary-General to furnish such personnel and assistance as it might consider necessary.

2. Resolution of 21 April 1948

13. Subsequent to the establishment of the Commission various drafts were submitted in the Security Council in an effort to arrive at a resolution the conditions of which would be acceptable to India and Pakistan. Both Governments, however, made reservations to certain parts of the draft resolution. On 21 April 1948 the Security Council adopted a revised draft resolution, presented jointly by Belgium, Canada, China, Colombia, United Kingdom and United States (doc. S/726, Annex 2). The objections regarding the implementation of the resolution which had been raised by India and Pakistan before the adoption were maintained and expressed thereafter. (doc. S/734/Corr. 1, 735, Annexes 3, 4).

14. In this resolution the Security Council enlarged the membership of the Commission to five. It recommended to the Governments of India and Pakistan measures which it considered appropriate to bring about a cessation of the fighting and to create proper conditions for a free and impartial plebiscite in order to decide whether the State of Jammu and Kashmir was to accede to India or Pakistan.

15. To assist the two Governments in carrying out the measures recommended, it instructed 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 cooperation with one another and with the Commission, and it further instructs the Commission to keep the Council informed of the action taken under the Resolution....."

16. The Security Council instructed the Commission to certify to the Council whether the plebiscite had or had not been free and impartial.

3. Resolution of 3 June 1948

17. By the resolution of 3 June the Security Council reaffirmed its resolutions of 17 and 20 January and 21 April. It directed the Commission to proceed without delay to the area under dispute with a view to accomplishing in priority the duties assigned to it by the resolution of 21 April 1948. (doc. S/819, Annex 5).

18. On 15 January 1948 the Minister of Foreign Affairs of the Government of Pakistan addressed a letter to the Secretary-General, attaching to it three documents, the first of which was the reply of the Government of Pakistan to the complaint raised by the Indian Government against Pakistan under Article 35 of the Charter of the United Nations. The second document stated other complaints of Pakistan against India (Jungadh and Manavadar, fulfilment of financial and military agreements, and genocide). It also requested the Security Council to adopt appropriate measures for the settlement of these disputes and for the restoration of friendly relations between the two countries. The third document gave particulars of the Pakistan case, referring to matters dealt with in the previous two documents. (doc. S/646, Annex 6).

19. The resolution of 3 June 1948 directed the Commission further to study and report to the Security Council when it considered appropriate on the matters raised in the aforesaid letter in the order outlined in paragraph D of the Security Council resolution dated 20 January 1948.

Composition of the Commission and Nomination of its members

20. In pursuance of the resolution of 20 January 1948, the Government of India selected Czechoslovakia to serve on the Commission. This was announced to the Security Council on 10 February by the President. On 21 April 1948, the Security Council enlarged the membership of the Commission from three to five. On 23 April two additional countries, Belgium and Colombia, were nominated as members of the Commission by the Security Council. On 7 May 1948 the President of the Security Council indicated that the Government of Pakistan had requested that Argentina designate a representative to serve on the Commission. On the same date, the President of the Security Council nominated the United States of America as the fifth member of the Commission.

Composition of Delegations

21. The delegations of the five countries which constitute the Commission are as follows:

1. Representatives

Argentina

Minister Ricardo J. Siri

Belgium

Minister Egbert Graeffe

Colombia

Minister Alfredo Lozano

Czechoslovakia

Ambassador Josef Korbel

United States

Ambassador J. Klahr Huddle

2. *Alternate Representatives*

Argentina

Minister Carlos A. Leguizamon

Belgium

Mr. Harry Graeffe

Colombia

Mr. Hernando Samper

United States

Mr. C. Hawley Oakes

8. *Advisers*

Mr. J. Wesley Adams, Jr.

Adviser to the Representative of the United States

Major Francis M. Smith (U.S.A.)

Adviser to the Representative of the United States

4. *Secretarial Staff*

Mr. William Goode

Secretary-Stenographer for the United States Delegation

Mr. Harrison Troop

Secretary-Stenographer for the United States Delegation

Secretariat

22. The Secretary-General of the United Nations, in compliance with the resolution of 20 January 1948 of the Security Council, designated the following personnel to assist the Commission in its task:

Personal Representative of the Secretary-General

Mr. Erik Colban, Norway.

Principal Secretary

Dr. Arnold V. Kunst, (Department of Trusteeship and Information from Non-Self-Governing Territories), Poland.

Deputy Principal Secretary

Dr. Henry S. Bloch (Department of Security Council Affairs), U.S.A.

Personal Adviser and Assistant to Mr. Colban

Mr. Richard Symonds, (Office of the Secretary-General—Temporary Assignment) United Kingdom.

Legal Adviser

Mr. Hsuan-Tsui Liu (Department of Legal Affairs), China.

Assistant Secretary

Mr. Mohammad Ali Aghassi, (Department of Security Council Affairs).
Iran.

Press Officer

Mr. William F. Clark, (Department of Public Information), U.S.A.

Interpreter and Documents Officer

Mr. Sylvain Lourie, (Department of Conference and General Services),
France.

Administrative and Financial Officer

Dr. Slavomir F. Brzak, (Department of Administrative and Financial Services), Czechoslovakia.

Assistant Secretary

Mr. Arthur Campbell, (Department of Security Council Affairs), Canada.

Photographer

Mr. Alfred Fox, (Department of Public Information), U.S.A.

Secretary-Stenographers

Miss Louise Crawford, (Department of Administrative & Financial Services), U.S.A.

Miss Marie Ellington, (Department of Security Council Affairs), U.S.A.

Miss Cecil J. Lefort, (Department of Security Council Affairs), Canada.

Mrs. Murial Hanna Lewis (Department of Security Council Affairs), U.S.A.

Miss Pauline Perron, (Department of Security Council Affairs), Canada.

C. ACTIVITIES OF THE COMMISSION

Groups and Subsidiary Bodies

23. In pursuance of its task the Commission established the following groups and subsidiary bodies:

24. (1) On 16 July 1948, a group composed of Dr. Lozano (Colombia), Vice-Chairman and Mr. J. Wesley Adams (United States), was sent to Karachi to engage in preliminary discussions with the Pakistan Government on the possibilities of a cease-fire agreement. The group returned to New Delhi and reported to the Commission on 19 July (docs. S/AC. 12/21. 22, Annexes 7, 8).

25. (2) On 14 August 1948, the Commission sitting in Karachi, divided in two groups in order to submit simultaneously the Commission's proposal of 13 August 1948 to the two Dominions. Dr. Lozano, Chairman, remained in Karachi with Mr. Siri (Argentina) and Mr. Oakes (United States) (docs. S/AC.12/40, /41, Annexes 9, 10). Mr. Korbelt, Vice-Chairman, (Czechoslovakia), proceeded to New Delhi accompanied by Mr. Huddle (United States), Mr. Graeffe (Belgium), Mr. Leguizamon (Argentine) and Mr. Samper (Colombia). (Docs. S/AC.12/45, 46, Annexes 11, 12). On 20 August, the group which had remained in Karachi rejoined the rest of the Commission in New Delhi.

26. (3) On 2 September 1948, the Commission sitting in Karachi, received a letter from the Prime Minister of India asking when the Resolution of 13 August and related documents could be made public. The reply to the Indian Government on 4 September, explained the situation and it was decided that Mr. E. Graeffe (Belgium) should go to Delhi and offer the required elucidations to the Government of India.

27. (4) On 10 September, the Commission decided to divide into two groups: one under the Chairmanship of Mr. Huddle (United States), accompanied by Major Smith, with Mr. Graeffe (Belgium) and his alternate, Mr. H. Graeffe, went to Rawalpindi to study the situation on the Western side of the front in Kashmir; the other group under the direction of the Vice-Chairman, Mr. Siri (Argentina) with Mr. Lozano (Colombia) and Mr.

Korbel (Czechoslovakia) proceeded to Srinagar. On 18 September the groups reunited in Srinagar.

28. (5) Under the Chairmanship of Dr. Lozano (Colombia) a Military Affairs Sub-Commission was created on 14 July. It drafted a military questionnaire to be presented to the Indian Government. In this connection a Mission consisting of Mr. Harry Graeffe (Belgium), Chairman and Major Smith (United States) was sent to report on the situation on the Eastern side of the front in Kashmir. Subsequently this Mission prepared a questionnaire which was presented to the Pakistan Military authorities. The Mission then visited and reported on the situation on the Western side of the front in Kashmir.

29. (6) An investigating sub-committee composed of Mr. C. Leguizamon, Chairman (Argentina), Mr. Harry Graeffe (Belgium), Mr. H. Sanper (Colombia) and Mr. J. Wesley Adams (United States) was sent to Srinagar on 31 August in order to study and report on the general background of the economic and political situation prevailing in the State of Jammu and Kashmir.

30. All these groups and subsidiary bodies were accompanied by members of the Secretariat.

D. PROCEEDINGS OF THE COMMISSION

31. The first formal meeting of the Commission was held in Geneva on 16 June. The representative of the United States was elected temporary Chairman pending the adoption of the Rules of Procedure. The Commission considered the letters of 9 June 1948 from the President of the Security Council to the Commission (doc. S/C.12/1/Corr.1, Annex 13) and to the Prime Minister of India (doc. S/AC.12/2 Annex 14) on the subject raised in a letter from the representative of India to the President of the Security Council dated 5 June 1948 (doc. S/825, Annex 15). The next three meetings were devoted to the discussion of Rules of Procedure which were approved at the fourth meeting on 18 June.

Rules of Procedure

32. The Commission agreed on the principle of rotation of Chairmanship. The Chairman would hold office for a period of three weeks and would be succeeded by the Vice-Chairman. The Chairmanship to be assumed by the delegation first in the English alphabetic order. The election of the Rapporteur was postponed until a later date.

33. It was agreed that decisions in the Commission should be taken by a majority of not less than three concurring votes of members present and voting.

34. It was also agreed that the official press communiqués should be previously approved by the Chairman and that press releases and verbal briefings might be issued by the Secretariat unless decided otherwise by the Chairman. (docs. S/AC.12/4/Rev.1, Annex 16).

Proceedings in Geneva

35. Altogether eleven formal meetings were held in Geneva, five of which were mainly devoted to correspondence with the Governments of India and Pakistan regarding the purposes and plans of the Commission.

36. The Commission sent on 22 June to the Prime Minister of India an answer (doc. S/AC.12/10, Annex. 17) to his questions regarding the point or points on which it wished to confer (See Annex 15). This elicited further questions from the Government of India (document S/AC.12/13,

Annex 18), to which reply was made on 1 July. The Commission felt that it should phrase its reply to the Prime Minister in terms as general as possible in order to avoid any controversy which might jeopardize its departure for the sub-continent. After considering the different aspects involved in the communication of the Prime Minister, the Commission decided that it would be unwise to commit itself in advance on the scope of its investigations but that, on the other hand, there should be no doubt as to its objectives and competence. In the reply it was clearly stated that, while having as its principal task the situation in the State of Jammu and Kashmir, the Commission had reserved its decision with regard to further dispositions (doc. S/AC.12/16, Annex 19).

37. Both Governments were informed of the procedure the Commission intended to follow in initiating its work and were invited to appoint liaison officers.

38. A decision was taken regarding the name to be adopted by the Commission. Various terms had been used both in official correspondence and in resolutions of the Security Council as well as in the letters of credence of the delegations. The use of "Commission of Mediation.....", "Commission of Good Offices.....", "Kashmir Commission....." and "Commission on the India and Pakistan Question....." was considered. In the light of the terms of reference and particularly of the resolution of 3 June which instructed the Commission "to proceed without delay to the areas of dispute with a view to accomplish in priority the duties assigned to it by the resolution of 21 April", i.e., the dispute over the State of Jammu and Kashmir; and, second, "to study and report when it considers appropriate on the matters raised in the letter of the Pakistan Foreign Minister", it was thought preferable to adopt a name which, although less precise, would cover the entire field of its work. A motion therefore was approved in favour of the name of "UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN".

39. The remainder of the time in Geneva was occupied with administrative arrangements for travelling to the India Sub-continent. It was decided that the Commission, while on the Sub-continent, should take up its duties both in Delhi and Karachi with the first formal sessions in Delhi. It was also agreed that a brief stop should be made in Karachi to enable the Commission to pay its respects to the Government of Pakistan. An advance party, consisting of two members of the Secretariat, was despatched on 25 June to arrange accommodations and office facilities in Karachi and Delhi.

Proceedings on the Sub-continent

40. The Commission stopped in Karachi from 7 to 9 July. The Principal Representatives were received informally by the Minister for Foreign Affairs and Commonwealth Relations, Sir Mohammad Zafrullah Khan. He reviewed at length and along the lines of the expositions made before the Security Council, the general background of the problem and the broader issues involved in the dispute between India and Pakistan. In the course of this interview the Foreign Minister informed the members of the Commission that the Pakistan Army had at the time three brigades of regular troops in Kashmir, and that troops had been sent into the State during the first half of May. Sir Mohammad Zafrullah stated that this action had been taken as a result of the spring offensive by the Indian Army.

41. Also while in Karachi a letter was received from the "Azad Kashmir Government" setting forth their views in regard to the conditions with which they would be willing to comply in the implementation of a

plebiscite, inviting the Commission to visit Azad Kashmir, and requesting that they be given an opportunity to present their case as a party to any settlement in the situation. (doc. S/AC.12/Info.3, Annex 20).

42. At the twelfth meeting held in Delhi on Tuesday, 13 July, it was agreed that the Commission's work would be facilitated if its formal proceedings were not public and were supplemented by individual conversations in private with representatives of the parties concerned.

43. The same day, in the afternoon, the Indian representatives, Sir Girja Shanker Bajpai, Secretary-General of the External Affairs Ministry, and Mr. M. K. Vellodi, Liaison Officer to the Commission, attended the thirteenth meeting. Sir Girja Shankar Bajpai briefly set forth the views of the Government of India and stated that irrespective of the differences between India and the Security Council, the presence of the Commission was highly regarded by his Government. He also clarified the reasons, given in the Security Council, for the despatch of Indian troops to Kashmir (doc. S/AC.12/Info.2, Annex 21).

44. From the time of their arrival in Delhi, and throughout their stay there, all the representatives on the Commission had frequent personal discussions with members of the Indian Cabinet and responsible officials concerning the possibilities which might be examined.

45. At the fourteenth meeting, it was agreed that the question of an immediate cease-fire should be explored and that the Government of India should be asked for their observations regarding the ways and means by which such a cease-fire might be brought about.

46. A resolution (doc. S/AC.12/17, Annex 22) in the spirit of the Security Council's resolution of 17 January, and designed to enlist the cooperation of the two Governments in promoting a suitable atmosphere for cessation of hostilities, was passed at the fifteenth meeting. It was conveyed to the representatives of India, who were present during the latter part of the meeting, and despatched to the Government of Pakistan through the High Commissioner in Delhi. Reassuring replies were received from both Governments (doc. S/AC.12/18 and 19, Annexes 23 and 24).

47. During the course of the fifteenth meeting the question of a possible cease-fire was raised formally with Sir Girja Shanker Bajpai, who undertook to consult his Government on their views and conditions. It was stated by Mr. E. Graeffe (Belgium), Chairman, that the broad policy of the Commission was one of mediation, and its immediate objective was to bring about a cessation of hostilities rather than deal with specific provisions contained in resolutions of the Security Council. A Sub-commission to study matters related to the cease-fire was established.

48. Having thus initiated inquiries concerning the views of the Government of India, the Commission decided to send a party to Karachi forthwith to discuss the question of a cease-fire with the Government of Pakistan. At the seventeenth meeting, extensive military information was presented by the Commander-in-Chief, Indian Army, members of his staff, and various general officers who had commanded in Kashmir. The Sub-commission established at the fifteenth meeting was named the Military Affairs Sub-commission and was requested to prepare further questions of a military character which might be presented to the Indian Government in writing.

49. On 17 July, a mission comprising Dr. Lozano (Colombia), Vice-Chairman, and Mr. Adams (United States) together with three members of the Secretariat proceeded to Karachi furnished with instructions.

The mission had two conversations with Sir Mohammad Zafrullah Khan and Mr. Mohammad Ali, the Secretary-General of the Government of Pakistan. In the first meeting, held on 17 July, the Foreign Minister expressed regret that the Commission had not formulated concrete proposals and hoped that it would not merely make recommendations, but would phrase its decisions in terms of directives. He offered to ascertain his Government's views upon a cease-fire.

50. At the second meeting held on 18 July, Sir Zafrullah set forth three minimum considerations to be taken into account if cessation of hostilities was to be brought about: (1) that the Indian troops should be withdrawn from the State, (2) that provisions should be made for the maintenance of law and order and the protection of the Muslim population following the withdrawal of Indian troops, and (3) that the views of the "Azad Kashmir Government" should be taken into due consideration. The issue as mentioned in point 2 and evolving from the withdrawal of Indian troops, could in Sir Zafrullah's opinion, be settled by the introduction of international forces; a strong action to this effect on the part of the Commission could solve the difficulty. The importance of such forces would be enhanced by the simultaneous withdrawal of the Pakistan forces and volunteers, the necessity of which Sir Zafrullah also admitted. As for the views of the Azad Kashmir people, the Foreign Minister's intention was not to induce the Commission into recognition of the "Azad Kashmir Government", but he felt that their approval, whether expressed directly to the Commission by their representatives or through the medium of the Pakistan Government, might be of decisive importance.

51. Sir Mohammed Zafrullah Khan stated that three main reasons had motivated the entry of Pakistan troops into Kashmir: (1) protection of the territory of Pakistan from possible aggression by Indian forces; (2) prevention of a *fait accompli* in Kashmir by the Indian Government; and (3) prevention of the influx of refugees into Pakistan.

52. Reports on these two discussions (see Annexes 7 and 8) were presented on the return of the Mission to Delhi at the eighteenth meeting on 19 July.

53. At the nineteenth meeting on 20 July a confidential cable was drafted and despatched informing the Security Council of the presence of Pakistan troops in Kashmir.

The Commission adopted a resolution requesting the Secretary-General of the United Nations to appoint a Military Adviser (doc. S/AC.12/23, Annex. 25). Consideration was given to a draft questionnaire presented by the Military Affairs Sub-Commission, which was approved at the following meeting. It was agreed that the Government of Pakistan should be requested to send a special representative to Delhi to place before the Commission their official views on matters relating to a cease-fire.

54. At the twenty-first meeting on 22 July the Commission decided to proceed to Karachi to consult with the Pakistan Government. It was also decided to send a military mission to make a survey of the situation in Jammu and Kashmir.

55. At the twenty-second meeting Mr. Mohammad Ali, Secretary-General of the Government of Pakistan, who had come to Delhi at the request of the Commission accompanied by Mr. Mohammad Ayub, Liaison Officer, recapitulated the views which had been given earlier by Sir Mohammad Zafrullah Khan in informal discussions with Mr. Lozano, and confirmed

the minimum conditions of his Government with respect to an immediate cease-fire.

56. Mr. Mohammad Ali again stressed that his Government had hoped that the Commission would make concrete proposals in regard to a cease-fire. He expressed the view that a cessation of fighting would be possible if the conditions for a plebiscite were guaranteed. The extreme solution, he said, would be an unconditional cease-fire under the terms of which both sides would stop fighting and stay where they were pending further arrangements. However, Mr. Mohammad Ali added that the Government of Pakistan considered that even for an interim cease-fire agreement (before the establishment of the conditions for a plebiscite) the Indian Army would have to be withdrawn from Muslim majority areas.

57. The Commission used the last few days in July, before its departure for Karachi, primarily for informal meetings with the Prime Minister, Pandit Nehru, and other Indian representatives, in order to ascertain the views of their government on the question of cease-fire. During these conversations held mainly with the then Chairman, Mr. E. Graeffe (Belgium), the following principal points were submitted by the representatives of the Indian Government:

- (1) The Pakistan regular forces should be withdrawn from the State of Jammu and Kashmir.
- (2) Indian forces should remain along fixed lines and occupy certain advanced strategic positions.
- (3) The evacuated territories situated outside of the fixed line should be provisionally administered by existing local authorities, or, if necessary, by local authorities to be designated by the Commission; they should be supervised by observers of the Commission, but remain under the sovereignty of the State of Jammu and Kashmir until the final settlement of the dispute between India and Pakistan.

58. Newspaper and radio reports coming from Kashmir indicated a noteworthy increase in fighting. Confirmation of these reports was received from Sir Girja Shanker Bajpai and Mr. M. K. Vellodi who appeared at the meeting held on 29 July.

59. The Commission proceeded to Karachi on 31 July to enter into discussions with the Government of Pakistan. At an informal meeting held on 1 August in the residence of the Foreign Minister, Sir A. Dundas, the Governor of North-West Frontier Province reviewed in broad outline the social and economic problem of the tribesmen over a period of more than one hundred and fifty years, and the policy which the former Governments of British India pursued and the Government of Pakistan are pursuing in order to prevent the incursions of tribesmen into their territory.

60. He claimed that incursions of the tribesmen during the past year had assumed the character of a religious crusade, animated by a desire for vengeance due to the communal disturbances that took place in the East Punjab, and the oppression of the Muslims by the Dogra dynasty in the State of Jammu and Kashmir. The Governor added that the movement of tribesmen into Kashmir had in fact to be canalized through his Province in order to avoid the serious risk of outright war within the territory of Pakistan. Further, he said that tribesmen obtained petrol from local sources in Pakistan and made use of railways and local motor transport. Mr.

Mohammad Ali added that denial of this petrol would have amounted to an economic blockade and might have implied grave consequences for the Government of Pakistan.

61. During its first week in Karachi, the Commission held six formal meetings, all of which were designed to get an exact view of the situation and of the Pakistan Government's attitude towards the possibility of a cease-fire. First publicity concerning the presence of Pakistan troops in Kashmir appeared in Pakistan papers, having its source in the "Civil and Military Gazette", dated 31 July 1948, a paper published in Lahore.

62. On 4 August, Sir Mohammad Zafrullah Khan made an extensive statement on the political, legal, economic, and strategic aspects of the dispute. In his analysis, the Foreign Minister made frequent references to the Junagadh case and the problem of genocide. He indicated, however, that it was not his intention to go into these matters at present, but he touched on them by way of illustration.

63. The Commission asked the Foreign Minister a number of questions to which he gave answers, first orally and then in writing. The following is a resume of Sir Zafrullah's reply.

64. (1) Pakistan had not informed the Security Council of the presence of her troops in Kashmir because, by the time they had been sent into the State, the question had been entrusted to the Commission, whose early departure for the Sub-continent was expected. The matter had been put before the Commission immediately after its arrival in Karachi. In the view of the Foreign Minister, the presence of Pakistan troops in Kashmir did not raise the question of international obligations since Pakistan had never accepted any with regard to non-interference in Kashmir.

65. (2) Referring to the legal aspects of the case, Sir Zafrullah stated that it had been agreed between India and Pakistan that, in instances where the ruler of the State did not belong to the same community as the people of the State, and the ruler performed the act of accession, that act had to be finalized by a free and impartial plebiscite. He considered the accession of the State of Jammu and Kashmir as clearly invalid because the Maharajah had made a choice contrary to the known wishes of the people. The Foreign Minister observed that if the principle of plebiscite was applicable in Junagadh it also should apply to Kashmir.

66. (3) Sir Zafrullah confirmed that petrol was obtained by the tribesmen from local sources, repeating the argument that any attempt to stop the petrol supply would have entailed grave consequences for Pakistan.

67. (4) The Foreign Minister dwelt at length on economic and strategic considerations. He argued that India, if she had control over Jammu and Kashmir would be in a position to divert all five rivers of the Punjab, *i.e.*, the Chenab, Jhelum, Beas, Sutlej and Ravi, the last three being already under her control, and thus could reduce to a desert one-third of the irrigated areas of West Punjab; nevertheless, he stated that Pakistan would abide by the results of a plebiscite were it to favour accession to India.

68. He pointed out that, if the Radcliffe Award had followed the terms of reference under which the Boundary Commission had operated and had included all Muslim majority areas in West Punjab, the Pakistan boundary would have been much further to the east. In this case, India would have had no direct access to Kashmir.

69. During the twenty-ninth meeting held on 5 August, the Commission discussed the Foreign Minister's statement and agreed that it should avoid any action which might be interpreted as signifying *de facto* or *de jure*

recognition of the "Azad Kashmir Government". It also considered the possibilities of a plebiscite but agreed that it would be impracticable as yet to make any definite proposal. At this meeting, the principles which underlay a cease-fire proposal were also discussed.

70. At the thirtieth meeting of 6 August, the Commission considered a telegram received from the Government of Pakistan protesting against the speech delivered by Prime Minister Nehru on 25 July in Madras and asking what measures were contemplated by the Commission. It felt that, in view of the presence of Pakistan troops in Kashmir, any representation to the Government of India on the speech made by Prime Minister Nehru would be ill-advised, and therefore receipt of the telegram was acknowledged without comment. The Commission exchanged views concerning alternatives to a plebiscite, keeping in mind that the study of any such alternative could not be seriously undertaken without the consent of the Government of India and Pakistan.

71. The Military Mission presented its report on 6 August on the visit to the eastern sides of the front in Kashmir. It had left Delhi on 27 July and returned to Karachi on 5 August. The major conclusion of the report was that, if the two Governments concur, the military authorities, under the auspices of the Commission, should be able to work out a cease-fire agreement without great difficulty.

72. At its thirty-second meeting on 9 August, the Commission heard the representatives of the Military High Command of Pakistan. The Commander-in-Chief gave an account of the tactical situation on the Kashmir front. He corroborated declarations made to the Commission by the Indian High Command that, from the military point of view, there would be no difficulties in stopping the fighting if the provisions were fair to both sides. He submitted a plan for a cease-fire in which he stressed the need for military observers and suggested a minimum of fourteen United Nations observer teams. He felt sure that both the Indian and Pakistan Armies would cooperate materially in providing the observers with the necessary equipment.

73. On 10 August, the Commission undertook to draft a cease-fire proposal. The study of this proposal was the main subject matter for the next six meetings.

74. At the thirty-ninth meeting, on the morning of 13 August, the Commission was informed that the Foreign Minister of Pakistan desired to be received. A meeting was called for the afternoon of the same day in which Sir Mohammad Zafrullah Khan made a statement in which he brought up, among others, the following points:

- (1) the uncertainty of the Pakistan Government concerning the way in which the Commission interpreted its terms of reference; (2) the legal aspects of the problems of accession and plebiscite; and (3) possibilities for a cease-fire agreement.

75. At the close of the fortieth meeting, the Commission unanimously adopted the following Resolution:

"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 A 2 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 the minimum strength of its forces 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."

76. On 14 August at 6:00 p.m., the Resolution was presented to the Governments of India and Pakistan. Mr. LOZANO (Colombia), Chairman, handed it to Sir Mohanmad Zafrullah Khan in Karachi, and Mr. Korbel (Czechoslovakia), Vice-Chairman, Prime Minister Pandit Jawaharlal Nehru in Delhi.

77. The two groups of the Commission remained separated for about a week awaiting the replies of respective Governments. During a few meetings held between the Commission and Prime Minister Nehru and Sir Girja S. Bajpai, views were exchanged on a number of points made by the Indian Government as follows (doc. S/AC.12/46, Annexure 12).

1. The lines fixed for the forces at the moment of the cease-fire should be worked out as precisely as possible.
2. No legality should be accorded to the presence of Pakistan troops by acceptance of the proposition that the cease-fire would be effective along these fixed lines.
3. The sovereignty of the State of Jammu and Kashmir should not be affected.

4. The lines would run close to the Pakistan frontier, and thus, to avoid incursions of Pakistan regulars or the tribesmen, India would need a number of strategic points in the territories evacuated by her troops.
5. India should retain such strength of forces in Kashmir as to guarantee defence and maintenance of law and order and the protection of the territory against external attack.
6. Pakistan should not participate in the organisation and conduct of the plebiscite.

78. The Commission defined its position with regard to the above points, on the basis of which the Prime Minister signified the acceptance of the resolution in the following letter dated 20 August:

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 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 areas other than that of the Jammu and Kashmir Government.

As regards paragraph 3(2), the paramount need for security is recognized 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, inspired 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.

(Sd.) JAWAHARLAL NEHRU,
Prime Minister, India.

79. His Excellency M. Josef Korbel

At the forty-third meeting the Commission discussed a reply to this communication. The reply, dated 25 August, reads as follows:

“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.

(Sd.) JOSEF KORBEL,

Chairman.

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

80. The Prime Minister of India submitted another letter, dated 20 August, the contents of which, according to the statement of Sir Girja S. Bajpai, were not to be considered as a condition to the acceptance of the Commission's Resolution by the Government of India. The text of the letter reads as follows:

“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, etc.

(Sd.) JAWAHARLAL NEHRU,
Prime Minister of India.”

81. The Commission gave the following reply:

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, etc.

(Sd.) JOSEF KORBEL,
Chairman”.

82. On 20 August the group of the Commission that had remained in Karachi returned to Delhi. The Chairman reported on his conversation with the Foreign Minister of Pakistan and handed to the Commission the latter's memorandum dated 19 August 1948, containing his Government's views on the resolution of 13 August (doc. S/AC.12/44, Annex 26).

83. In the memorandum dated 19 August 1948 the Minister for Foreign Affairs of Pakistan analyzed the Resolution and requested the Commission to furnish his Government with clarifications.

84. The Pakistan Government's memorandum stressed mainly the following points:

1. That a supervision of the implementation of the cease-fire and truce agreement by neutral military observers be established.
2. Unless India accepted the conditions for a free and impartial plebiscite, cessation of fighting could not be secured.
3. That the withdrawal of tribesmen must be conditioned by the withdrawal of Sikhs and members of the Rashtriya Swayam Sewak Sangh to ensure the security of the Muslim population.
4. That the whole State of Jammu and Kashmir and not only the Azad Kashmir controlled area should be under the surveillance of the Commission.
5. That the presence of the Pakistan troops was in fact not a material change in the situation, since India had launched an offensive before that, and by so doing had caused the material change in the situation.
6. That maintenance of law and order should be provided.

7. That the Pakistan troops' presence was welcome in the Muslim areas, whereas non-Muslim troops were objected to by the population of these areas.

85. The Pakistan Government in the memorandum presumed that the object of Part III of the Resolution was to secure a free and impartial plebiscite to decide whether the State of Jammu and Kashmir was to accede to India or Pakistan.

86. At the 42nd meeting on 21 August a drafting committee was appointed to prepare a reply to the above memorandum. The answer was sent to the Government of Pakistan on 27 August (doc. S/AC. 12/55, Annex 27).

87. At the same meeting the Military Mission, having just returned from its tour of the Western side of the front, presented its report. The Mission was of the opinion that once agreement had been reached on the political level, the military aspects of a cease-fire would offer little difficulty.

88. At its meeting of 26 August, the Commission decided to send a sub-committee to Srinagar (see paragraph 29) to conduct a survey of the general economic and political background of the State of Jammu and Kashmir.

89. On 28 August, the Commission left for Karachi, with the exception of those members of the delegations and Secretariat who were scheduled to leave on the 31st for Srinagar.

90. At its fifty-third meeting the Commission studied a request from Sir Mohammad Zafrullah Khan for further explanations of its proposals. The Commission's reply, dated 3 September 1948, defined the term "Evacuated territory" as that territory being at present under the effective control of the Pakistan High Command, and repeated its oral assurances to the effect that, in the implementation of Part III, it would 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 approval of both Dominions. The full text of the letter follows:

Excellency,

On 19 August 1948 you were kind enough to present to Minister Dr. A. Lozano, 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" refer 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 maximum 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 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.

(Sd.) JOSEF KORBEL,
Chairman.

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

91. Between 30 August and 4 September the Commission or its individual members held a number of conversations with representatives of the Pakistan Government, viz: the Prime Minister, the Minister for Foreign Affairs and the Secretary-General. All of these conversations intended to explain and amplify statements, and to induce them to accept the Commission's Resolution. The situation was reviewed in detail and the Resolution of 13 August discussed point by point.

92. The prolonged discussions between the Commission and the Government of Pakistan after the acceptance of the Resolution by the Government of India caused a certain degree of anxiety on the part of the latter, who were pressing for an answer and for publication of the text of the Resolution and documents relevant to it. The urgency was stated to be caused by the forthcoming recess of the Parliament and by the necessity of informing the public. The matter was considered between the Government of India and the Commission and as a result India agreed to postpone for a few days the recess of the Parliament.

93. At one of the meetings the Chairman requested the Foreign Minister of Pakistan to fix a date for reply, explaining that this was dictated by the fact that the Commission had to deal with two Governments and had to suit the time tables of both, and besides, by the most important fact that fighting was still going on and human life was being lost.

94. The time was tentatively fixed, and, consequently, Mr. E. Graeffe (Belgium) was asked by the Commission to go to Delhi in order to give oral explanations regarding the delay of publication.

95. Mr. C. Graeffe's presence in Delhi, which continued after Pakistan's reply to the Resolution, resulted in a number of conversations with members of the Indian cabinet, who stated that the admission by Pakistan of the presence of regular troops, had changed the situation considerably. In their opinion, cease-fire was, in these conditions, a difficult affair and the Commission should report to the Security Council. It was also mentioned that clarifications of the Resolution obtained from the Commission met with the entire satisfaction of the Indian Government.

96. On 4 September the Commission met informally the representatives of the Azad Movement, Chaudri Ghulam Abbas, Supreme Head, and Sardar Mohammad Ibrahim Khan, President. Mr. Abbas' main contention was that Part III of the Resolution should have been introduced as the first step, but he raised no objections to Parts I and II of the Resolution. In his opinion, once the conditions for a plebiscite had been agreed upon, there would have been no difficulty in implementing a cease-fire agreement. Sardar Ibrahim stressed that the Resolution did not guarantee India's complete acceptance of definite conditions for a plebiscite, the fairness and impartiality of which could be determined by the Commission. According to him, an unconditional cease-fire was not acceptable.

97. On 6 September at its fifty-fifth meeting the Commission considered the reply of the Government of Pakistan of the same date to the Commission's Resolution. The text reads as follows:

"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 con-

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 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 the 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,

(Sd.) ZAFRULLA KHAN

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

98. On 6th September, the Commission replied to the above letter as follows:

Excellency,

I have the honour to acknowledge receipt of your letter of 6th September 1948, giving the response of your Government to the Commission's Resolution of 13th 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 13th 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 27th August 1948, and its letter of 3rd September 1948, both addressed to Your Excellency.

Accept, Excellency, the assurances of my highest consideration.

(Sd.) JOSEF KORBEL,

Chairman.

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

A further letter, dated 6th September, was received from Sir Mohammad Zafrullah Khan, the text of which reads:

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 13th 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,

(Sd.) ZAFRULLA KHAN,

*Minister of Foreign Affairs
and Commonwealth Relations*

His Excellency Dr. Josef Korbel,
etc.

100. The text of the Resolution of 13th August and the correspondence between the two Governments and the Commission which related to the proposals contained therein were released on 6th September for publication in the morning press on 7th September.

101. At its last meeting in Karachi on 7th September, the Commission replied to the letter quoted in paragraph 99 and explained that the oral information provided by the members of the Commission did not differ-

either in meaning or spirit from the content of the Commission's memorandum of 27th August and letter of 3rd September. The full text of the letter follows:

Dear Mr. Minister,

In answer to your letter to me of 6th September 1948, acknowledging receipt of my letter of the same date, the Commission wishes me to convey to you that in the many discussions between representatives of the Pakistan Government and the Commission, the oral information provided by the members of the Commission did not differ either in meaning or spirit from what was contained in the Commission's written memorandum of 27th August and its letter of 3rd September 1948, or from the text of its resolution of the 13th August last.

The Commission observes in your first letter of September 6th, transmitting the views of your Government on the Commission's Resolution, that you have made assumptions and expressed certain conclusions which do not accurately reflect the Commission's position or its oral explanations, and it reserves the privilege, therefore, of answering that communication in greater detail at a later date.

Accept, Mr. Minister, the assurances of my highest consideration.

(Sd.) JOSEF KORBEL,
Chairman.

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

102. To the above letter the Foreign Minister replied as follows:

Dear Mr. Chairman,

I beg to acknowledge your letter of the 7th September. I am sorry to note that in the Commission's opinion I have in my first letter of September 6th made assumptions and expressed certain conclusions which do not accurately reflect the Commission's position or its oral explanations. I shall, however, await the more detailed comments which the Commission proposes to make on my letter, and if I am convinced that any unwarranted assumptions or conclusions have found their way into my letter to which you refer, shall be very glad to correct them. I shall be greatly helped in this connection if you will kindly direct your Secretariat to expedite the despatch of the draft minutes or draft summary record of our meetings with the Commission on 31st August and 2nd September.

2. With regard to the first paragraph of your letter I would, at this stage, submit no more than that at the very least the oral information provided by the Commission in our meetings ranged over a much larger field than that covered by the Commission's letter of 3rd September 1948.

With assurances of my highest consideration I beg to remain, Mr. Chairman,

Yours sincerely,
(Sd.) ZAFRULLA KHAN,
*Minister of Foreign Affairs and
Commonwealth Relations.*

His Excellency Josef Korbelt, etc.

103. Having decided to leave Karachi at its fifty-sixth meeting, the Commission arrived in Delhi on 9 September and was received by the Prime Minister. Mr. Korbel (Czechoslovakia), Chairman, remarked at the outset that the Commission was anxious to know whether the Indian Government were inclined to continue negotiations in the light of conditions attached to the Resolution by the Government of Pakistan. In particular, the Commission wanted to find out whether the Indian Government

- (1) would reconsider its position towards an unconditional cease-fire,
- (2) would deem it advisable to negotiate directly with the other Dominion and the Commission on the situation in Jammu and Kashmir,
- (3) would consider a supplement to the Resolution regarding conditions of plebiscite in the State of Jammu and Kashmir.

The Prime Minister's answer was that

- (1) an unconditional cease-fire was impossible for his Government to accept, as any further step could be undertaken solely after the withdrawal of Pakistan forces,
- (2) no direct negotiations seemed to him possible at the moment, since both Governments had been negotiating without any fruitful results for months on end, and as long as there was no further basis for a settlement, direct approach was not advisable.
- (3) he could not accept any supplement to the Resolution, which had been submitted to him as acceptable only in its original presentation. Besides, he would not see any useful purpose in discussing conditions of plebiscite with fighting continuing.

104. At its fifty-eighth meeting on 10 September in New Delhi, the Commission, under the Chairmanship of Mr. Huddle (United States), decided to divide in two groups, one to join the Mission already in Srinagar and the remainder of the Commission to go to Rawalpindi, and from there to investigate the situation in the Azad Kashmir territory. It was also decided that the Commission would start preparation of its Interim Report. The Colombian representative was unanimously elected as Rapporteur.

105. At its fifty-ninth meeting in New Delhi on 11 September 1948, the Commission adopted a resolution to the effect that the Commission should leave the Indian Sub-continent for Geneva within ten days, there to finish its interim report to the Security Council. During the meeting a drafting sub-committee was appointed to prepare a detailed explanatory letter which might clarify the views of the Commission regarding objections raised and reservations made by the Government of Pakistan to the resolution of 13 August 1948.

106. On 14 September a group headed by Mr. Huddle (United States), Chairman, and consisting of Mr. E. Graeffe (Belgium), Mr. H. Graeffe (Belgium), Major Smith (United States) and two members of the Secretariat, left for Rawalpindi. It visited a number of localities in Azad Kashmir territory and held conversations with the leading personalities of the Azad movement. The group returned to Srinagar on 18 September and gave a detailed report to the Commission.

107. The investigating sub-committee (see paragraph 29) informed the Commission of the type of material it had collected during its stay on the Eastern side of the front in Kashmir. It was, however, not able to complete its study.

108. At the sixty-second meeting held in Srinagar on 19 September, the Commission approved the text of the reply to the letter of Sir Zafrullah Khan of 6 September. The text reads as follows:

19 September 1948.

Sir,

The Commission has given careful consideration to your first letter of 6 September 1948 in which you have transmitted the views of your Government on its Resolution of 13 August. Several of the points raised therein are covered by the terms of the Resolution and by the elucidations offered to you in its communications of 27 August (S/AC 12/55), 3 September (S/AC. 12/58), and 7 September (S/AC.12/62).

2. As regards the other points of your letter, the Commission wishes to confirm its oral explanations, as follows:

- (a) With respect to point 2, the Commission was repeatedly informed by you and by representatives of the Pakistan Army that the Azad Kashmir forces were under the over-all control of the Pakistan High Command. In connection with the political aspect of the question raised in points 2 and 3, the existence of the Azad Kashmir Movement has not been ignored by the Commission, consideration thereof appearing in Part II A 3 of its Resolution of 13 August.
- (b) As regards the last sentence of point 5, the Commission wishes to repeat that the individual explanations offered by the sponsors of the Security Council's Resolution do not form a part of that document and are not binding upon the Commission, but receive due consideration by the Commission in its deliberations.
- (c) Concerning point 6, the objectives the Commission seeks to achieve are clearly outlined in its Resolution and are elucidated in its letter of 27 August, Appendix 1, and in its letter of 3 September. Moreover, the Commission agrees that it will be anxious to reduce the truce period to a minimum and that the Resolution does not contemplate the disarmament or disbanding of Azad Kashmir forces.
- (d) The Commission considers that the questions raised in points 7, 8 and 9 of your letter are not pertinent at this stage, but relate instead to the agreement envisaged in Part III of the Resolution. As for the particular issue raised in point 9, the Commission stresses again its conviction that the objectives and terms of its Resolution provide adequate incentives to obtain the cooperation of the Azad Kashmir forces and of the tribesmen in the implementation of the Resolution through the good offices offered by the Pakistan Government.
- (e) As regards Point 10, the text of the Resolution and the correspondence relevant to it, as exchanged between the Commission and the two respective Governments, has been published. The explanations offered by both Governments are in full harmony.

3. As regards the conclusions contained in point 11 of your letter, upon presentation of the Resolution the Commission requested the Government of Pakistan and India to consider and accept this document as a whole. It was intended that the details for the implementation of the Resolution be

discussed at common meetings between the representatives of both Governments and the Commission in subsequent stages, and following the cessation of hostilities. The Commission observes with regret that the Government of Pakistan has been unable to accept the Resolution without attaching certain conditions beyond the compass of this Resolution, thereby making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission to bring about a peaceful and final settlement of the situation in the State of Jammu and Kashmir.

The Commission sincerely hopes that the Government of Pakistan may find it possible to reconsider their position and accept the proposals contained in its Resolution of 13th August 1948, as clarified and elucidated in the present letter and the correspondence mentioned therein.

Please accept the expression of my highest consideration.

(Sd.) J. KLAHR HUDDLE,

Chairman.

H. E. Sir Mohammad Zafrullah Khan

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

Karachi.

109. The Commission, not wishing to leave the Sub-continent without making a further appeal to the Governments of India and Pakistan, pending its return or future dispositions, adopted the following resolution on 19 September:

“THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

“Having decided to leave for Europe to prepare an interim report to the Security Council on the present situation in the State of Jammu and Kashmir, hereby

“RESOLVES to appeal to the Governments of India and Pakistan to use their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further to prepare the ground for its peaceful final settlement, which both Governments have declared to be their most sincere and ardent desire.”

E. POLITICAL ANALYSIS

110. The approach of the Commission to the task entrusted to it by the Security Council's resolution of 21 April 1948, was initially based on the complaint of the Government of India concerning the dispute over the State of Jammu and Kashmir and on the reply and counter-complaints of the Government of Pakistan. Its main immediate endeavours were directed towards bringing about a cessation of hostilities with a view to establishing conditions favourable to a final and peaceful settlement of the situation.

111. As set forth in the letter of 1 January 1948 (doc. S/628, Annex 28), the Government of India placed their complaint against the Government of Pakistan under Article 35 of the Charter, which allows any member to bring to the attention of the Security Council any situation the continuance of which is likely to endanger the maintenance of international peace and security. India alleged that such a situation existed between her and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining that

Dominion on the North-west, were drawing from Pakistan for operations against the State of Jammu and Kashmir which had acceded to India on 27 October 1947, and was part of India.

112. The Government of Pakistan in its communication of 15 January 1948 (see Annex 6) denied that they were giving aid and assistance to the invaders, but conceded that a number of independent tribesmen and persons from Pakistan were helping as volunteers the "Azad Kashmir Government" in their struggle for liberty. In the same communication and as a separate document, the Government of Pakistan brought to the attention of the Security Council, also under Article 35 of the Charter, the existence of other disputes and requested that appropriate measures be adopted for their settlement and the restoration of friendly relations between the two Governments.

113. The Security Council, having considered the statements made by the representatives of India and Pakistan, defined the competence and terms of reference of the Commission in its resolution of 21 April 1948, and further directed the Commission in its resolution of 3 June 1948 to study and report when it considered appropriate on the matters raised in the letter of the Foreign Minister of Pakistan.

114. The Commission had reason to feel uncertain regarding the nature of the reception which would be accorded to it upon arrival in Karachi and New Delhi. Both India and Pakistan had in effect rejected the Security Council's resolution of 21 April 1948. Pakistan had only under protest designated a member country of the Commission and had officially stated that the Security Council's resolution was inadequate to secure the objectives set out in its preamble and was not acceptable to the Pakistan Government (see Annex 4).

115. The Government of India specifically stated in a letter from their representative to the President of the Security Council, dated 5 June 1948, that "there can be no question of the Commission proceeding to implement the resolution on Kashmir until objections (*viz.* to provisions of the Security Council's resolution of 21 April 1948) raised by the Government of India had been satisfactorily met". This letter further stated that if the Commission were to visit that country the Indian Government would like "to know in advance the point or points on which the Commission would wish to confer with them." (See Annex 15.)

116. The Commission therefore proceeded from Geneva to the Indian Sub-continent without firm assurances that either Government would assist the Commission in the implementation of its terms of reference, under which it hoped to function. Moreover, the Commission had been informed before its arrival on the Sub-continent that the general atmosphere was not altogether favourable to its work.

117. It was the purpose of the Commission to pursue its work in accordance with the directives given by the Security Council on the background of the situation as previously explained at length by the parties to the Council, the salient points of which were:

118. (1) Religious disturbances increased in intensity and violence immediately before and directly after the partition of British India. Mass movements of population took place throughout the Sub-continent.

119. (2) Muslim tribesmen were inflamed by reports of the deaths and displacement of large numbers of Muslims in the course of the disturbances. The tribesmen, bent on avenging their co-religionists, swarmed from the

mountains into the State of Jammu and Kashmir, penetrating as far as its southern borders on the east, entering the State in its southwestern areas from the adjacent territory of Pakistan and reaching the outskirts of Srinagar.

120. (3) Nationals of Pakistan entered Jammu and Kashmir for the purpose of fighting.

121. (4) The accession of Jammu and Kashmir, the legality of which is disputed by Pakistan, was accepted by India on 27 October 1947. Immediately thereafter the Indian Army advanced into the State with the purpose of expelling the tribesmen and restoring law and order. India declared that "as soon as law and order have been restored in Kashmir and her soil cleared of the invader", the question of the State should be settled by a reference to the people. (Letter from the Governor-General dated 27 October 1947 to the Maharaja of Jammu and Kashmir.)

122. (5) The tribesmen were pushed back, but the Indian forces combined with the State forces of Jammu and Kashmir, were unable to expel all intruders or to establish authority throughout the State.

123. The Commission hoped, under its terms of reference, to induce the Pakistan Government to exercise their influence on the tribesmen and the Pakistan nationals to withdraw from the State of Jammu and Kashmir. When that was accomplished, it intended to obtain a progressive withdrawal of Indian troops to the minimum strength required for the support of civil power in the maintenance of law and order, and, further, the agreement of the Government of India to a plebiscite along the lines indicated in the Security Council's resolution.

124. The Security Council never contemplated during its debates that the Commission, though entrusted with a delicate and difficult task, should deal with a situation involving military action between two regular armies.

125. Another element, the significance of which had not been fully appreciated before the Commission's departure for the Sub-continent, was the Azad Movement which constitutes an organised political and military body, is assisted by the Pakistan High Command, and is engaged in active revolt against the existing Government. This Movement has cooperated since October 1947 with invading tribesmen and individual Pakistan nationals. The leader of the Azad Kashmir Movement, Chaudri Ghulam Abbas is at the same time the head of the Muslim Conference. The Azad Kashmir Movement controls a considerable part of Jammu and Kashmir State, particularly the greater part of the districts of Poonch, Muzaffarabad and Mirpur. The population of the Azad-controlled area has been variously estimated at between one to two million people.

126. This situation imposed upon the Commission the additional task of not only obtaining the withdrawal of the tribesmen and Pakistan nationals, but also the cessation by the Azad forces of participation in the fighting.

127. The statement of the Foreign Minister of Pakistan to the effect that Pakistan troops had entered the territory of the State of Jammu and Kashmir, and later his reply to the Commission's questionnaire that all forces fighting on the Azad side were "under the over-all command and tactical direction of the Pakistan Army", confronted the Commission with an unforeseen and entirely new situation.

128. According to the Security Council's Resolution of 17 January, the Government of Pakistan was requested to inform immediately the Security Council of any material change in the situation. In a letter

addressed to the Security Council the Pakistan Government agreed to comply with this request. The Government of Pakistan had, however, not informed the Security Council about the presence of Pakistan troops in the State of Jammu and Kashmir. Sir Zafrullah explained that, since the Commission had been charged to deal with the problems related to the India-Pakistan question, his Government thought that the information should instead be given to it, but he had been unable to do this previously because of the delay in the Commission's arrival on the Sub-continent.

129. According to the statement of Sir Zafrullah, the Pakistan troops entered Kashmir early in May 1948. The records of the Security Council show that the Commission was provided for but not fully constituted at that time (see paragraph 20). The Commission had its first meeting in Geneva on 15 June, but was informed of the presence of the Pakistan troops in the State of Jammu and Kashmir only on 8 July.

130. From the outset, the Commission found it of primary and major consequence to explore the possibilities for a cessation of hostilities before going into the study of the substance of matters relating to a final solution. It devoted many meetings to the investigation of the military aspects of the problem and in sounding the two Governments as to how the fighting between their regular forces might be brought to an end. The representative of the Indian Government, Sir Girja Rajpai, in the two formal meetings with the Commission in New Delhi, characterized the situation as a state of "undeclared war". He warned the Commission that the "sands of time were running short". He added that if no action were taken soon to end the hostilities India might be forced to extend its own action, and that the question in reality was whether the issue was to be settled in peace or in war.

131. From conversations between the various members of the Commission with the Prime Minister and other Indian representatives while in New Delhi, it became apparent that the Government of India held that the presence of Pakistan troops in Kashmir constituted an act of aggression against the Indian Union. They insisted that these forces must be withdrawn before any negotiations could be initiated for the final solution of the problem.

132. On the other hand, the spokesman of the Pakistan Government declared that their forces would not be withdrawn unless the Indian forces were withdrawn simultaneously, in prearranged stages, and further that the proposals for a cease-fire order should have consideration and approval of the so-called "Azad Kashmir Government". In this connection, it was explained to the Pakistan Foreign Minister that to request formally the approval of the Azad Kashmir would constitute a *de facto* recognition of that Movement, which the Commission was not in a position to do. The Foreign Minister appreciated that. Even his own Government had not granted legal recognition to the Azad Movement in view of the implications which might ensue. The actual position, however, was that the Azad people who were vitally interested in the situation, could not be overlooked. (see also paragraph 50).

133. Along the lines of the Security Council's Resolution of 21 April, and on the basis of the situation as explained in previous paragraphs of this report, the Commission considered that the Pakistan Government should be asked, as a first step toward the final solution of the dispute, to withdraw its forces from the State of Jammu and Kashmir, with the understanding that, as the second step, the withdrawal of the bulk of the Indian troops would occur.

134. When the Commission was officially apprised of an element in the situation which was not explicitly stated in its original terms of reference, it was forced to choose between two alternatives : either to inform the Security Council of this material change, requesting new instruction, or to proceed to exert its mediatory influence in search of ways and means to correct those conditions. The Commission, after thorough consideration of the implications involved in referring the case back to the Security Council, decided to use its good offices to endeavour to obtain the cessation of hostilities and to create a peaceful and friendly atmosphere deemed essential for a final settlement.

135. The Commission, as can be appreciated from the historical account of its proceedings, inquired extensively into the possibilities of instituting a cease-fire. It ascertained that the Government of Pakistan would be willing to accept a simple cease-fire. The Government of India, however, clearly indicated that it could not entertain any proposal which would permit the Pakistan forces to remain within the territory of the State of Jammu and Kashmir. Finding that there was no common ground for obtaining agreement to an unconditional or simple cease-fire, the Commission drew up proposals which were calculated to satisfy both Governments.

136. In order to link the cease-fire to the preparation for a final settlement, which was the desire of Pakistan, and yet provide for the withdrawal of Pakistan forces and tribesmen as India requested, the Commission proposed, as Part II of the Resolution, a Truce Agreement, based on principles which it deemed fair and equitable, the details of which were to be worked out immediately following the cease-fire order.

137. These principles were :

I. (a) Withdrawal of the Pakistan Forces from the State of Jammu and Kashmir.

(b) Withdrawal of tribesmen and other Pakistan nationals not normally resident in Jammu and Kashmir, and who had entered the State for the purpose of fighting.

138. The above provisions were designed to satisfy Indian demands.

139. II. (a) Temporary administration by local authorities (Azad Kashmir) of territory evacuated by Pakistan troops.

(b) Withdrawal of the bulk of the Indian Forces from Jammu and Kashmir.

(c) Temporary retention of such minimum of the Indian forces as might be required for the maintenance of law and order.

(d) Official assurances as to safeguarding of peace, law and order, as well as all human and political rights.

140. These proposals were thought by the Commission to satisfy Pakistan demands.

141. III. Finally, to complete its proposals, the Commission requested the two contending Governments to reaffirm their previously expressed desire that the people of Kashmir be permitted to determine their future political status, a principle which had been accepted by both India and Pakistan.

142. In general, the Commission considered that the principles of the Truce Agreement constituted a balance which could not but meet with the approval of both India and Pakistan, and which, upon acceptance and implementation, would promptly clear the way for both Governments to enter into active collaboration with the Commission in the study of terms for a fair and equitable plebiscite.

143. As a final endeavour to bring the two Governments into agreement on the principles whereby a cessation of hostilities might be implemented, the Commission, notwithstanding its stipulation that the Resolution of 13 August be accepted as a whole, and stimulated by the strong desire to use all means within its power of persuasion to bring about cessation of fighting and a peaceful solution, decided to return to New Delhi once again to confer with the Prime Minister of India on the conditions attached by the Government of Pakistan to their acceptance.

144. The Prime Minister of India informed the Commission two days after it had placed before him these suggestions that he stood on his original premises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps. As for conditions of a free and impartial plebiscite, the Prime Minister reminded the Commission that his Government had reservations regarding articles 6 to 15 of the Security Council's resolution of 21 April. A study of these conditions would require a long period of time and the Indian Government could not be a party to such study with the Pakistan troops present in Kashmir and fighting going on.

145. He therefore maintained that having accepted the Commission's Resolution of 13 August, his Government could not now consider any supplement to that resolution.

146. It will be noted that matters relating to the plebiscite have not been dealt with in detail in the Commission's Interim Report. The paramount question of cessation of hostilities occupied almost entirely the attention of the Commission throughout its ten weeks' stay on the Sub-continent. Although the Commission endeavoured to assess the attitude of the Government of India and Pakistan in this respect, and though a Sub-commission initiated a survey of conditions in the State of Jammu and Kashmir, it could not enter into a detailed and comprehensive study of the practicability of a plebiscite from the political and administrative points of view because its Resolution of 13 August was not carried out.

147. However, the Commission feels that some general observations might be made in this connection :

148. There has been from the beginning a difference in approach to the problem of plebiscite on the part of India and on the part of Pakistan. India appeals to the Security Council and asked for its intervention to stop the incursions of tribesmen in the State of Jammu and Kashmir. Having this end in view, the Indian representatives at Lake Success, as well as those who partook of the conversations with the Commission at New Delhi, insisted that hostilities should cease as a preliminary step to arrangements for a future plebiscite.

149. Pakistan, however, viewed the problem in an entirely different light, making it dependent upon the previous withdrawal of all outsiders, including the armed forces of the Indian Union, the restoration and rehabilitation of all Muslim residents of Jammu and Kashmir as on 15 August 1947, and the establishment of an impartial independent administration in which the people of that State were fully represented.

150. During the informal talks in New Delhi between the members of the Commission and the Prime Minister and other members of the Indian Government, it was confirmed that the plebiscite scheme as envisaged by the 21 April resolution still did not meet with their approval. The Prime Minister told the Chairman of the Commission that it would be impracticable to arrange for a plebiscite to be held during the next twelve months;

the preparations for a plebiscite would take several months and the intervening winter would not permit any substantial work. He added that fighting was constantly going on in Kashmir and the situation might deteriorate if not dealt with promptly.

151. The Secretary-General of the Pakistan Government, Mr. Mohammad Ali, also expressed the view that it was impracticable to arrange for a plebiscite in 1948.

152. The Commission devoted part of its stay on the Sub-continent to sound the sentiments and views of the Jammu and Kashmir Government as well as the Azad Kashmir Movement. According to views expressed in conversations held with Sheikh Abdullah, the Prime Minister of the State of Jammu and Kashmir, and with the leaders of the Azad Movement, arrangement for a plebiscite would require more than one year. Both parties independently based this opinion on the internal disruption caused by fighting and the time needed for repatriating hundreds of thousands of refugees.

153. Because of the difficulties connected with a plebiscite, the Commission did not lay down any conditions in Part III of the Resolution in order to facilitate the discussions between the Governments of India and Pakistan and the Commission for the settlement of the dispute. Although the Commission felt that conditions for a plebiscite might have been considered in accordance with the resolution of the Security Council of 21 April, the Commission wished to leave the possibility open for the consideration of alternative solutions mutually agreeable to both parties with the provision that the will of the people should be assured.

154. The Commission is pursuing its work and will present in due time its report or reports to the Security Council on further developments.

RICARDO J. SIRI (Argentina).
 EGBERT GRAEFFE (Belgium).
 ALFREDO LOZANO (Columbia).
 JOSEF KORBEL (Czechoslovakia).
 J. KLAHR HUDDLE (United States).

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Rotation of Chairman

18 June to 8 July 1948

H. E. Minister Ricardo J. Siri (Argentina).

9 July to 29 July 1948

H. E. Egbert Graeffe (Belgium).

30 July to 19 August 1948

H. E. Minister Alfredo Lozano (Colombia).

20 August to 9 September

H. E. Ambassador Josef Korbel (Czechoslovakia).

10 September to 30 September

H. E. Ambassador J. Klahr Huddle (United States).

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Calendars of events

Friday	28 May	.	.	Lake Success	Informal meeting of representatives of members of Commission
Tuesday	15 June	.	.	Geneva	Informal meeting of Commission
Wednesday	16 June	.	.	Geneva	1st meeting of Commission
Thursday	17 June	.	.	Geneva	2nd meeting of Commission 3rd meeting of Commission
Friday	18 June	.	.	Geneva	4th meeting of Commission 5th meeting of Commission
Monday	21 June	.	.	Geneva	6th meeting of Commission 7th meeting of Commission
Tuesday	22 June	.	.	Geneva	8th meeting of Commission
Thursday	24 June	.	.	Geneva	9th meeting of Commission
Friday	25 June	.	.	Geneva	Advance party leaves for Karachi and Delhi
Tuesday	29 June	.	.	Geneva	10th meeting of Commission
Saturday	3 July	.	.	Geneva	11th meeting of Commission
Monday	5 July	.	.	en route Geneva-Athens	
Tuesday	6 July	.	.	en route Athens-Basra	
Wednesday	7 July	.	.	en route Basra-Karachi	
Thursday	8 July	.	.	Karachi	Informal meeting with Pakistan Foreign Minister
Friday	9 July	.	.	Karachi	Informal meeting with Pakistan Foreign Minister
Saturday	10 July	.	.	Karachi	Commission moves to Delhi
Tuesday	13 July	.	.	Delhi	12th meeting of Commission 13th meeting of Commission (Indian Liaison Officers present)
Wednesday	14 July	.	.	Delhi	14th meeting of Commission 15th meeting of Commission (Indian Liaison Officers present)
Thursday	15 July	.	.	Delhi	16th meeting of Commission 1st meeting of Military Affairs Sub-Commission
Friday	16 July	.	.	Delhi	17th meeting of Commission (Indian Liaison Officers and Commander-in-Chief present)
Saturday	17 July	.	.	Delhi	Vice-Chairman and party leave for Karachi
				Karachi	Vice-Chairman and party meeting with Pakistan Foreign Minister
				Delhi	2nd meeting of Military Affairs Sub-Commission

Sunday	18 July	Karachi	Vice-Chairman and party informal meeting with Pakistan Foreign Minister Party returns to Delhi
Monday	19 July	Delhi	18th meeting of Commission
Tuesday	20 July	Delhi	19th meeting of Commission
Wednesday	21 July	Delhi	20th meeting of Commission 3rd meeting of Military Affairs Sub-Commission
Thursday	22 July	Delhi	21st meeting of Commission
Friday	23 July	Delhi	22nd meeting of Commission (Pakistan Liaison Officers present)
Saturday	24 July	Delhi	Visit to exhibit of captured equipment at GHQ and to HQ Western Command
Monday	26 July	Delhi	23rd meeting of Commission
Tuesday	27 July	Delhi	Military Mission goes to Jammu
Wednesday	28 July	Delhi	24th meeting of Commission
		Jammu	Military Mission to Naushera and Jhangar
Thursday	29 July	Delhi	25th meeting of Commission
		Jammu	Military Mission at Naushera
Friday	30 July	Jammu	Military Mission visits Poonch
Sunday	1 August	Delhi	Commission moves to Karachi
		Karachi	Meeting with Pakistan Foreign Minister and Governor of North West Frontier Province
		Srinagar	Military Mission to Baramulla and Uri
Monday	2 August	Karachi	26th meeting of Commission
Tuesday	3 August	Karachi	27th meeting of Commission
			Military Mission moves to Delhi
Wednesday	4 August	Karachi	28th meeting of Commission (Pakistan Foreign Minister present)
Thursday	5 August	Karachi	29th meeting of Commission Military Mission comes to Karachi
Friday	6 August	Karachi	30th meeting of Commission
Saturday	7 August	Karachi	31st meeting of Commission
Monday	9 August	Karachi	32nd meeting of Commission (Pakistan Liaison Officers and Commander-in-Chief present)
			33rd meeting of Commission
Tuesday	10 August	Karachi	34th meeting of Commission 35th meeting of Commission
Wednesday	11 August	Karachi	36th meeting of Commission 37th meeting of Commission

Thursday	12 August	Karachi	38th meeting of Commission Military Mission goes to Rawalpindia Abbottabad
Friday	13 August	Karachi	39th meeting of Commission 40th meeting of Commission (Pakistan Foreign Minister present)
		Rawal- pindi	Military Mission to Muzaffarabad at Chenari
Saturday	14 August	Karachi	Vice-Chairman and party move to Del
		Karachi	Chairman presents Commission's p posals to Pakistan Foreign Minist
		Delhi	Vice-Chairman presents Commissi proposals to the Prime Minister India
		Rawal- pindi	Military Mission to Muzzaffarabad at Tithwal
Sunday	15 August	Rawal- pindi	Informal meeting of Military Missi with Azad leaders
Monday	16 August	Rawal- pindi	Military Mission to Mirpur
Tuesday	17 August	Delhi	Meeting of Vice-Chairman and par with Prime Minister of India Military Mission returns from Rawal pindi
Wednesday	18 August	Delhi	Vice-Chairman conversation with Prim Minister of India
Thursday	19 August	Karachi	Chairman and party meeting wit Pakistan Foreign Minister
Friday	20 August	Karachi	Chairman and party move to Delhi
		Delhi	Vice-Chairman conversation wit Secretary-General, External Affairs 41st meeting of Commission
Saturday	21st August	Delhi	42nd meeting of Commission 43rd meeting of Commission
Sunday	22 August	Delhi	44th meeting of Commission
Monday	23 August	Delhi	45th meeting of Commission 46th meeting of Commission
Tuesday	24 August	Delhi	47th meeting of Commission
Wednesday	25 August	Delhi	48th meeting of Commission 49th meeting of Commission
Thursday	26 August	Delhi	50th meeting of Commission
Friday	27 August	Delhi	51st meeting of Commission
Saturday	28 August	Delhi	Commission, less Economic and Political Mission, moves to Karachi
		Delhi	Conversation of Chairman, Econom and Political Mission with Secretar General, External Affairs

- Monday . 30 August . Delhi . Conversation of Chairman, Economic and Political Mission with Secretary-General, External Affairs
- Delhi . Interview of Belgian Alternate with Governor-General of India
- Tuesday . 31 August . Delhi . Economic and Political Mission moves to Srinagar
- Karachi. Informal meeting of Commission with Pakistan Foreign Minister
- Wednesday. 1 September . Karachi. 52nd meeting of Commission
- Srinagar Economic and Political Mission interview with Prime Minister, Jammu and Kashmir
- Thursday . 2 September . Karachi. Meeting of Commission with Pakistan Foreign Minister
- Meeting of Commission with Prime Minister of Pakistan
- Srinagar Economic and Political Mission to Gulmarg
- Friday . 3 September . Karachi. 53rd meeting of Commission
- Srinagar Economic and Political Mission interviews with Ministers of Revenue, Supplies and Trades, and Finance
- Saturday . 4 September . Karachi Representative of Belgium moves to Delhi
- 54th meeting of Commission
- Informal meeting with Azad leaders
- Srinagar Economic and Political Mission to Baramulla, Sopore and Bandipura
- Delhi . Informal conversation of Representative of Belgium with Secretary-General, External Affairs

Monday	6 September	Karachi.	55th meeting of Commission. 56th meeting of Commission
		Delhi	Conversation of Representative of Belgium with Secretary-General, External Affairs
		Srinagar	Economic and Political Mission to Anantnag and Pahlgam
Tuesday	7 September	Karachi.	57th meeting of Commission
Wednesday.	8 September	Delhi	Representative of Belgium conversation with Secretary-General, External Affairs
		Karachi.	Commission moves to Delhi
Thursday	9 September	Delhi	Meeting of Commission with Prime Minister
		Srinagar	Economic and Political Mission interview with Minister of Development
Friday	10 September	Delhi	58th meeting of Commission
Saturday	11 September	Delhi	Meeting of Commission with Prime Minister
			59th meeting of Commission
Sunday	12 September	Delhi	Commission, less the Chairman and representative of Belgium, moves to Srinagar
Tuesday	14 September	Delhi	Chairman and party move to Rawalpindi
Wednesday	15 September	Rawalpindi	Chairman and party to Mirpur—meeting with Azad leaders
Thursday	16 September	Rawalpindi.	Chairman and party to Attock etc.
		Srinagar	Economic and Political Mission moves to Jammu
Friday	17 September	Jammu	Economic and Political Mission visits Akhmur
Saturday	18 September	Rawalpindi.	Chairman and party rejoin Commission in Srinagar
		Srinagar	60th meeting of Commission
		Jammu	Economic and Political Mission returns to Srinagar
Sunday	19 September	Srinagar	61st meeting of Commission 62nd meeting of Commission

Tuesday	21 September	Srinagar	Commission leaves en route to Geneva
		Delhi	Conversation of Commission with Prime Minister of India
Wednesday	22 September	Karachi	Conversation of Chairman with Prime Minister of Pakistan
Saturday	25 September		Arrival in Geneva

**UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN
ANNEXES TO THE INTERIM REPORT**

ANNEX 1 (Para. 9)

(S/654, 20 January, 1948)

Resolution submitted by the representative of Belgium, adopted by the Security Council at its 230th meeting on 20 January 1948.

The Security Council,

CONSIDERING that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency;

Adopts the following resolution:

A. A Commission of the Security Council is hereby established composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

Each representative on the Commission shall be entitled to select his alternates and assistants.

B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it. It shall keep the Security Council currently informed of its activities and of the development of the situation. It shall report to the Security Council regularly, submitting its conclusions and proposals.

C. The Commission is invested with a dual function: (1) to investigate the facts pursuant to Article 34 of the Charter; (2) to exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council, and to report how far the advice and directions, if any, of the Security Council, have been carried out.

D. The Commission shall perform the functions described in clause C: (1) in regard to the situation in the JAMMU and KASHMIR State set out in the Letter of the Representative of India addressed to the President of the Security Council, dated 1 January, 1948, and in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948; and (2) in regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 15 January 1948, when the Security Council so directs.

E. The Commission shall take its decision by majority vote. It shall determine its own procedure. It may allocate among its members, alternate members, their assistants, and its personnel such duties as may have to be fulfilled for the realization of its mission and the reaching of its conclusions.

F. The Commission, its members, alternate members, their assistants and its personnel, shall be entitled to journey, separately or together, wherever the necessities of their tasks may require, and, in particular, within those territories which are the theatre of the events of which the Security Council is seized.

G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary.

ANNEX 2 (Para. 13)
(S/726, 22 April, 1948)

Resolution 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 co-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 be utilised for the re-establishment and maintenance of law and order 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 will be established in Jammu and Kashmir a Plebiscite Administration to hold a Plebiscite as soon as possible on the question of the accession 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 head 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 directly 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 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 Provinces

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 3 (Para. 13)

(S/734/Corr.1, 7 May 1948)

Corrigendum to letter dated 5 May 1948, from the Representative of India addressed to the President of the Security Council.

Dear Mr. President:

I have been directed to communicate to you the following message from the Prime Minister and Minister of External Affairs of the Government of India to the President of the Security Council:

"The Government of India have given to most careful consideration to the Resolution of the Security Council concerning their complaint against Pakistan over the dispute between the two countries regarding the State of Jammu and Kashmir. The Government of India regret that it is not possible for them to implement those parts of the Resolution against which their objections were clearly stated by their delegation, objections which after consultation with the delegation, the Government of India fully endorse.

"If the Council should still decide to send out the Commission referred to in the Preamble to the Resolution, the Government of India would be glad to confer with it.

"Jawaharlal Nehru, Prime Minister and Minister of External Affairs, India."

Yours truly,

M. K. VELLODI,

India Delegation to the Security Council.

ANNEX. 4 (Paras. 13, 114)

(S/735, 6 May, 1948)

Letter dated 30 April 1948, from the Representative of Pakistan addressed to the President of the Security Council.

Dear Mr. Parodi,

I enclose a copy of the letter I have addressed to the President of the Security Council.

Yours sincerely,

ZAFRULLA KHAN,

Minister of Foreign Affairs Government of
Pakistan.

Sir,

In compliance with your letter dated 22nd April, 1948 I transmitted to my Government the Resolution adopted by the Security Council at its 286th meeting held on 21st April 1948.

2. I have the honour to inform you that, in the view of the Pakistan Government, the measures indicated in the Resolution referred to above are not adequate to ensure a free and impartial plebiscite on the question of the accession of Jammu and Kashmir State to India or Pakistan. The Government of Pakistan much regret that they have not been placed in a position to carry out the obligation sought to be laid upon them by the resolution.

3. The Pakistan Government note that a Member of the Security Council observed at the meeting referred to above that appeals and proclamations by the Pakistan Government would not suffice to bring about compliance with the suggestions contained in Article 1 (a) of the Resolution, and suggested that if they considered it necessary to use their forces in order to bring about compliance they should have the right to do so. It was, however, pointed out that Article 5 provided in part for this contingency and that if Pakistan forces were placed at the disposal of the Commission when the Commission found this necessary that would be enough to cover the need.

4. The Pakistan Government note further that the expression "forward areas" in Article 2 (c) is intended to mean areas which are present closest to the line which separates the Indian forces from the forces in the State which are now in arms against them, thus ensuring the Indian forces are not to advance further into the State beyond the areas at present in their occupation. The expression "base area" in Article a (c), it was stated, means areas outside the valley of Kashmir and outside the field of operation of actual fighting, from which the troops engaged in those operations are supplied.

5. The Pakistan Government also note that the purpose of Article 6 was stated to be that there should be organized in the State of Jammu and Kashmir an Interim Administration which 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 the issue of accession to India or Pakistan. While on the one hand the suggestion that the Muslim Conference and the Azad Kashmir should have a majority in the Council of Ministers was not found acceptable, on the other hand it was stressed that no advantage would be accorded to the group that holds powers at the present moment. The Pakistan

Government recognize that the criterion in the reconstitution of the Council of Ministers would not be the predominantly muslim character of the population of the State but the neutralisation of the Government between the group which favours assession to Pakistan and that which favours accession to India. Each group is to choose its own representatives on the Council of Ministers in order to form a coalition Government which collectively would be completely neutral in so far as the issue of accession to India or Pakistan is concerned.

It is further noted that Article 6 is related to Article 1 (a) for the reason that if it is apparent that the Interim Administration, which would be formed in accordance with the above principles and which would prevail during the period immediately preceding and during the plebiscite, is a fair one this would be helpful in inducing the tribesmen to withdraw.

6. The Pakistan Government also note that the Plebiscite Administrator has full authority to get such powers as he might deem necessary for the holding of a free and impartial plebiscite and, therefore, would be competent to deal with any offences under Article 11 and to remedy the situation created by the dismissal of employees of the State who were suspected of favouring accession to Pakistan.

7. Without casting any doubt on or detracting in any way from the authoritative character of the explanations referred to above, the Pakistan Government regret that the Security Council did not incorporate them in the text of the Resolution in appropriate language.

8. Although, as stated above, the Resolution is inadequate to secure the objectives set out in the preamble of the Resolution and is, therefore, not acceptable to the Pakistan Government, they have authorized me to submit under protest and without prejudice the name of Argentina as Pakistan's nominee on the Commission.

9. I trust this will enable you to call upon Czechoslovakia and Argentina to proceed forthwith to designate the remaining member of the Commission.

I have the honour to be

Sir,

Your obedient Servant,

SIR ZAFRULLA KHAN,

Minister of Foreign Affairs,

Government of Pakistan.

The President of the Security Council, Lake Success, N.Y.

ANNEX. 5 (Para. 17)

(S/819, 3 June, 1948)

Resolution on the India-Pakistan question submitted by the Representative of Syria, adopted at the Three Hundred and Twelfth Meeting of the Security Council, 3 June, 1948.

The Security Council

Reaffirms its resolutions of 17 January 1948, 20 January 1948 and 21 April 1948,

Directs the Commission of Mediation to proceed without delay to the areas of dispute with a view to accomplishing in priority the duties assigned to it by the Resolution of 21 April 1948,

And directs the Commission further to study and report to the Security Council when it considers appropriate on the matters raised in the letter of Foreign Minister of Pakistan, dated 15 January 1948, in the order outlined in Paragraph D of the resolution of the Council dated 20 January 1948.

ANNEX. 6 (Paras. 18, 112)

(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.

SIR ZAFRULLA KHAN,

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 against India

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 use. 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 Junagadh railways and the postal 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 loot 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 State 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 1846 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 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 to 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 allay 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 Maharaja made this the excuse to "accede" 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 these 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 Act 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 wholeheartedly 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 State 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, Manavadar 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 of India against Pakistan is the destruction of the State of Pakistan.

4. The Pakistan Government request the 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 the 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 forces 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 un-

fettered 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 munificent 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 3rd June 1947, clear indications began to be received that the country was going to be plunged into a blood bath by the fanatical 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 Udham 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 9th 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 Muslim 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 sup-

port 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 stand-still 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 Fouj' 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 Gandhi, 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 faintest show of justification was considered necessary and the State was taken under military occupation without any explanation being offered. A similar fate befell the Talukadavi States of Sardaragarh, 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 wean 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 15th August 1947 Jammu and Kashmir State like other States was free to accede or not to accede to either Dominion. It entered into a stand-still 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 fall 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 15th 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 18th 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 20th 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 15th 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 region 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 Patiala, 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'état* 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 stage 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 Abdulla, Sheikh Abdulla 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 coreligionists 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 27th October the Governor General of Pakistan arranged a conference to be attended by the two Governors General, the two Prime Ministers of the Dominion and the Maharaja and Prime Minister of Kashmir. This conference failed through owing to the indisposition of Pandit Jawaharlal Nehru, the Prime Minister of India. A second meeting was arranged for 1st 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 and 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 1st 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 armed forces 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 31st 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 8th 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.

23. 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 14th 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 Indian 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 1st April 1948, but that a separate currency Authority should be set up by Pakistan by 1st 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 hoc*s. The limit for such *ad hoc*s was fixed at 50 million rupees. It was agreed as a part of financial settlement between India and Pakistan announced on 9th December 1947, that India would not object to the removal of this top-limit if the Reserve Bank did not raise any objection. Such *ad hoc*s 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. 7 (Paras. 24 and 52)

(S/AG. 12/21, 22 July 1948)

Notes on the meeting of the representatives of Colombia and the United States with the Minister for Foreign Affairs of Pakistan.

Held on Saturday, 17 July 1948, at 12-00 noon in Karachi.

PRESENT:

Dr. Lozano	.. (Colombia)
Mr. Adams	... (United States)
Sir Mohammed Zafrullah Khan	... (Foreign Minister)
Mr. Mohammed Ali	... (Secretary-General)
Mr. Symonds	... (Secretariat)
Mr. Aghassi	... (Secretariat)

Mr. LOZANO opened the conversation by expressing his pleasure at meeting Sir Mohammed again. He said that the group had been appointed by the Commission and directed by its Chairman to express to the Government of Pakistan the anxiety of the Commission regarding the situation in the State of Jammu and Kashmir. The situation appeared according to the last reports to have deteriorated and, indeed, to have become practically an undeclared war between the two countries. Time was running short, and soon it might become impossible to reach a rapid, complete and final settlement of the problem. The first and most urgent step was to stop the fighting. The Commission, therefore, wished to obtain the views of the Government of Pakistan as to the possibility of an agreement for a cease fire order. He was sure that Sir Mohammed was well aware of the difficulties facing the Commission, which was most anxious to bring about a rapid and amicable settlement of the dispute between the two countries. He said that his country had also faced serious territorial problems arising as a result of its independence. All of these were solved by peaceful means, the most delicate being that on the Amazon frontier which had brought it to the verge of a war, but which was settled by the League of Nations in 1932. It was all a matter of generosity and good will. Dr. LOZANO was certain that the peoples of Pakistan and India were capable of that great wave of generosity needed to bring them together and make peace possible. Dr. LOZANO said that he was confident that it would be possible to achieve a solution to the Kashmir problem in the near future.

Sir MOHAMMED welcomed the return of Dr. Lozano and said that he was at the disposal of the Commission whenever the need arose. With regard to the suggestion for a cease fire agreement, he said that he would have preferred it in the form of a specific proposal.

Dr. LOZANO replied that it was the desire of the Commission to present simultaneously this suggestion to the Governments of Pakistan and India in order to know their views as to the proper manner in which a cease fire agreement could be promptly brought about, so that the Commission might be in a better position to explore the possibility of narrowing whatever differences might arise between the points of view as presented by them on this pressing issue and of finding a specific proposal, which would be acceptable to both parties.

Sir MOHAMMED stated that, as far as general views were concerned, these had been submitted to the Security Council. However, certain developments had taken place since those discussions in the Council, and he would be glad to ascertain the present views of his Government as soon as possible. He understood that the Commission had conveyed a similar expression to the Government of India. It would have been of great help to the Pakistan Government if it had been possible for them to know what the Government of India were prepared to do. Moreover, he had been hoping that the Commission would have been by now in a position to present certain proposals of its own after having studied the various factors in the situation. However, he quite understood that the Commission might not yet be ready to formulate such proposals and so it evolved upon him at the moment to ascertain the views of his Government as to the steps to be taken for a cease fire agreement.

Mr. ADAMS emphasized that it had been the intention of the Commission in dispatching this group to Karachi that the two governments would thus be able concurrently to formulate his views on the possibility of a cease fire agreement.

Sir MOHAMMED stated that he wanted to be sure that he had not misinterpreted the suggestions of the Commission to both governments, and that both governments had been told the same thing. He presumed that the Commission would then consider the views of both governments as to what steps were feasible to take toward a cease-fire agreement.

Dr. LOZANO suggested that if Sir MOHAMMED wished, they could discuss the question privately and informally.

Mr. ADAMS said that the Commission wished the Government of Pakistan to know that political and military representatives of the Government of India had appeared before the Commission to present their assessment of the present situation in the State of Jammu and Kashmir. Sir MOHAMMED said that he had seen press reports to that effect.

Dr. LOZANO said that this was a preliminary discussion which was concerned with ascertaining the views of the Pakistan Government with regard to the suggestion for a cease fire agreement. Sir MOHAMMED said that after consultation with his government, he would inform the group as to when he would be prepared to discuss the question.

The meeting closed at 12-45 P.M.

ANNEX 8 (Paras. 24 and 52)

(S/AC. 12/22, 22 July 1948)

Notes on the informal meeting of the representatives of Colombia and the United States and the Minister for Foreign Affairs of Pakistan.

Held on Sunday, 18 July 1948, at 9-30 A.M. in Karachi.

PRESENT:

Dr. Lozano	..	(Colombia)
Mr. Adams	..	(United States)
Sir Mohammed Zafrullah Khan	..	(Foreign Minister)
Mr. Mohammed Ali	..	(Secretary General)

Sir MOHAMMED said that Pakistan was carefully studying the suggestion by the Commission for a cease fire agreement which, as he understood, had also been submitted to the Government of India. However, as he said yesterday, he had hoped that the Commission would have already formulated definite proposals in this regard.

Dr. LOZANO explained to the Foreign Minister that the intention of the Commission in submitting simultaneously this suggestion to both governments was to have the opportunity of narrowing whatever differences there might be between the points of view which might lead to a definite proposal acceptable to both parties.

Sir MOHAMMED briefly reviewed the history of the dispute and said that India from the very beginning had based its case on the legality of the request of the Maharajah for accession to India. Pakistan completely denied this position—they denied that an accession had ever been effected, and they maintained that the question of accession was one for the future, to be determined by the plebiscite. Therefore India's content on that legally it had a right to be in Kashmir was not recognized by Pakistan. Pakistan was more justified in coming to the assistance of the Kashmiri forces, who represented the people of the State, than Indian troops were justified in coming in at the request of the Maharajah. The Indian Government have progressively receded from their original position—which was that the question of accession was to be ultimately determined by a fair and unfettered plebiscite. Their position now was that the bringing about of

the necessary conditions for conducting such a plebiscite was a constitutional question to be decided by the Maharajah and his Government.

Sir MOHAMMED stated that in order to arrive at a satisfactory agreement on the cease fire question, three minimum conditions had to be met: (1) Indian troops should be withdrawn from the State, (2) The proposals for a cease fire order should have the consideration and approval of the "Azad Kashmir Government", (3) Provision must be made for the maintenance of law and order and the protection of the Muslim population following the withdrawal of Indian troops.

Sir MOHAMMED was not clear as to how adequate protection could be afforded to the population upon the withdrawal of the troops from the State. Dr. LOZANO suggested that a mixed force, along the lines of the Punjab Boundary Force, might offer such protection. Sir MOHAMMED replied that the Punjab Boundary Force had been a failure and that perhaps the Commission might consider the possibility of an agreement being reached by which Pakistan troops would police Muslim areas and Indian troops police non-Muslim areas, both under neutral offices and under the exclusive authority of the Commission. Sir MOHAMMED did not object to the retention of local State forces provided they also were under neutral control. He pointed out, however, that the local State forces were practically non-existent.

The Foreign Minister said that, while he would have to consult his Government, he believed that Pakistan would agree to the withdrawal of their troops from Kashmir upon the fulfilment of certain conditions. He further stated that the dispute was a result of the continued hostility of the Hindus towards the Muslims. In a broader sense, this had created serious economic problems for Pakistan. For instance, the Government of Pakistan had just received telegrams from the Commander-in-Chief who requested funds and provisions in order to take care of about 10,000 refugees who had recently come out of Kashmir into Pakistan.

The Foreign Minister was of the opinion that a cease fire order, without strong neutral forces to maintain law and order, could never be enforced. If the Indian forces and other Hindu and Sikh invaders now in Kashmir remained, it would be impossible to stop hostilities. Sir MOHAMMED referred to the pressure which the Indian Government was exerting upon the State of Hyderabad. He said that, although he did not wish to comment on the merits of the Hyderabad case, he regarded it as an example of what was to be expected in Kashmir if the Indian troops and volunteer elements such as the R.S.S.S. were allowed to remain.

Sir MOHAMMED pointed out that in order to bring about a cessation of hostilities in Kashmir, it would be necessary to withdraw all the forces, including volunteers, from both sides and to bring in an international force, as he had suggested in the Security Council, for the maintenance of law and order. In view of the world situation, however, this might not be possible at this time. The Foreign Minister discussed the idea of an international force and the role of the United Nations in the dispute. In his opinion, the more authority the Commission assumed, the quicker a solution could be found to the problem. The Government of Pakistan was pleased that the Commission continued to exert its authority. It hoped that the Commission would not merely make recommendations, but would phrase its decisions in terms of directives.

In connection with the second of the conditions set forth by the Pakistan Government for a cease fire agreement, Dr. LOZANO observed that if the Commission agreed that any proposals for a cease fire should have the approval of the "Azad Kashmir Government", this would, in his opinion, constitute a *de facto* recognition of the "Azad Kashmir" and introduce an additional complication into the situation. As the plebiscite had not yet taken place in Kashmir, the Commission could not anticipate itself and extend tacit recognition to a group the strength of which remained to be determined.

Sir MOHAMMED replied he did not wish to elaborate upon this question. The Security Council received Sheikh Abdullah, who had been brought there by the Indian delegation, as the representative of the Kashmir Government. However, the "Azad Kashmir" representatives had not been formally received by the Council. He himself had not met Sardar Ibrahim until after the latter came to New York. While in New York, Mr. Ibrahim had met informally a number of representatives in the Council. Among them, General McNaughton, Mr. Noel-Baker and Senator Austin had commented favourably upon what they regarded as the capabilities of Mr. Ibrahim. Sir MOHAMMED did not think there would be any objection on the part of the Commission to hearing the representatives of the "Azad Kashmir Government", either in informal session or in private. It was important that the representatives of the "Azad Kashmir Government" should be heard, and that this would not constitute a recognition on the part of the Commission. Indeed, anyone interested in the problem had a right to be heard, for a better understanding of it. The Foreign Minister emphasized that in submitting the second point, he had not intended to trick the Commission into recognizing the "Azad Kashmir Government". His only aim was to ensure that the views of the "Azad Kashmir" should be taken into account in the formulation of any cease fire agreement—whether by the appearance of representatives of the "Azad Kashmir" before the Commission or through the Pakistan Government as intermediary.

Dr. LOZANO referred to Sir Mohammed's suggestion of withdrawing Indian and Pakistan troops to defined positions and placing them under the control of neutral officers. He wondered if the Pakistan Government could obtain from the "Azad Kashmir Government" the acceptance of such a formula without the Commission submitting it directly to them. Sir MOHAMMED thought this might be possible as a matter of procedure, but he emphasized that the views of the "Azad Kashmir" must not be ignored by the Commission.

Dr. LOZANO said that since the case had been discussed in the Security Council, the situation had altered in view of the presence of regular Pakistan forces in Kashmir. This had weakened the position of Pakistan in the dispute. Sir MOHAMMED replied that he had previously stated the reasons for the presence of Pakistan troops in Kashmir. They could not allow a situation similar to the one in Hyderabad to arise in Kashmir. Mr. MOHAMMED ALI observed that the Pakistan troops had gone into Kashmir because had they not done so the Indian troops would have taken possession of the whole State, bringing about a *fait accompli*. An additional reason was to prevent the flooding of the border region by refugees. Sir MOHAMMED stated that the Pakistan troops had moved into Kashmir early in May for three reasons: (1) to protect the territory of Pakistan from possible aggression by Indian forces, (2) to prevent a *fait accompli* in Kashmir by the Indian Government, and (3) to

prevent the influx of refugees into Pakistan. The exodus of refugees from Kashmir had already created grave economic problems and placed Pakistan in an unfavourable position in connection with the proposed plebiscite.

Dr. LOZANO enquired whether, if a satisfactory solution for a cease-fire agreement were reached, the question of partition of Kashmir would be considered? He made it clear that he did not wish to commit himself to the desirability or otherwise of such a solution. Sir MOHAMMED replied that under no circumstances would his Government consider the partition of Kashmir. At the present, Kashmir had only a 20 or 30 mile border adjoining India. Should India obtain possession of Jammu, this would considerably extend the Kashmir-India frontier and would constitute a constant threat to Pakistan. Furthermore, both India and Pakistan had agreed that a plebiscite was the basis for any solution of the problem. The plebiscite was a condition *sine qua non* of the acceptance of the act of accession, as set forth by the Governor-General of India in his letter of 27th October 1947 to the Maharajah.

Sir MOHAMMED stated that another problem which was of concern to Pakistan was the position of the Gilgit Agency. He discussed the background of the relations of the Gilgit Agency with the British Crown. In late October 1947, representatives of the Gilgit Agency had requested accession to Pakistan, but the Pakistan Government had not taken any decision at that time. There had been frequent requests from the Gilgit Agency which had clearly indicated that if no action were taken by Pakistan, they would seek accession to the Soviet Union. He had received reports a few days ago Gilgit town had been bombed by the Indian Air Force. This was wanton murder; as there were no military targets. Sir MOHAMMED felt that Pakistan would soon be requested to send military aid to Gilgit Agency and that, if it did not do so, such aid would be obtained elsewhere.

The Foreign Minister enquired whether the Commission wanted his reply in writing or whether it would prefer to have a representative of Pakistan appear before the Commission. He reminded Dr. Lozano that the Government of Pakistan was willing to appoint a representative under Article 16 of the resolution of 21 April. His Excellency Minister Graeffe had suggested on his visit to Karachi that perhaps it was not yet time to have a liaison representative with the Commission. If the Commission now wished, Sir MOHAMMED would be glad to appoint a representative who would be at their disposal.

After discussion, it was agreed that the Pakistan Government would not communicate with the Commission further either on the appointment of a representative or the cease fire agreement until requested to do so by the Commission.

In conclusion, Dr. LOZANO suggested that the world was badly in need of the example of a pacific settlement of a dispute. If the Kashmir dispute were settled amicably, it might well be that Pakistan would find its position strengthened when seeking outside assistance for the solution of its economic problems.

ANNEX 9 (Para. 25)

(S/AC. 12/40, 21 August 1948)

Notes on the meeting of the Minister for Foreign Affairs of Pakistan and the representatives of Argentina, Colombia & the United States.

Held on Saturday, 14 August 1948, at 5-30 P.M.

PRESENT:

CHAIRMAN: Mr. Lozano	...(Colombia)
Mr. Siri	... (Argentina)
Mr. Oakes	... (United States)
Sir Mohammad Zafrullah Khan	(Foreign Minister)
Mr. Mohammad Ali	... (Secretary General)
Mr. M. Ayub	...(Deputy Secretary)
Mr. Bloch	... (Secretariat)

At 5-30 P.M. on Saturday, 14 August, Sir Mohammad Zafrullah Khan received Dr. Lozano, Chairman of the Commission, Mr. Siri, representative of Argentina, Mr. Oakes, Alternate Representative of the United States, and Mr. Bloch of the Secretariat. Mr. Mohammad Ali and Mr. Ayub were also present.

Chairman Lozano presented the cease-fire proposal with a statement that the Commission had given most careful consideration to the points of view of the Governments concerned, and was aware of its responsibilities in submitting this document as a set of principles which should be used as a basis for the formulation of a truce agreement. He also emphasized the responsibility of the governments before which the proposals were placed. He hoped that this agreement would be accepted and then a new stage of deliberation could be reached whereby extensive time would be given to both parties and others concerned so that fair and equitable conditions might be established to ascertain the free expression of the will of the people in the State of Jammu and Kashmir. He said he felt that the cease-fire was essential to clear the atmosphere for such further talks. Chairman Lozano added that Vice-Chairman Korbel was simultaneously submitting a proposal to the Prime Minister and Foreign Minister of India.

Sir Mohammad Zafrullah Khan said that he appreciated the delicacy and vital importance of Chairman Lozano's task. Although he would have liked to submit additional material to the Commission and regretted that he could not have done so, he would not be deterred by this fact from giving the proposal the serious consideration which it deserved.

Chairman Lozano assured him that no final solution would be reached without extensive hearings of all the parties concerned. He added that the group present at this meeting would have to join the rest of the Commission in Delhi probably by this coming Wednesday, and he would greatly appreciate it if the Pakistan Government would find it possible to give an answer by that time.

Sir Mohammad assured the Chairman that prompt consideration would be given to the proposal and that he would try to meet the deadline desired by the Chairman. However, he pointed out that such a proposal might involve three authorities: *i.e.*, the authorities in Karachi, the Chief of State in Quetta, and the Army Headquarters in Rawalpindi. Consultations under these conditions might protract the matter to a certain extent.

He pointed out that the period of time needed to come to a conclusion would, of course, depend upon the nature of the proposal.

The Chairman said that he did not wish to give a rigid time limit for a reply on a matter of such importance. The Commission would receive the reply after the governments had given the matter ample consideration.

ANNEX 10 (Para. 25)
(S/AC. 12/41, 21 August 1948)

Notes on the meeting of the Minister of Foreign Affairs of Pakistan and the Representatives of Argentina, Columbia and the United States.

Held on Thursday, 19 August 1948, at 10-00 A.M. in Karachi.

PRESENT :

Chairman:	Mr. Lozano	(Colombia)
	Mr. Siri	(Argentina)
	Mr. Oakes	(United States)
	Sir Mohammad Zafrullah Khan	(Foreign Minister)
	Mr. Mohammad Ali	(Secretary General)
	Mr. M. Ayub	(Deputy Secretary)
	Mr. Bloch	(Secretariat)

The CHAIRMAN opened the meeting inviting Sir Mohammad Zafrullah Khan to make his remarks on the cease-fire proposal submitted by the Commission.

Sir MOHAMMAD stated that his Government had given serious consideration to the proposals submitted by the Commission. They found however, that before they were able to arrive at any conclusions, which they could transmit to the Commission, it would be necessary to ask for certain elucidations. To this effect, the Foreign Minister brought a written list of points which he submitted to the Commission. He stated that, in addition to the written memorandum, he wanted to make certain oral observations.

The Pakistan Government was not sure of the objective which prompted the Commission to make the proposal, *i.e.*, whether the Commission considered that the proposals should work towards the direction of putting into effect the Security Council Resolution of 21 April or whether they were to lay a foundation for the creation of conditions which might either result in enforcing the Security Council resolution or in finding alternative solutions. Specifically, the Government wondered whether the objective was to work out a free and impartial plebiscite or whether it was to obtain an intermediate stage which might enable the Commission to come to another solution. If the Commission had anything else in mind, the Government of Pakistan would like to know the Commission's intentions so that it could evaluate the proposals made against that background. The view of the Pakistan Government was that the Commission, although its function was that of a body of mediation, was bound to bring about a result which made it possible to put the resolution of the Security Council into effect so that a free and impartial plebiscite could be obtained. He said that he knew that he could not impose the view of the Government of Pakistan on the Commission but that he would like to know what the Commission's views were in the matter.

He stated that Pakistan still adhered to the view that, so far as a cease-fire was concerned, it could have been easier if a simple appeal were made to stop fighting and nothing more. Although he admitted that the Commission might turn out to be right, Sir MOHAMMAD felt that the other method would have been the correct one. He considered himself unable to come to any conclusions in regard to Part I as long as he did not have a clear view with regard to Parts II and III of the proposal made by the Commission. Since Parts II and III could not be divorced from Part I, the Pakistan Government would like the Commission to clarify Parts II and III in writing. The Government of Pakistan would also wish to be informed as to the procedure, program, time table and methods of further discussions contemplated by the Commission. Sir MOHAMMAD appreciated the fact that the Commission had to divide itself into two parts so that the proposals could be brought simultaneously before the two Governments. His Government wanted to know how the Commission intended to proceed from now on and what the next contemplated stages were.

Sir MOHAMMAD repeated that in addition to the points raised in the written memorandum, he would like to know what the objective was which the Commission had in mind in making the proposals—was it to establish conditions for a free and impartial plebiscite and were those proposals designed with this point in view or were the proposals made in order to create the possibilities for different solutions? If the latter should be true, Sir MOHAMMAD would like to know what alternatives to a plebiscite were being considered.

He added that there were certain points which he had submitted in writing which must also be clarified. The stoppage of fighting, he repeated, could have been done more easily if there had been a simple call to stop fighting. The Government must know exactly what the Commission had in mind in regard to Parts II and III.

He concluded by saying that the Commission might find it more convenient to study the points submitted by him at leisure, but he was ready to talk on the spot if the representatives so desired.

Mr. LOZANO said he had already notified Delhi that mutual discussions were necessary in order to clarify certain points of the proposal, as suggested, on both sides. The memorandum would be studied and a clarification would be given, if possible, by that afternoon or the following day.

Mr. LOZANO continued by saying that the first point regarding the objectives which the Commission had in mind in formulating the proposal was the opinion that the prompt cessation of hostilities and the correction of certain conditions the continuance of which were likely to endanger the peace was essential to implement the endeavours of the Commission, which were to assist the Governments of India and Pakistan in effecting a final and peaceful settlement of the situation.

Part I had as its objective to obtain a cease-fire order immediately upon the acceptance of the principles contained in Part II, the details of which could be discussed between both Governments and the Commission. He stated that the Commission mediated for a long time on the conditions presented by the two Governments. He referred to his visit to the Foreign Minister in Karachi when the Foreign Minister himself had said it was the hope of his Government that the Commission would formulate definite proposals regarding a cease-fire order. He felt that the purpose of Part III could only be fulfilled if the cease-fire could be

maintained for a long period of time. The objectives of Part III were based on the points of reference of the Security Council resolutions. By creating a tranquil and peaceful atmosphere, the Commission hoped that the representatives of both Governments, together with the Commission, would enter into consultations regarding the problems to be solved and by aiming at fair and equitable conditions which would assure the exercise of the will of the people as stated in the Resolution. There was no doubt that both the Governments and the Commission would study in common the differences and the best way to arrive at a solution, whether a plebiscite or other alternatives, which would assure always that the will of the people prevailed. The good efforts of the Commission were placed as a common terrain between the two Governments so that consultations could be held for the solution of the issue. He then addressed his colleagues of the Commission and asked them to comment.

Mr. OAKES referred to the question of the Foreign Minister regarding the objectives of Part II as they were to affect conditions for a final settlement. He stated that he inferred from the Foreign Minister's remarks that the Government of Pakistan perhaps thought that the Commission considered that conditions as they would exist upon implementation of Part II would be such as to permit a fair and just expression of the will of the people. He wished to make it clear that the Commission by no means thought that this would necessarily be the case. Sir MOHAMMAD said it was quite clear to the Pakistan Government that Part II of the Commission's proposal would not create conditions under which a fair and impartial plebiscite could take place.

Mr. OAKES asked the Foreign Minister to elaborate on his question concerning the Commission's thought regarding Part II. Sir MOHAMMAD answered that he wished to know whether the Commission's point of view was that these proposals should clear the way for the holding of a fair and impartial plebiscite to decide to which Dominion Jammu and Kashmir should accede or whether the Commission had something else in mind.

Sir MOHAMMAD understood that the Chairman had clarified this point but according to the Chairman, Part III left it open to discussion as to what would be the basis for a fair settlement. To this, Mr. LOZANO replied that the basis was the points of reference of the Security Council resolutions. Mr. OAKES said that the Commission might, of course, recommend any solution if acceptable to both Governments. However, if either of the Governments continued to demand a plebiscite, the Commission had no intention of insisting upon a different solution.

Sir MOHAMMAD said that it would not be within the powers of the Commission to insist on a different solution, as the concluding paragraph of the Security Council Resolution (Article 18) bound the Commission to execute the resolution. He continued that, unless the Government of Pakistan was quite clear, not only with regard to the nature of the objective but that the objective was agreed upon and conditions pertaining to it laid down, it would be found difficult to comply with conditions presented in Part II. Parts II and III were inseparable. Either the Commission should have stopped at Part I or if it thought it necessary to go further, it should have gone beyond Part II because Parts II and III stood together. Part II laid down what each was required to do and Part III left it more or less open for settlement and discussion of what was to be done. In his opinion, settlement of Part III should have precedence. However, the whole picture would have to be settled before any acceptance

of Part III could be considered. Sir MOHAMMAD stated that the intention of the Commission in regard to Part III had been clarified by the Chairman but this did not bring the solution any closer.

Mr. LOZANO stated that as far as procedure was concerned, the Commission could stay in Karachi to allow the necessary time for the Government of Pakistan to express their views before the Commission and to clarify any other points. Details of the truce settlement and other matters could be discussed. But the principles, however, should be accepted first so that afterwards the discussions could take place. There would have to be a conference between the two High Commands as to the issuance of the cease-fire order and then there would be discussion of the details of the truce when already accepted by the two parties concerned. Sir MOHAMMAD answered that if the elucidation were obtained, the Pakistan Government would put forward its views on the proposals which had been transmitted to it on behalf of the Commission. He wanted to know if further substantive discussions of the proposals would be with only a part of the Commission or with the Commission as a whole and where they should take place. Mr. LOZANO replied that the purpose was that as soon as the principles were found acceptable by the parties, the Commission as a whole would enter into consultation with both Governments in Srinagar or another place in order to assure the final and peaceful settlement under the aims sought in the Resolution.

Sir MOHAMMAD said that he had not said whether or not they were acceptable. This could only be decided after the elucidation had been received. Nothing had been said on the merits of the proposal. He would like to know whether discussion of proposals and recommendations would be with the full Commission or only with part of it.

Mr. LOZANO said that the principles of the proposal must be accepted but that the details of the truce were to be discussed. Once the principles had been accepted, the whole matter would be referred to the Commission for study. Sir MOHAMMAD said that he felt that he was ready to confer as soon as the Commission had studied the points submitted by the Pakistan Government. He felt that the written record should be studied because oral recitations were insufficient. Mr. LOZANO asked whether the answers were requested in writing. Sir MOHAMMAD said that recollection of oral communications were sometimes unreliable.

In conclusion, Mr. LOZANO assured him that the matter would be studied with great care, giving both India and Pakistan ample opportunity to obtain clarification of the points embodied in the resolution submitted for their consideration by the Commission last Saturday.

The meeting rose at 10-30 A.M.

ANNEX 11 (Para. 25)

(S/AC. 12/45, 21 August 1948)

Notes on the meeting in the Office of the Prime Minister of India on Saturday, 14th August 1948.

At 6-00 P.M. on Saturday, 14 August, the Honourable Pandit Jawaharlal Nehru, the Prime Minister, received the Commission in his office at Government House. The following were present: the Prime Minister, Mr. Ayyangar, Sir Girja Bajpai, Mr. Vellodi, Mr. Korbelt, Mr. Graeffe, Mr. Huddle, Mr. Leguizamon, Mr. Samper, Mr. Colban and Mr. Kunst.

Before the resolution on the cease-fire was handed to the Prime Minister, Mr. Korbél stated that while drafting the resolution, the Commission gave a very careful consideration to all the observations made by the representatives of the respective Governments. The Commission, said Mr. Korbél, carefully weighed every word or phrase before approving its final formulation so that the resolution is the result of a most meticulous consideration of the problem. The Commission hoped that the resolution would be acceptable to both Governments and that it would bring the desired cessation of hostilities.

Mr. Korbél asked the Prime Minister to give his Government's reply to the resolution at the earliest convenience. He realized that the resolution required an equally careful consideration on the part of the Indian Government as it did on the part of the Commission. He did not wish to press for speed, but mentioned that prompt answer would be gratefully appreciated.

The Prime Minister skimmed the resolution and handed it over to Mr. Ayyangar and subsequently to Sir Girja. He assured the Commission that he would give the Government's answer as soon as possible, but considering the pressure of work and the forthcoming celebrations for the Independence Day, he could not state a definite date. The resolution appeared to the Prime Minister the result of very careful wording and would have to be read with due care on the part of the Government. Mr. Ayyangar shared the Prime Minister's opinion and said that he would refrain from any comments *impromptu* but would like to give due consideration to such an important document.

The Commission took leave from the Prime Minister and the representatives of the Indian Government at 6-30 P.M.

ANNEX.-12 (Paras. 25 and 77)

(S/AC. 12/46, 21 August 1948.)

Summary of meeting held between representatives of the Commission and of the Government of India to discuss the Commission's resolution of 13 August, 3-00 P.M., 17 August 1948.

PRESENT :

Government of India :

Prime Minister Nehru
Sir Girja Bajpai
Mr. Ayyangar
Mr. Pai
Mr. Vellodi

Members of the Commission :

Mr. Leguizamon (Argentina)
Mr. Graeffe (Belgium)
Mr. Samper (Colombia)
Mr. Korbél (Czechoslovakia)
Mr. Huddle (United States)
Mr. Adams (United States)

Pandit NEHRU opened the discussion by stating that the Government of India had very carefully examined the resolution presented by the Commission and that it had requested this meeting with the representatives of the Commission in order to clarify certain of the provisions of the resolution.

He commented that the Government of India was sincerely anxious to effect a peaceful settlement of its dispute with the Government of Pakistan over Kashmir. It was important, however, that various steps towards such a solution be examined carefully, inasmuch as the taking of an initial step which was not a solid one might cause a further deterioration of the situation rather than contribute to its solution.

Turning to the resolution itself, Pandit NEHRU said that he intended to comment only on the major points. Under Part I he inquired with reference to paragraph A, at what point the four days mentioned therein began. In reply, Ambassador KORBEL (Czechoslovakia) explained that it was the intent of this paragraph to provide that agreement as to the date when the cease-fire would begin would be determined within four days after acceptance of the proposals by both Governments, and that the four-day period began immediately upon such acceptance.

Turning to paragraph C, Pandit NEHRU inquired as to the exact meaning of "local changes in present dispositions". In reply, Mr. KORBEL (Czechoslovakia) explained that these were changes which the commands of both sides would agree were essential to facilitating a cease-fire. The two commands, he said, would agree on such changes, the cease-fire would then be issued, and then the changes would be carried out. He emphasized that changes would be effective only if agreed upon by the two commands and that if no agreement were reached, the forces would stand on their present lines. Pandit NEHRU then inquired if the truce line would be the same as the cease-fire line, to which Mr. KORBEL replied in the affirmative. The PRIME MINISTER then remarked that before an effective truce could be arranged, it would be necessary that a fairly precise line be worked out. He explained that there were several pockets in which at present there were no military forces. Some of these, he stated, Indian forces could occupy at will, but at present they were unoccupied. In such case, he inquired, what would the line be and who is to determine the line? Mr. KORBEL replied that the Commission had endeavoured to avoid going into military details and had endeavoured to limit itself to matters of political importance. At this point, Mr. GRAEFFE (Belgium) explained that it was the Commission's intent that the cease-fire line would be along the lines occupied by the respective forces and that any no-man's land which existed would remain.

The PRIME MINISTER digressed at this point to comment on the possible legal implications of accepting a cease-fire along present lines. He wondered if a certain legality would not be accorded to the presence of Pakistan troops in Kashmir by an acceptance of the proposition that the cease-fire be effective along the present lines. India, he said, maintains that it is legally in Kashmir, and though this may be contested by Pakistan, one thing is certain, and that is that the territory does not belong to Pakistan, and therefore that her troops are illegally in that State. In reply, Mr. KORBEL (Czechoslovakia) said that the document had to be considered as an entity and that Part II with its provision of the withdrawal of Pakistan troops should be considered along with Part I. He doubted that the Government of India was thereby in any way recognizing the legality of the presence of Pakistan troops in Kashmir. The Prime Minister observed that even so, it accorded a validity to the presence of those troops from the point of view of a truce, that is, from a military sense.

Returning to the idea that certain pockets would exist if present lines were accepted the PRIME MINISTER recalled that the representatives of India had at an early meeting of the Commission in Delhi suggested a precise line along which a cease-fire should be effected. He believed that in the

absence of such a definition, it could be anticipated that events would take place in these pocket areas which would be denied and that much difficulty would be created thereby.

A second consideration which bothered the Government of India with reference to the fixing of a cease-fire line along the present lines was that these lines ran very near to the Pakistan frontier and that in a short time varying from one-half to two hours, the tribesmen or the Pakistan Army itself could overrun the positions held by garrisons left by the Indian Army, and that a situation might be created worse than that of last October. He contended that India needed to have certain strategic points for defence against sudden attack. Mr. KORBEL (Czechoslovakia) replied that the Commission had been quite aware of this danger, but that it had tried to strike a military balance. The Commission, he said, felt that if the two Governments could be brought together this danger of a sudden incursion would be removed. Moreover, he pointed out that limited Government of India forces would remain and that on the other side only the Azad people would remain in their present positions. Should the eventuality envisaged by the Prime Minister occur, the whole weight of the United Nations would be turned against Pakistan.

While agreeing that this might be so, the PRIME MINISTER remarked that, should such an incursion take place, it would take another eight months to rectify the situation. He further remarked that he did not believe Pakistan could consider itself threatened by the presence of Indian troops in Kashmir. If the Government of India were of evil intent, he said, its forces would attack Pakistan directly and not *via* Kashmir and Gilgit. On the other hand, he thought Kashmir was directly threatened by the presence of Pakistan troops in that State. He concluded his comments on this subject by stating that in order to ensure the security of Kashmir, there must be no possibility of a sudden incursion such as had previously occurred.

In replying, Mr. KORBEL (Czechoslovakia) stated that the Commission fully recognized the concern of the Government of India for security, but commented that in all frankness he had to tell the Prime Minister that the Pakistan Government was equally fearful of invasion by the Indian forces. The Commission, he said, could not assure either country on this question of security. The present document, he said, was a first step in this direction. If the Commission could succeed in obtaining the withdrawal of Pakistan troops, it would have the obligation while present on the sub-continent of watching over Pakistan. Once the Kashmir problem had been satisfactorily settled, it would then be the duty and right of the Government of India, should the State finally be placed under the sovereignty of that country to take all necessary measures for the security of that area.

The PRIME MINISTER reiterated his fears of possible infiltration with or without the knowledge of the Government of Pakistan and mentioned the strategic points previously enumerated to the Commission which the Government of India considered that its forces must hold in order to ensure the security of Kashmir. In particular, he mentioned Domel, remarking that, if the Government of India forces held that point, a natural boundary between the two would be established along the line of the river, and that Pakistan would, in no sense, be threatened through the occupation of this point by the forces of the Government of India inasmuch as Pakistan was from 22 to 26 miles away.

Mr. KORBEL (Czechoslovakia) commented that such a readjustment of the front line went beyond the cease-fire and said frankly that the Commission, after giving careful consideration to the Indian point of view

in this respect, had not been able to accept this view. However, such a readjustment should not be ruled out if the respective Commanders-in-Chief agreed to make such a change. He emphasized again that the success of the resolution depended on the existence of good will between the parties, to which the **PRIME MINISTER** replied that the Commission had here to deal with a hysterical and neuritic state of mind.

At this point, the representative of the United States remarked that the Commission had come here with an open mind and that after being out here a short time had become confirmed in its belief that it could not impose any conditions on the parties. The Commission was simply an intermediary and as such it had endeavoured to ascertain the feelings of the two parties. The Commission has concluded, he said, that both parties genuinely wanted an agreement. The Commission had been careful to avoid dicta and in some quarters had been criticized for not taking a stronger position. The Commission, he said, had given consideration to the military considerations involved. The present draft was a compromise, but the Commission believed that its acceptance by the two parties would provide a basis for a common discussion. The Commission, moreover, had reason to believe that if the resolution were agreed to, incursions such as were feared by the Government of India would not happen. The resolution, he said, was so worded as to avoid sudden or abrupt changes in the military situation which would leave a possibility for attack.

Mr. **HUDDLE** (United States) then referred to a recent article in the *London Times* which, with reference to the destruction of a water works in Jerusalem, had criticized the Security Council for assuming unto itself certain powers—in this case the giving of guaranty to either side—which it did not possess. The United Nations, Mr **HUDDLE** concluded, had no power to back up guaranties of this sort and consequently the Commission in the present instance was working entirely on a basis of securing agreement between the parties. The Commission, he felt, believed that it had “down to earth” proposals and that it was not dealing in theory. The representative of Belgium corroborated this view, saying that he believed that in this resolution the parties had a basis on which the edifice of a final solution could be built.

Turning to Part II, **PANDIT NEHRU** inquired whether the principles elaborated therein were considered to be final or whether they might be subject to change on the basis of the comments which either party wished to advance. In reply, Mr **KORBEL** (Czechoslovakia) explained that the Commission was glad to provide any explanations of the text, but that as worded the preamble meant that the Commission wished both parties to accept Part II in principle, following which the details could be worked out. The Commission, he said, had hoped four weeks ago that an unconditional cease-fire could be worked out, but that in response to the Government of India's request, the Commission had drafted proposals coupling the cease-fire with certain conditions. The conditions finally proposed were such as the Commission thought just and which could be defended before the Security Council.

The **PRIME MINISTER** inquired again if the principles as elaborated represented the Commission's final decision; or whether it was open to the Government of India to put forward ideas for changes. In reply, Mr. **KORBEL** (Czechoslovakia) stated that, in the Commission's opinion, no possibility for discussion should be excluded, but that the draft was not open to change as a result of bilateral discussions.

Remarking that this answer limited the scope of discussions very greatly, the **PRIME MINISTER** proceeded to comment on various other proposals

under Part II, feeling that the Commission might like to have the Government of India's views thereon. The formulation of paragraph A-1, he said, constitutes "rather a feeble and complicated way of saying something very simple". On this same point, Mr. AYYANGAR said that the Government of India readily accepted the principle that Pakistan troops should be withdrawn, but that it was not in accordance with the reasons given in support of this principle. Mr. KORBEL (Czechoslovakia) then pointed out that the Prime Minister himself said that the Government of India was not concerned with humiliating Pakistan but wished to effect the withdrawal of Pakistan troops. Point A-1, he said, secures this result. The Commission, he said, did not wish to concern itself with the juridical questions involved but on this point had followed the line adopted in the Security Council resolution of 21 April.

Turning next to Point 3 under Section A, the PRIME MINISTER inquired if this wording envisaged any change in the status of the territory, or whether it recognized the jurisdiction of the Government of Jammu and Kashmir over that territory. Mr. KORBEL (Czechoslovakia) remarked that this point incorporated the suggestion which the Prime Minister himself had advanced and that the phrase "pending a final solution" was intended to recognize the temporary nature of the administration by local authorities. Sovereignty over this territory has not been changed.

Asked by the Prime Minister if the Commission would function as a representative of the State authorities, Mr. KORBEL (Czechoslovakia) replied that he did not know if the Commission were competent to do this. The PRIME MINISTER appeared to accept this interpretation and commented that in practice the Kashmir authorities would not interfere with the administration of the area. He pointed out, however, that no local administration at present existed and would have to be created. The area, he said, was presently occupied by people one hundred per cent. sympathetic to Pakistan as a result of non-Muslims having been driven out or killed. He wondered how it would be possible for the Commission to distinguish raiders from the local population and remarked that it was his understanding that all revenue and other records had been burned and that Pakistan nationals would remain out of uniform, making it difficult for the Commission to select people truly representative of the local population. To this Mr. KORBEL remarked that the Commission was aware of its inability to control fully the administration of the evacuated territory and, therefore, intentionally used the expression "surveillance".

Turning next to Section B, the PRIME MINISTER felt that it was faulty in requiring the simultaneous withdrawal of the two armies inasmuch as the Pakistan army was there illegally. In reply, Mr. KORBEL (Czechoslovakia) explained that, as drafted, this provision provided not for the simultaneous withdrawal of the two armies, but rather that the Indian forces would begin withdrawal after being advised by the Commission that Pakistan forces had begun withdrawal. This requirement that Indian troops begin their withdrawal before Pakistan forces had completed their withdrawal from the State, he said, was arrived at to meet Pakistan fears of an attack by Indian forces and to make it easier for Pakistan to accept the withdrawal of their troops. Mr. HUDDLE (United States) reiterated that the Commission had not wished to impose any abrupt changes under which the security of either party would be threatened. He believed acceptance of this provision would provide an earnest of the good faith of the two parties.

With reference to Point 2 under Section B, Pandit NEHRU remarked that it would be necessary for India to retain troops in Kashmir for defensive purposes as well as for the maintenance of law and order. He recalled that this same issue had been raised in the Security Council and that the Governmen

of India must have sufficient troops to protect the territory against external attack. Mr. KORBEL (Czechoslovakia) commented that in his understanding the phrase "law and order" could be interpreted to include maintenance of adequate defence inasmuch as this was essential to law and order.

Commenting on Point 3, the PRIME MINISTER criticized what he considered the unilateral nature of the request made therein on the Government of India and the Government of the State of Jammu and Kashmir. He wondered whether a similar proclamation should not be required of the Government of Pakistan with reference to territory evacuated by Pakistan troops. In reply, Mr. KORBEL (Czechoslovakia) commented first that he did not think this provision demanded the guarantee of any new rights, and with respect to the Prime Minister's remark, said that he thought the Government of India would have severely criticized the Commission had it asked Pakistan to assume any responsibility with reference to the State of Jammu and Kashmir.

In response to the Prime Minister's inquiry as to how long the truce would last, Mr. KORBEL (Czechoslovakia) replied that it was intended to be effective until a final solution had been reached, but thought that this was a point which could be discussed by the two parties.

Turning finally to Part III, the PRIME MINISTER inquired if the Commission had any ideas as to the general lines which a final solution might take. To this, Mr. KORBEL (Czechoslovakia) replied that the Commission had no right to submit a solution to which the parties were not agreed. He said that the Commission believed it possible that a solution different than that envisaged in the Security Council resolution might be worked out and that the Commission would be quite willing to help in this respect. However, if no agreement could be reached, the Commission, he believed, would have to fall back on its instruction from the Security Council.

Thanking the Commission members for their explanations of the resolution, the PRIME MINISTER stated that he expected to be able on the following day to inform the Commission as to the day on which it could expect a final answer from the Government of India. Before such an answer could be arrived at, he said, it will be necessary to consult the Cabinet, as well as the representatives of the Government of Kashmir. Mr. KORBEL (Czechoslovakia) thanked the Prime Minister for the opportunity to discuss the resolution with him and appealed to him to give careful consideration to the resolution before the answer is decided. He reminded him of the value of peace if the answer is positive and the grave dangers in case of a negative answer.

The meeting rose at 5-30 P.M.

ANNEXURE 13 (Para. 31)
(S/AC/-12/1 Corr 1, 16 June 1948)

Letter from the President of the Security Council to the Chairman of the Security Council Commission of Mediation on the India-Pakistan Question.

9 June, 1948

SIR,

I have the honour to transmit the following documents for the consideration of the Commission of Mediation :

1. Letter dated 5 June 1948 from the representative of India to the United Nations, forwarding a message from the Prime Minister and Minister for External Affairs to the Commission.

2. Verbatim record of the three hundred and fifteenth meeting of the Security Council, at which the above letter was discussed.
3. Reply to the Prime Minister and Minister for External Affairs of India, dated 9 June 1948.

In accordance with the views expressed at the three hundred and fifteenth meeting of the Security Council, I should be grateful if the Commission of Mediation would communicate directly with the Prime Minister and Minister for External Affairs of India, as regards his request for advance information on the point or points on which the Commission wish to confer with the Indian Government.

I have the honour to be, etc.,

(Sd.) FARIS EL-KHOURI,

President of the Security Council.

Chairman of the Security Council Commission of Mediation on the India-Pakistan Question,

United Nations,
Palais des Nations,
Geneva, Switzerland.

ANNEXURE 14 (Para. 31)

(S/AC.12/2, 16 June 1948)

Letter from the President of the Security Council to the Prime Minister and Minister for External Affairs of India

9 June 1948

SIR,

I have the honour to acknowledge receipt of your message concerning the India-Pakistan Question, communicated to me in the letter dated 5 June 1948 from the representative of India to the United Nations. This message was circulated to representatives on the Security Council and discussed at its three hundred and fifteenth meeting held on 8 June 1948.

In accordance with the views expressed at that meeting, I wish to explain that the Council has taken no position on the merits of the matters raised in the letter of the Foreign Minister of Pakistan dated 15 January 1948, and maintains an open mind on these questions.

The resolution of 3 June 1948 only instructs the Commission of Mediation to gather further information, when it deems appropriate. It preserves the order of the Commission's work outlined in paragraph (D) of the resolution of 20 January 1948, which places the situation in Jammu and Kashmir before the other situations set out in the letter of the Foreign Minister of Pakistan dated 15 January 1948.

Furthermore, the resolution of 3 June 1948 directs the Commission to seek to accomplish in priority the duties as signed to it by the resolution of 2 April 1948, which relates to the situation in Jammu and Kashmir.

I have forwarded your message to the Commission of Mediation and asked them to communicate directly with you as regards your request for advance information on the point on which they wish to confer with your Government.

I wish to assure you that in its consideration of these questions the Security Council has been animated only by the desire to achieve a peaceful settlement and promote friendly relations between the Governments concerned.

I have the honour to be, etc.,
(Sd.) FARIS EL-KHOURI,
President of the Security Council

Pandit Jawaharlal Nehru, Prime Minister and Minister for External Affairs,
Government of India,
New Delhi, 3,
India.

ANNEXURE 15 (Paras. 31, 36 and 115)

(S/825, 7 June 1948)

Letter dated 5 June 1948 from the Representative of India to the President of the Security Council transmitting a Communication from the Prime Minister and Minister for External Affairs of the Government of India.

I am directed to communicate to you the following message from Pandit Jawaharlal Nehru, Prime Minister and Minister for External Affairs, Government of India :

- “1. The Government of India have just seen the text of the resolution on the Indo-Pakistan dispute adopted by the Security Council on 3rd June 1948. The resolution directs the U. N. Commission appointed under Council resolution of 21st April 1948 “further to study and report to the Security Council, when it considers appropriate, on the matters raised in the letter of the Foreign Minister of Pakistan, dated 15th January 1948”. These matters, apart from the Kashmir issue, relate to (1) Junagadh, (2) genocide and (3) agreements between India and Pakistan.
- “2. With regard to these three matters it has been repeatedly stated on behalf of the Government of India that they do not constitute a threat to international peace, that they are outside the Council's jurisdiction and that the last two, namely, the charges against India of genocide and non-implementation of agreements are baseless. The Government of India are surprised that, in spite of the facts and arguments adduced on their behalf, the Council should have thought it fit to direct the Commission to study and report on these matters when it considers it appropriate. The Government of India wish to report their emphatic protest against this enlargement of the scope of the Commission's activities and to make it clear that they do not acquiesce in it.
- “3. In the communication made to the Security Council by Mr. Vellodi on their behalf on 7th May 1948, the Government of India reaffirmed their objections to the resolution adopted by the Security Council on 21st April with regard to Kashmir and pointed out that, if in spite of these objections, the Council should decide to send out the Commission set up under that resolution, the Government of India would be glad to confer with it. The Government of India find themselves unable to go beyond this

position. In other words, there can be no question of the Commission proceeding to implement the resolution on Kashmir until objections raised by the Government of India have been satisfactorily met. If the Commission is to visit India, they would like to know in advance the point or points on which it would wish to confer with them.

“JAWAHARLAL NEHRU,
Prime Minister and Minister for
External Affairs, India.”

(Sd.) P. P. PILLAI,
Representative of India to the
United Nations.

ANNEXURE 15 (Para. 13)

(S/AC. 12/4/Rev. 1, 18 June 1948)

Rules of Procedure for the United Nations Commission for India and Pakistan

(Adopted at the Fourth Meeting of the Commission, held on 18 June 1948 in Geneva, and amended at the Eleventh Meeting on 3 July 1948.)

I. MEETINGS

Rule 1

Meetings of the United Nations Commission for India and Pakistan (hereinafter called “the Commission”) shall be held as occasion may require by decision of the Commission, or its Chairman, or at the request of the Security Council or of a representative on the Commission.

Rule 2

The date and place of each meeting, if not decided on at a previous meeting of the Commission, shall be notified by the Secretariat to the representatives of the Commission whenever possible not less than twenty-four hours in advance.

II. AGENDA

Rule 3

The provisional agenda for each meeting of the Commission shall be drawn up by the Secretariat in consultation with the Chairman and shall be communicated to the representatives on the Commission, when practicable in advance of the scheduled meetings.

Rule 4

The provisional agenda shall include :

1. Items proposed by the Commission at a previous meeting ;
2. Items proposed by any member of the Commission ;
3. Items proposed by the Security Council ;
4. Items proposed by a subcommission of the Commission ;
5. All items, communications, or reports which the Chairman or the Secretariat may deem necessary to put before the Commission.

Rule 5

The first item on the provisional agenda of any meeting of the Commission shall be the adoption of the agenda.

III. REPRESENTATIVES

Rule 6

Each representative on the Commission may be accompanied by alternative representatives, advisers and secretaries.

Rule 7

An alternate representative or adviser may act as a representative upon designation by the representative.

Rule 8

The credentials of representatives and the names of alternate representatives, advisers, and secretaries, shall be transmitted to the Secretariat of the United Nations as early as possible. The credentials shall be issued either by the Head of the State or Government, by the Minister for Foreign Affairs, or the Chief representative to the United Nations. The credentials shall be examined by the Secretariat, which shall submit a report thereon to the Commission.

IV. OFFICERS

Rule 9

The Commission shall elect from among its representatives its Chairman, Vice-Chairman, and Rapporteur;

The Chairmanship of the Commission shall be assumed immediately after adoption of the Rules of Procedure by the representative of the member delegation first in the English alphabetical order; and the Vice-Chairman shall be the representative of the delegation next in the English alphabetical order;

The Chairman shall hold office for a period of three weeks and shall be succeeded by the Vice-Chairman, at which time the representative of the delegation next in the English alphabetical order shall become Vice-Chairman;

This procedure shall be successively and automatically followed during the lifetime of the Commission, with succession of the first delegation after the last in the English alphabetical order has served.

Rule 10

The Chairman shall declare the opening and closing of each meeting of the Commission, shall direct its discussions, insure observance of these Rules, accord the right to speak, put questions, and announce decisions. He shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings of the Commission and over the maintenance of order at its meetings.

Rule 11

If the Chairman finds it necessary to be absent during one or several meetings or a part of a meeting, the Vice-Chairman shall take his place.

V. SECRETARIAT

Rule 12

The Secretary-General shall act in that capacity in all meetings of the commission and such subsidiary bodies as it may establish. He may designate a member of the staff to act in his place at these meetings. •

Rule 13

The Secretary-General shall provide and direct the staff required by the Commission and such subsidiary bodies as it may establish.

Rule 14

The Secretariat shall receive, translate, and distribute the documents of the Commission and its subsidiary bodies; prepare working papers; interpret speeches made at the meetings; prepare and circulate the records of the meetings; have the custody and proper preservation of the documents; publish the reports of the meetings and generally shall be responsible for all the necessary arrangements for meetings and other activities of the Commission and its subsidiary bodies.

Rule 15

No decision involving expenditures shall be made by the Commission until the Secretariat has had an opportunity of stating the effect of the proposal upon the budget estimates of the United Nations.

VI. LANGUAGES, RECORDS

Rule 16

For purposes of expediency, the Commission will conduct its work in English except when French may be required.

Rule 17

Members of the Commission and other persons who may address the Commission in a language other than either of the working languages of the United Nations shall, as a rule, provide their own interpreters. If a person who appears at the instance of the Commission is unable to employ any of the official languages and provide his own interpreter, the Secretariat shall provide for the interpretation.

Rule 18

As a general rule, only summary records of public and private meetings shall, whenever possible, be drawn up, unless the necessity for verbatim records in respect of a specific meeting or part of a meeting is recognized by the Commission after consultation with the Secretariat. The records shall be made available as soon as possible to the representatives. The representatives shall inform the Secretariat not later than twenty four hours after receipt of the records, of any corrections they wish to have made. Each representative shall have the right to annex verbatim or explanatory statements to the summary record.

Rule 19

The summary records in which no corrections have been requested or which have been corrected in accordance with Rule 18, shall be considered as the official records of the Commission.

VII. PUBLIC AND PRIVATE MEETINGS

Rule 20

Meetings of the Commission and its subsidiary bodies shall be held in public, unless the Commission or the subsidiary body decides otherwise.

Rule 21

Official press communiqués shall be previously approved by the Chairman of the Commission. Press releases, and verbal briefings may be issued by the Secretariat, unless instructions to the contrary are given by the Commission.

VIII. CONDUCT OF BUSINESS

Rule 22

A majority of the members of the Commission shall constitute a quorum

Rule 23

No representative may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 24

The Chairman or the Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusion arrived at by the subsidiary body.

Rule 25

The Secretary-General or a member of the Secretariat delegated by him may make to the Commission or any of its subsidiary bodies any oral or written statement which *he* (Secretary-General) considers desirable.

Rule 26

During the discussion of any matter, a representative may rise to a point of order and the point of order shall be immediately decided by the Chairman in accordance with the Rules of Procedure. A representative may appeal against the ruling of the Chairman. The appeal shall immediately be put to the vote, and the Chairman's ruling shall stand unless over-ruled by a majority of the members present and voting.

Rule 27

The Commission may limit the time to be allowed to each speaker.

Rule 28

During the course of a debate the Chairman may announce the list of speakers, and, with the consent of the Commission, declare the list closed. He may, however, accord the right of reply to any member if a speech delivered after he has declared the list closed makes this desirable.

Rule 29

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. Permission to speak on the adjournment of the debate shall be accorded to the proposer of the motion and one member opposing the motion, after which the motion shall be immediately put to the vote.

Rule 30

A representative may at any time move the closure of the debate on the item under discussion whether or not any other representative has signified his wish to speak. Permission to speak on the closure of the debate, shall be accorded only to one speaker opposing the closure, after which the motion shall be immediately put to the vote. If the Commission is in favour of the closure the Chairman shall declare the closure of the debate.

Rule 31

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motion shall be immediately put to the vote.

Rule 32

Subject to Rule 26, the following motions shall have precedence in the following order over all other proposals or motions before the meeting :

- (a) to suspend the meeting ;
- (b) to adjourn the meeting ;

(c) to adjourn the debate on the item under discussion ;

(d) for the closure of the debate on the item under discussion.

Rule 33

Subject to Rule 32, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote immediately before a vote is taken on the proposal in question.

Rule 34

Proposals and amendments should normally be introduced in writing and handed to the Secretariat, which shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all delegations not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though these amendments and motions have not been circulated or have only been circulated the same day.

Rule 35

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion which has thus been withdrawn may be reintroduced by any member.

Rule 36

When a motion has been adopted or rejected it may not be reconsidered at the same meeting unless the Commission, by the majority vote, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

IX. VOTING

Rule 37

Each member of the Commission shall have one vote.

Rule 38

Excepting cases provided for in Rule 26, decisions in the Commission shall be taken by a majority of not less than three concurring votes of members present and voting.

Rule 39

For the purposes of these rules, the phrase "members present and voting" means members casting an affirmative or negative vote. Members who abstain from voting are considered as not voting.

Rule 40

The Commission shall normally vote by show of hands, but any representative may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the Members. The name of each Member shall be called in any roll-call and he shall reply "Yes", "No" or "Abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the Members.

Rule 41

After the Chairman has announced the beginning of voting, no representative shall interrupt the vote except on a point of order in connection with the actual conduct of the voting. Explanations of their votes by members may, however, be permitted by the Chairman either before or after the voting.

Rule 42

Parts of a motion or draft resolution shall be voted on separately if a representative so requests. The resulting motion or draft resolution shall then be put to the vote in its entirety.

Rule 43

When an amendment is moved to a motion or draft resolution, the amendment shall be voted on first. When two or more amendments are moved to a motion or draft resolution, the Commission shall first vote on the amendment furthest removed in substance from the original motion or draft resolution and then on the amendment next furthest removed therefrom, and so on, until all the amendments have been put to the vote. If one or more amendments are adopted, the amended motion or draft resolution shall then be voted upon. A motion is considered an amendment if it merely adds to, deletes from, or revises part of a motion or draft resolution.

Rule 44

If two or more motions or draft resolutions relate to the same question, the Commission shall, unless it decides otherwise, vote on the motion or draft resolution in the order in which they have been submitted. The Commission may, after each vote on a motion or draft resolution, decide whether to vote on the next motion or draft resolution.

Rule 45

If, when only one person or member is to be elected, no candidate obtains in the first ballot the majority required, a second ballot shall be taken, which shall be restricted to the two candidates obtaining the largest number of votes. If in the second ballot, the votes are equally divided, and a majority is required, the Chairman shall decide between the candidates by drawing lots.

Rule 46

If a vote is equally divided on matters other than elections, the proposal shall be regarded as rejected.

SUBSIDIARY BODIES

Rule 47

The Commission may set up such sub-commissions and other subsidiary bodies as it deems necessary and define their composition and their functions.

Rule 48

Unless otherwise decided by the Commission, each sub-commission and other subsidiary body shall elect its own officers.

Rule 49

The rules of procedure of the Commission shall apply to the proceedings of the sub-commissions and other subsidiary bodies in so far as they are applicable.

XI. ORAL AND WRITTEN STATEMENTS

Rule 50

The Commission may at its discretion invite or admit representatives of Governments or organizations or private individuals to submit oral or written statements. Requests for oral hearings shall contain an indication of the subject or subjects on which the applicant desires to express his views.

Rule 51

The Commission may refer to a sub-commission for examination and recommendations such requests to present oral statements as it deems advisable.

Rule 52

The Commission, in consultation with the Secretariat, shall in each case decide the time and place of the hearing of any person from whom it may decide to receive an oral statement. The Commission may request any person to submit his statement in writing.

Rule 53

The Commission may limit either the number of persons desiring to present an oral statement or the time to be allowed to any such person.

Rule 54

A sub-committee or a subsidiary body set up by the Commission enjoy such rights as accorded to the Commission under Rules 50-54 unless the Commission decides otherwise.

XII. AMENDMENTS AND SUSPENSIONS*Rule 55*

These rules of procedure may be amended or suspended by decision of the Commission taken by a majority of the members present and voting.

ANNEXURE 17 (Para. 36)

(S/AC. 12/10, 22 June 1948)

Letter from the Chairman of the Security Council Commission for India and Pakistan to the Prime Minister and Minister for External Affairs of the Government of India.

22 June 1948.

SIR,

I have the honour to refer to your message which was presented to the President of the Security Council on 5 June 1948 and to the President's reply of 9 June 1948 with particular reference to your request for information on the point or points on which the Commission for India and Pakistan wishes to confer with your Government.

The Commission is proceeding to the Indian sub-continent with the most sincere desire to be of real service to your own as well as to the Pakistan Government for the settlement of the situation in the State of Jammu and Kashmir. With regard to its further dispositions, the Commission has reserved its decision.

On behalf of the Commission, I wish to repeat the assurance given to you by the President of the Security Council that the Commission's only consideration will be the achievement of a peaceful settlement and the promotion of friendly relations between the Governments of India and Pakistan.

The Commission is confident that it will receive your Government's cordial co-operation and assistances.

I have the honour to be, etc.

(Sd.) RICARDO J. SIRI,

Chairman of the Security Council Commission
for India and Pakistan.

ANNEXURE 18 (Para. 36)

(S/AC. 12/13, 28 June 1948)

Cablegram from the Prime Minister and Minister for External Affairs of the Government of India to the Chairman of the Security Council Commission for India and Pakistan, dated 26th June 1948.

SIR,

I have received Your Excellency's three telegrams dated 22 June 1948. My Government note that the Commission is coming to the Indian sub-continent with the most sincere desire to be of real service to them as well as to the Pakistan Government for the settlement of situation Jammu and Kashmir and that, as regards its further dispositions, the Commission has reserved its decision. As was stated in my telegram to the President of the Security Council, the Government of India will be glad to confer with the Commission when it arrives in Delhi. We shall also give what assistance we can to the Commission's representative in securing residential and office accommodation for the Commission and its staff. We have not yet been told however, what points the Commission would wish to discuss with us and should be glad if this information could be supplied urgently.

As regards the Commission's request that my Government nominate a liaison representative in terms of paragraph sixteen of the Security Council's resolution of 21 April. I wish to inform you that my Government cannot reach any decision on this recommendation of the Council until after they have conferred with the Commission. Arrangements will be made, however, for a senior officer to maintain liaison between the Government of India and the Commission during the latter's stay in New Delhi.

Please accept the assurances of my highest consideration.

JAWAHARLAL NEHRU,

Prime Minister and Minister for External Affairs.

ANNEXURE 19 (Para. 36)

(S/AC. 12/16, 1 July 1948)

Letter from the Chairman of the Security Council Commission for India and Pakistan to the Prime Minister and Minister for External Affairs of the Government of India.)

1 July 1948.

SIR,

I have the honour to acknowledge receipt of your esteemed communication of 26 June 1948 and to express the appreciation of the Security Councils Commission for India and Pakistan of the assurances contained therein.

The Commission has observed your desire for information regarding points which it will wish to discuss with you upon its arrival in New Delhi. The Commission is proceeding to India and Pakistan with a view to a peaceful settlement of the situation in the State of Jammu and Kashmir, having reserved a decision regarding its further dispositions.

In the course of its work it desires to confer with your Government regarding the various factors which may affect this situation.

The Commission confidently expects to explore these subjects with your Government and with the Government of Pakistan to a constructive and mutually satisfactory conclusion.

I have the honour to be, etc.

(Sd). RICARDO J. SIRI

Chairman of the Security Council Commission for India and Pakistan.

ANNEX. 20 (Para. 41)

(S/AC. 12/Info. 3, 22 July 1948)

Letter from the "Azad Kashmir Government" to the Chairman of the United Nations Commission for India and Pakistan.

AZAD KASHMIR GOVERNMENT

Headquarters : TRARKHEL

8 July 1948

Sir,

The Azad Kashmir Government have followed with interest the proceedings of the Security Council and of its Commission with regard to the State of Jammu and Kashmir. They welcome and are in sympathy with all efforts to find a peaceful and honourable settlement of this problem. It is, however, a matter of surprise and regret to them that while the Security Council gave a very full hearing to the Representatives of India and Pakistan, and listened to a long statement from Sheikh Mohammed Abdullah, the Head of the Emergency Administration set up by the Maharaja of Kashmir, no opportunity was afforded to the Representative of the Azad Kashmir Government, to place its point of view before the United Nations. As the Government of Azad Kashmir, was, and still is, in control of more than half the area of Jammu and Kashmir, the failure of the Security Council to grant a hearing to the Representatives of the Azad Kashmir Government was a serious injustice to the people of Jammu and Kashmir. We earnestly hope that you and the Members of the Commission will not repeat the mistake of the Security Council, and that you will take the earliest opportunity to visit Azad Kashmir to see with your own eyes the havoc wrought by the Indian Army and the heroic struggle of our people, and to discuss with our representatives ways and means to bring to a speedy end this tragic state of affairs.

I would like, in the meanwhile, to draw your attention to some of the basic points with regard to Jammu and Kashmir which must be kept in view if a peaceful and lasting settlement is to be achieved.

2. The Jammu and Kashmir State has an area of 84,471 square miles. Western Pakistan adjoins it on the West, South and South-east, except for a small part of the boundary which is shared with Gurdaspur District of the Indian Union. All the natural outlets of Kashmir pass through Pakistan with which the majority of the people of Jammu and Kashmir are bound by strong economic, cultural, social and religious ties.

3. For administrative purposes, the State of Jammu and Kashmir is divided into three provinces, namely : the Jammu Province (consisting of Jammu, Kathua, Udhampur, Reasi and Mirpur districts), the Kashmir Province (consisting of Baramulla, Anantnag and Muzaffarabad districts), and the Frontier Province [consisting of the Ladakh and Astore Districts and Gilgit (leased area.)]. Besides this, there are the Poonch and Chenani " Jagirs ", which are sometimes included in Jammu Province for statistical purposes.

At present almost the whole of the Frontier Province, most of Poonch and the districts of Muzaffarabad and Mirpur are under the control of the Azad Kashmir Government. Our forces are battling against overwhelming odds to liberate the remaining areas from the occupation of the Indian invaders.

4. According to the census of 1941, Jammu and Kashmir had a total population of 4,021,616 consisting of 3,101,247 Muslims, and 920,369 non-Muslims. In other words, in 1941 Muslims constituted 77.11 per cent of the total population of Jammu and Kashmir. They had a clear majority in every province of the State, ranging from a little over 60 per cent in Jammu Province to over 93 per cent in the Kashmir Province. On the other hand, the Hindus (including the scheduled castes) constituted a little over 20 per cent and the Sikhs 1.64 per cent of the total population of Jammu and Kashmir.

It would be reasonable to assume that there was no marked change in the communal composition of the population until August 1947, when the Maharaja of Kashmir embarked on the extermination and forcible expulsion of a large number of his Muslim subjects.

5. I do not propose to trouble the Commission with the history of the Dogra regime in Jammu and Kashmir, and of the repeated efforts of its people to overthrow their tyrannical rulers. As is well known Kashmir was sold by the British to an ancestor of the present Maharaja in 1846 for a sum of Rs. 7½ millions, and the Government of the country, ever since then, has been characterised by its autocracy, oppression and religious intolerance. The army and the police enjoyed vast powers and the administration both Civil and Military was, by and large, in the hands of the Hindus, who also dominated the Court. The mass of the people lived in poverty and misery, and their efforts at emancipation were brutally put down by the Dogra military assistance, at times, as in 1931, by British bayonets.

6. Organised political activity within Jammu and Kashmir had its beginnings in the twenties of this century, and was Muslim in origin. In 1931 it crystallised itself into the Muslim Conference, an organization whose leaders and workers are now either languishing in the jails of Sheikh Abdullah, or are the backbone of the Azad Kashmir Government's movement of liberation. In 1938, when Mr. Gopalaswami Ayyangar (Leader of the Indian Delegation to the Security Council) was the Prime Minister of Kashmir, 7 out of the 20 Members of the Working Committee of the Muslim Conference, with Sheikh Abdullah at their head, founded a separate organization known as the National Conference.

7. Thus there are two principal political parties in Jammu and Kashmir. There is the Muslim Conference, under the able leadership of Chowdhury Ghulam Abbas, which enjoys the support of the vast majority of the Muslims of Jammu and Kashmir. The other is the National Conference led by Sheikh Mohammed Abdullah, who has been a paid agent of the Indian National Congress for many years, and who has been nominated by the Maharaja as Prime Minister of Kashmir at the instance of the Government of India. It is necessary to emphasise this fact, in view of the claims frequently advanced by, and on behalf of, Sheikh Abdullah that he represents the majority of the people of Kashmir. It should be remembered that the only time Sheikh Abdullah's Party was returned to the State Assembly was on the Muslim Conference ticket, and that he has never fought or won any election on the National Conference ticket. His elevation to the post of Prime Minister is due solely to nomination by the Government of India and the Maharaja, and is not the result of a democratic election either by the people or by the State Assembly. The fact that Sheikh Abdullah continues to keep in

jail thousands of Muslim Conference leaders and workers, and that he is fighting shy of a fair and impartial plebiscite under the supervision and control of the United Nations, is sufficient to expose the hollowness of his claim to be the representative of the people of Jammu and Kashmir.

8. During the four months that the Kashmir question was debated in the Security Council from January to April 1948, the Security Council had most elaborate accounts of the manner in which the Maharaja of Jammu and Kashmir acceded to India, of the uprising of his Muslim subjects throughout the State and of the attempt of the Kashmir Government to suppress them with the help of the armed forces of India. There are certain facts, however, which are of sufficient importance to merit repetition.

Under Section 9 of the Indian Independence Act 1947, which brought into being the Dominions of India and Pakistan, British paramountcy over the Indian States lapsed and they became free to accede to either Dominion. Being a Hindu, the Maharaja of Jammu and Kashmir was inclined to accede to India and carried on secret negotiations with the Hindu leaders of India. The majority of the Maharaja's subjects, however, being Muslims, were naturally in sympathy with Pakistan, and favoured accession to that Dominion. Pakistan Day was celebrated in several places, and public demonstrations were held demanding accession to Pakistan. The Maharaja's Government attempted at first to crush the pro-Pakistan movement with the help of its police and military, but when these proved insufficient, Indian soldiers, in plain clothes and trained Sikh and R. S. S. assassins began to pour into the Jammu Province and Poonch. These developments took place in August 1947, long before the so-called "invasion" of the Kashmir valley by tribesmen. The oppressed people of Jammu and Kashmir fought back with great tenacity and heroism, and received a limited amount of assistance from their relatives and friends from across the Pakistan borders. The Maharaja of Kashmir thereupon came out into the open, declared his accession to India against the expressed wishes of the majority of his subjects, and so paved the way for the forcible occupation of the State by the Indian Army.

9. The subsequent story is too well-known to be told in detail. While the Kashmir question was being discussed by the Security Council, the Indian Army was engaged in ravaging the fair valleys of Jammu and Kashmir, destroying villages and towns by indiscriminate air bombing, killing and maiming thousands of defenceless men, women and children, and compelling thousands of others to seek refuge in Pakistan. It is impossible to form an accurate estimate of the number of Muslims killed in the fighting, or murdered in cold blood. The figure must run into hundreds of thousands. We know, on the other hand, that the number of Muslim refugees who have poured into Azad Kashmir territory and Pakistan from the areas occupied by the Indian armed forces amount to nearly half a million. The fight, however, goes on, and the people of Kashmir are determined never to lay down their arms until every inch of Kashmir soil is liberated.

10. I went to New York early in January 1948, with the aim and object of placing my country's case before the United Nations. I wrote a number of letters to the President of the Security Council and the Secretary-General of the United Nations, but failed to receive a formal hearing. The Azad Kashmir Government, therefore, do not consider themselves bound by the proceedings of the Security Council, and emphatically repudiate the Security Council's Resolution of 21 April 1948. My Government's objections to this resolution are many, and will be discussed in detail when the Commission visits our country. I might, however, indicate that our main objection is that the resolution utterly fails to provide the conditions under which a fair and impartial plebiscite could be carried out. The detested Indian Army and

the fascist Government of Sheikh Abdullah have been left in full control, and the Plebiscite Administrator will be powerless to ensure that people may vote free from harassment and fear of reprisals.

11. We will be glad to discuss with the Commission the conditions on which the Azad Kashmir Government could agree to participate in the plebiscite and be bound by its results. Some of these have already been mentioned in the statements made from time to time by the Qaid-i-Millat Chowdhury Ghulam Abbas, myself and my colleagues. Others would have to be worked out in the light of the conditions now obtaining and future developments. The principal conditions are, however, enumerated below :—

- (a) The Indian Armed forces, and the Sikh and R. S. S. assassins must be completely withdrawn.
- (b) Military and police forces required for internal security and the maintenance of law and order should be raised locally, and be under the control of the Plebiscite Administrator until the plebiscite is over.
- (c) A Provisional Government should be set up which would reflect the will of the majority of the people. As the Muslim Conference enjoys the confidence of the vast majority of Muslims, of Jammu and Kashmir, who constitute nearly 78 per cent of the State's population, it should assume the main responsibility for forming the Provisional Government, and should provide the Prime Minister. We would welcome the co-operation of other political parties, but I would like to make it perfectly clear that, under no circumstances, would the representatives of the Muslim Conference and the Azad Kashmir Government agree to the continuance as Prime Minister of Sheikh Abdullah, who has been playing the role of a Quisling, and is a traitor to his own country.
- (d) If a popular Government cannot be immediately established, we would agree to the setting up of a completely neutral administration under the supervision and control of the United Nation's Commission until the plebiscite is over.
- (e) All political prisoners must be released, and all political parties granted the fullest freedom to propagate their views and ideas.
- (f) All State employees who have been dismissed since 15 August 1947 because of their alleged sympathies for Pakistan should be re-instated.
- (g) The Commission should ensure the restoration and rehabilitation of all residents of Jammu and Kashmir who have left, or who have been compelled to leave the State since August 1947.
- (h) The Plebiscite Administration should have under its full and effective control, not only the armed forces and the Police stationed within the country, but also the administrative and judicial machinery, and should thus be in a position to ensure a free and impartial plebiscite.
- (i) The future constitution of the State should be decided by its own people, in accordance with recognised democratic methods.

The Azad Kashmir Government feel that these are the minimum conditions which must be satisfied before they could commit themselves and their people to the solution proposed by the Security Council. The conditions suggested are, in our view, eminently reasonable and are in conformity with the statements of almost all the members of the Security Council in the early

stages of its debate. I must emphasise that the Azad Kashmir Government will not accept any settlement to which they are not a party, and that Pakistan though keenly interested in the future of Jammu and Kashmir, cannot bind the Azad Kashmir Government or commit it to a course of action without its previous approval.

12. I trust that I have succeeded in giving you and your colleagues a general picture of the developments in our country as they appear to us and the fundamental basis on which the solution should be sought.

I am to express the hope that the Commission will be able to accept our invitation to visit Azad Kashmir at an early date, and that we shall thus be able to assist in the working out of an honourable and lasting settlement.

I beg to remain,

Sir,

your most obedient servant,

(Sd.) SARDAR MOHAMMAD IBRAHIM KHAN

President, Azad Kashmir Government.

ANNEXURE 21 (Para. 43)

(S/AC.12/INFO.2, 15 July, 1948).

Report made by Sir Girja Bajpai, Representative of the Indian Government, on his Statement before the United Nations Commission for India and Pakistan at its Thirteenth Meeting on Tuesday, 13 July 1948.

Mr. Vellodi and I met the UN Commission yesterday at 4-30 P.M. at Faridkot House. The meeting took place at the Commission's request. Besides the Chairman and Members of the Commission, the alternates, the secretaries and other members of the staff were present.

2. The Chairman, Mr. E. Gracffe, welcomed us on behalf of the Commission and requested me to make a statement on the Kashmir issue. I thanked the Commission for their welcome and expressed the hope that the arrangements that the Government of India had made for their stay in Delhi had proved satisfactory. I added that, though there might be differences between the Council's approach to the Kashmir issue and ours, the Government of India were anxious that the Commission should have all the courtesies and hospitality to which, as representatives of the United Nations, they were entitled.

3. Turning to Kashmir, I said that the point of view of the Government of India had been placed repeatedly, and at length, before the Security Council. I assumed that men of the experience and industry of the members of the Commission had studied the records of the proceedings of the Security Council. Nevertheless, since human memories were apt to be short and, in these dynamic times, apt to be crowded with events, I would readily before the Commission a short resume of the Government of India's case. Before dealing with Kashmir specifically, however, I said that I should like to deal with a delusion, widely held, and a fiction, equally widely believed in Pakistan, that India was determined to destroy Pakistan. This belief had actually been expressed in the form of a charge against the Government of India by the Foreign Minister of Pakistan. Since such propaganda as had been done in support of this belief was likely to influence the thinking of men, it seemed necessary to state the truth. Had India desired to destroy Pakistan, those now in authority in India need have done no more, before Pakistan was created by the Partition of India, than to have opposed partition. Though many in India disliked partition, and disliked it intensely,

they had agreed to it in order to bring to India political freedom and the opportunity for her leaders to apply themselves to constructive national tasks. Far from there being any desire to destroy Pakistan, India was most eager to live on terms of friendship and peace with her new neighbour. Indeed, after the experience that we had had of the interim Government, which came into being in September 1946, India's one anxiety was to avoid impeding her own evolution by any kind of union with Pakistan even if Pakistan desired such Union. The Security Council had been informed that we had already paid to Pakistan Rs. 75 crores and, in accordance with the terms of the partition, done all that we could to deliver to her what was due in the way of stores, including military stores. This money and the military stores handed over to Pakistan were being used against us in Kashmir. In other words, we had supplied to Pakistan the sinews of war for waging war against us, if Pakistan were so minded. This, indeed, would be a strange means of encompassing Pakistan's destruction. The Commission must, as reasonable men, judge for themselves what truth there was in what I had already described as a delusion and a fiction.

4. I next took up the issue of Kashmir specifically. I said that we had been accused of obtaining the accession of Kashmir by force and fraud. The Commission must be aware that, after the transfer of power to India and Pakistan on the 15th of August, 1947, each Indian State which, previously, had treaty relations with the Crown, became free to accede to India or to Pakistan. Kashmir had approached both us and Pakistan with proposals for a stand still agreement. Pakistan had entered into such an agreement. Aware of the intricacies of the position of Kashmir, we had not acceded to Kashmir's request for a stand still agreement. Further, there was no iota of evidence to suggest that, before the invasion of Kashmir by the tribesmen created an un-precedented situation, we had made any attempt to obtain the accession of Kashmir. Where, then, was the evidence in support of the charge that accession had been obtained by fraud? As regards force, the position was that, from September, we had heard of incursions into Jammu and Kashmir State from the Pakistan border. On the 24th October, we received news of the invasion of the Kashmir valley by tribesmen. The facts of this invasion had already been reported to the Security Council and must be known to the members of the Commission. The invasion was one by barbaric hordes who respected neither life nor honour. With them, they brought fire and sword to the inhabitants of the peaceful valley of Kashmir. Faced with this menace to her very existence, the Government of Jammu and Kashmir State, as also the leader of the most representative popular party, the National Conference, appealed to the Government of India for military aid and also asked that the State be allowed to accede to India. Both requests were accepted. The accession took place on the 26th of October, India's troops landed in Kashmir the following morning. As regards the military aid that India rushed to Kashmir, this was not only in discharge of a constitutional obligation which she undertook when she accepted the accession of Kashmir, it was also in response to a moral obligation, namely the obligation of every civilised nation to protect the life, honour and territory of a neighbour which had been suddenly attacked and whose destiny the perpetrators of this unprovoked aggression sought to determine by methods practised by gangsters. On both sides of the border, communal passions were at fever heat at this time. Those who were attempting to coerce Kashmir into accession to Pakistan were also raising the cry "On to Delhi". Had they succeeded in their aim in Kashmir, India would have been the next victim. India had therefore, sent her Forces to Kashmir under the triple obligation of a constitutional and a moral duty to a neighbour and friend and the obligation of self-defence. But, though India had accepted the accession of Jammu and Kashmir, she had voluntarily declared to the world that, once peace was restored, the question of accession to India or to Pakistan would be settled by

the freely expressed will of the people of the State, by means of a plebiscite under neutral auspices such as those of the United Nations. This offer of a plebiscite had been made, not to please Pakistan but in conformity with the declared policy and principle of the Government of India that, in these democratic days, on vital issues affecting the people of a State, the will of the people should prevail.

5. We had approached the Security Council, at the beginning of the present year, with the request that Pakistan, which was aiding and abetting the raiders who were invading Kashmir, should be asked to withdraw this aid. The forms in which the raiders were being helped had been clearly stated in our complaint. The action that we desired the Council to take, namely to require Pakistan to stop this aid immediately, had been equally clearly stated. In the four months debate that had followed, the issue raised by us had got lost in a miasma of dialectics. I added that I said this in no spirit of disrespect to the Council but merely stated a fact. In the resolution which the Council had adopted on the 21st of April, there was no mention either of Pakistan's complicity in the fighting in Kashmir or of her obligation to put an end to this complicity immediately. Since the Council passed its resolution a great change had occurred in the situation. Our troops in Kashmir were no longer fighting tribal raiders—their numbers had greatly diminished—or the insurgents who, it was said had risen in revolt against the Government of the Maharaja in order to win their liberty. Our troops were fighting the regular armed forces of Pakistan on all fronts in and around Jammu and Kashmir State. We had abundant evidence of this. If the Commission so desired, this evidence would be tendered by our Military Advisers. What was in progress today was an undeclared war between India and Pakistan. It was for the Commission to judge whether, in the face of these facts, it was India that could be accused of using force to secure the accession of Jammu and Kashmir or Pakistan.

6. Continuing, I said that I had referred earlier to the moral motive which had inspired us to go to the rescue of Jammu and Kashmir. It was to this moral issue, that we attached the highest importance: unfortunately it was the moral issue which the Security Council had ignored. Either our charge of Pakistan's complicity, now complicity in the shape of an undeclared war against us, was true or untrue. If it were untrue, we were prepared to face the obloquy of condemnation of the civilised world. On the other hand if it were true, then the Council of the United Nations were under an obligation to demand that Pakistan should cease hostilities against us, deny all aid to the raiders and withdraw her own troops as well as the outsiders from the State territory. We had nothing to hide and there was nothing of which we were ashamed, or need be ashamed. But, I repeated, we attached the highest importance to the declaration of Pakistan's guilt and, if this guilt were proved, to Pakistan being directed to do what, seven months ago, we had asked the Council that Pakistan should be asked to do. Until this matter was settled, there could be no question of discussing the details of a plebiscite.

7. Continuing, I reminded the Commission that we had offered a plebiscite on the issue of accession to India or Pakistan spontaneously and voluntarily. We had made the offer in the hope that the Kashmir issue would be settled peacefully and quickly. This had not happened. The military campaign, with the increasing participation of Pakistan, had assumed greater violence. What began in unprovoked violence continued in mounting violence and, the present prospects were that force alone would decide the issue. If the future of Jammu and Kashmir was to be determined by the arbitrament of the sword, then, without in any way wishing to utter a threat, or use the language of menace, I should like the Commission, as realists, to

recognise that the offer of plebiscite could not remain open. If Pakistan wanted a decision by force and that decision went against her, she could not invoke the machinery of the United Nations to obtain what she had failed to secure by her chosen weapon of force. This did not mean that the Government of India would in any way coerce the people of Kashmir. After hostilities had ceased and peace had been restored, the people of Kashmir would be free to determine both the form of their internal Government and the nature of their relations with India, but Pakistan could have no lot or part in the process.

8. Thus I concluded my statement. I offered to answer questions but none were asked. The Chairman thanked me for my clarification of the Government of India's position and asked that Mr. Vellodi and I should meet the Commission again this afternoon at 4-30 p.m.

ANNEXURE 22 (Para. 46)

(S/AC.12/17, 14 July, 1948).

**Resolution of the United Nations Commission for India and Pakistan
Adopted at the Fifteenth Meeting held on 14 July 1948 in Faridkot
House, New Delhi.**

The United Nations Commission for India and Pakistan, in a spirit of good will and impartiality,

Confident of the desire of the Governments of India and Pakistan to facilitate in all ways possible its efforts to bring about a peaceful settlement of the situation in the State of Jammu and Kashmir, and,

In order that there may be created an atmosphere which will encourage the cessation of hostilities,

Urges the Governments of India and Pakistan to take immediately those measures within their power which can improve the situation and to refrain from making or causing to be made any statements which might aggravate the situation.

ANNEXURE 23 (Para. 46)

(S/AC.12/18, 19 July, 1948)

**Answer from the Pakistan Government to the Resolution of the United
Nations Commission for India and Pakistan**

(S/AC. 12/17).

New Delhi, the 17th July, 1948

The Chairman,

The United Nations Commission for
India and Pakistan, New Delhi.

Sir,

I have the honour to communicate the following message from the Government of Pakistan, in reply to your letter dated 14th July, 1948 ;

“ Government of Pakistan have noted the Commission's Resolution of July 14th and wish to assure the Commission that they are prepared to take all measures within their power which can improve the situation and shall continue to refrain from making or causing to be made any statements which might aggravate the situation.”

I have the honour to be, etc,

(Sd.)M. ISMIAL

High Commissioner.

ANNEX 24 (Para. 46)
(S/AC. 12/19, 22 July, 1948)

Answer from the Indian Government to the Resolution of the United Nations Commission for India and Pakistan

(S/AC. 12/17).

15th July, 1948.

Excellency,

I have the honour to refer to your letter to me dated the 14th July in which you enclosed the text of a resolution adopted by your Commission at its 15th meeting, held on the 14th July, 1948, in Faridkot House, New Delhi. As desired by Your Excellency, the resolution was submitted to the Honourable Pandit Jawaharlal Nehru, Prime Minister of India and Minister for External Affairs. The Prime Minister desires me to request Your Excellency convey the following reply to the Commission :—

“ I have carefully considered the resolution of the Commission which, in substance, corresponds to a resolution, adopted by the Security Council of the United Nations on the 17th January, 1948, in the course of which the Government of India were asked to take immediately all measures within their power calculated to improve the situation and to refrain from making any statements which might aggravate the situation. In my reply to the Council I stated : ‘The Government of India have never faltered either in their desire or in their endeavour to improve the situation’ This is still the position of my Government and the Commission may rest assured that, consistently with their rights under international law and the Charter of the United Nations, the Government of India will continue to endeavour to give effect to the Commission’s request”.

I have the honour to be etc.

(Sd.) G. S. BAJPAI

Secretary General.

His Excellency Mr. Egbert Graeffe,
Chairman, United Nations Commission
for India and Pakistan, NEW DELHI.

ANNEX. 25 (Para. 53)

(S/AC. 12/23, 23 July, 1948).

**Resolution of the United Nations Commission for India and Pakistan
Adopted at the Nineteenth Meeting held on 20 July 1948 in Faridkot
House, New Delhi.**

The Commission,

Having enquired of the Governments of India and Pakistan as to the possibility of a cease-fire agreement in the State of Jammu and Kashmir.

And expecting their respective answers asks the Secretary General to appoint and send if possible at once a high-ranking officer to act as military adviser to the Commission and further to appoint officers and necessary personnel who would be ready to travel to the Indian Sub-Continent at a moment’s notice in order to supervise the cease-fire if and when it is reached

The Commission asks the Secretary General to inform the President of the Security Council of this request.

ANNEX. 26 (Para. 82)

(S/AC.12/44, 21 August 1948)

**Letter from the Minister of Foreign Affairs and Commonwealth Relations
of Pakistan to the Chairman of the Commission.**

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 principle 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 interlinked 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 reconstitution 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 :—

- (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.

(Sd). ZAFRULLA KHAN

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

Attachments : Appendix I.

APPENDIX I

Memorandum Regarding Points in the U.N. Commission's Resolution of 13th August 1948 Requiring Further Elucidation.

Preliminary

1. It has been explained to the Commission that it is only the Azad Kashmir Government that can authorise 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 statements. The preamble to the Security Council's Resolution dated the 21st 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's 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 discussions 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 recognised 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 15th 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 21st 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 21st April, 1948.

13. The Security Council's Resolution of April 21st, 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 15th 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 21st 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.

ANNEX. 27 (Para. 86)

(S/AC. 12/55, 3 September, 1948)

Letter from the Chairman of the Commission in Reply to Letter and Memorandum from the Government of Pakistan dated 19 August 1948 (document S/AC. 12/44).

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

I have the honour to be, etc.
(Sd.) 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 and 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 Mohammad 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, agree 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 force 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 in paragraphs 11, 12, and 14 of the Security Council's resolution of 13 April 1948. These questions, relating to the plebiscite will logically be dealt with in the implementation of Part III of the Commission's resolution of 13 April 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 after the acceptance of the truce agreement, their representatives enter into negotiations with the Commission in order to establish the conditions under which the free expression of the will of the people will be assured.

ANNEXURE 28 (Para III)

(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, any 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 India is receiving consisting of nationals of Pakistan and of tribesmen from territory immediately adjoining Pakistan on the north-western frontier 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 the 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 will 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 have received reports of the infiltration of armed raiders into the northern 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 24th 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 thousands or more fully armed and equipped men came in motor transport, cross-

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 Baramula. Beyond Baramula 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 on route followed by the raiders was the determination of the inhabitants of Srinagar, of 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 Baramulla to Unchawal 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 selected 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 North West 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 26th 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. Indefinite continuance of the present operations prolong

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 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 interest 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. PILLAI,

Representative of India to the United Nations.

PART - II

SECOND INTERIM REPORT

**Letter Dated 10 January, 1949 from the Chairman and Rapporteur
of the United Nations Commission for India and Pakistan
Addressed to the President of the Security Council Transmitting
the Second Interim Report of the Commission.**

IR.

We have the honour to present herewith the Second Interim Report of the United Nations Commission for India and Pakistan, covering the period of the Commission's activities from the date of its return to Geneva from the Indian Sub-continent on 25 September 1948 to the date of its adoption on 5 January 1949 of a resolution embodying the basic principles for a plebiscite in the State of Jammu and Kashmir.

The Second Interim Report was adopted unanimously by the Commission at its one hundred and thirteenth meeting, held at Lake Success on 8 January 1949, and is signed by the representatives.

Please accept the assurance of our highest consideration.

JOSEF KORBEL,
Chairman.

ALFREDO LOZANO,
Rapporteur.

To

The President of the Security Council.

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

SECOND INTERIM REPORT

1. The Commission's First Interim Report, dated 9 November, 1948, accounts for its activities to 22 September 1948 when the Commission left the Sub-continent for Geneva. It was then felt that the possibilities for further fruitful negotiations on the Sub-continent were temporarily exhausted, and that personal contact was desirable with representatives of the Security Council as well as with representatives of the Governments of India and Pakistan who had left for Paris to attend the session of the United Nations General Assembly.

2. The Commission arrived in Geneva on 25 September 1948, held eighteen meetings, and, after having prepared its First Interim Report, proceeded to Paris to submit it to the Security Council.

3. The Commission held twenty-eight meetings in Paris, its first meeting taking place in the UNESCO building on 8 November 1948.

4. While in Paris, the Chairman and other members of the Commission had numerous individual conversations with the representatives of both Governments, who also, separately, conferred from time to time with the Commission as a whole. In order to open new approaches towards a solution, a basis was sought for an agreement on principles for a plebiscite in the State of Jammu and Kashmir, in furtherance of the objectives of the Commission's resolution of 13 August 1948.

5. On 19 November 1948, the Chairman of the Commission received an urgent communication from the Foreign Minister of Pakistan concerning the military situation in the State of Jammu and Kashmir, which was transmitted to the President of the Security Council in a letter dated 22 November 1948 (Annex 1) and a copy of which was furnished to the representative of India.

The Security Council discussed the matter at its 382nd meeting on 25 November 1948, at which representatives of India and Pakistan explained their positions. On 28 November, the representative of India submitted a letter to the Chairman of the Commission dealing with the matters which had been raised in the communication from the Foreign Minister of Pakistan and discussed at the Security Council meeting of 25 November 1948. This letter was immediately transmitted to the President of the Security Council (Annex 2).

6. In view of the immediate need for an independent source of information upon the military situation in the State of Jammu and Kashmir, the Commission recommended urgently that a military adviser should be appointed and proceed forthwith to the Sub-continent, together with a suitable staff.

7. The Secretary-General was fortunate in obtaining the services of a Belgian Officer, Lieut.-General Maurice D'Alvoie, as Military Adviser. He arrived with a small staff on the Sub-continent on 2 January, 1949.

8. The Interim Report of the Commission was duly presented to the Security Council on 25 November 1948, and the Rapporteur announced that conversations were being pursued between the Commission and the representatives of the two Governments.

9. The President, in summing up the views of the Members of the Security Council, assured the Commission (1) that it could count on its full support in the task of bringing about a peaceful settlement and (2) that the Council wished to endorse the appeal made by the Commission to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the current negotiations.

10. The Commission is glad to report that the conversations with the representatives of India and Pakistan continued to proceed favourably. On 11 December 1948, the Commission was able to submit to the representatives of India and Pakistan proposals (Annex 3) which it hoped might be found "acceptable in their entirety" to both Governments.

11. Also, on 11 December, the Commission decided that Minister Lozano (Colombia) and his alternate, Mr. Samper, should travel to the Sub-continent to provide the two Governments with any necessary explanations of the Commission's proposals. Mr. Colban, the personal representative of the Secretary-General, and a small staff were to accompany the Colombian representative.

12. On the basis of understandings reached in conversations held at New Delhi and Karachi between the representatives of the two Governments and Minister Lozano, the Governments of India and Pakistan signified their acceptance of the Commission's proposals of 11 December 1948, in communications dated 23 December and 25 December respectively (Annexes 4 and 5).

13. While Mr. Colban remained on the Sub-continent to await the return of the Commission, Minister Lozano left for Lake Success, where on 5 and 6 January, 1949, he reported the results of his mission.

14. On 1 January 1949 the Governments of India and Pakistan declared that, in view of the fact that the proposals of the United Nations Commission for India and Pakistan had been accepted, there remained no reason for continuation of hostilities. Both Governments announced their agreement to order a cease-fire effective one minute before midnight, 1 January 1949, publicly expressing the hope that this decision may bring to the people

of Jammu and Kashmir lasting peace and to the peoples of Pakistan and India a sense of closer friendship.

15. The Commission reconvened at Lake Success at 3-00 P.M. on 5 January 1949 with the principal objectives of formulating a resolution embodying the Commission's proposals, discussing its future work and movements, and submitting a further report to the Security Council. At its meeting on 5 January, the Commission adopted a resolution, the text of which is as follows :

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August 1948 :

1. 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.
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.
3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
- (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
- (c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.
4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India the final disposal Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.
- (b) As regards the territory referred to in A. 2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.
5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.
6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that :

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite ;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit ;

(c) All political prisoners are released ;

(d) Minorities in all parts of the State are accorded adequate protection; and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted.

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations ;

Commends the Governments of India and Pakistan for their prompt action in ordering a cease-fire to take effect from one minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948 ; and

Resolves to return in the immediate future to the Sub-continent to discharge the responsibilities imposed upon it by the resolution of 13 August 1948 and by the foregoing principles."

16. The Commission also drafted a communique for the Press to be released for publication in the morning papers on Friday, 7 January 1949 (Annex 6). The texts of the resolution and the communique were transmitted to the Governments of India and Pakistan, so that release in those countries and at Lake Success might be simultaneous.

17. In order to enable the Military Adviser to report to the Commission on the observance of the cease-fire and the truce agreement, the Commission requested the Secretary-General of the United Nations to provide for the designation of an adequate number of military observers. It is hoped that some or all of these observers will have arrived on the scene by the end of January.

18. Under the Commission's proposals a Plebiscite Administrator will be nominated by the Secretary-General of the United Nations in agreement with the Commission, and he will be formally appointed to office by the Government of the State of Jammu and Kashmir. It is important that a personality

of high international standing, commanding general confidence, be nominated in the near future, so that work essential to actual preparation for the plebiscite may be commenced when required. The Plebiscite Administrator will undertake his duties within the State when it is found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the resolution of 13 August 1948 have been carried out.

19. The Commission plans to return to the Sub-continent as soon as practicable, and in any event before the end of January, there to carry out its responsibilities with reference to the cease-fire and truce agreement and the elaboration of the plebiscite proposals. The Commission will continue to report regularly to the Security Council, submitting its further proposals and conclusions.

CARLOS A. LEGUIZAMON (Argentina).

HARRY GRAEFFE (Belgium).

ALFREDO LOZANO (Colombia).

JOSEF KORBEL (Czechoslovakia).

J. KLAHR HUDDLE (United States).

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Rotation of Chairman

1 October to 21 October 1948	.	H. E. Minister Ricardo J. Siro (Argentina).
22 October to 11 November 1948	.	H. E. Ambassador Egbert Graeffe (Belgium).
12 November to 2 December 1948	.	H. E. Minister Alfredo Lozano (Colombia).
3 December to 13 December 1948 and 5 January to 15 January 1949.	and	H. E. Ambassador Josef Korbe (Czechoslovakia).

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

Calendar of Events

Saturday	.	25 September	.	.	Commission arrives in Geneva.
Thursday	.	30 September	Geneva	.	63rd meeting of Commission.
Monday	.	4 October	Geneva	.	64th meeting of Commission.
Tuesday	.	5 October	Geneva	.	65th meeting of Commission.
Wednesday	.	6 October	Geneva	.	66th meeting of Commission.
Thursday	.	7 October	Geneva	.	67th meeting of Commission.
Friday	.	8 October	Geneva	.	68th meeting of Commission.
Saturday	.	9 October	Geneva	.	69th meeting of Commission.
Monday	.	11 October	Geneva	.	70th meeting of Commission.
Tuesday	.	12 October	Geneva	.	71st meeting of Commission.
Wednesday	.	13 October	Geneva	.	72nd meeting of Commission.
Thursday	.	14 October	Geneva	.	73rd meeting of Commission.

Friday	· 15 October	· Geneva	· 74th meeting of Commission.
Saturday	· 16 October	· Geneva	· 75th meeting of Commission.
Monday	· 18 October	· Geneva	· 76th meeting of Commission.
Tuesday	· 19 October	· Geneva	· 76th meeting of Commission.
Wednesday	· 20 October	· Geneva	· 78th meeting of Commission.
Thursday	· 21 October	· Geneva	· 79th meeting of Commission.
Thursday	· 28 October	· Geneva	· 80th meeting of Commission.
Monday	· 8 November	· Paris	· 81st meeting of Commission. Informal conversation of Chairman with representa- tive of India.
Tuesday	· 9 November	· Paris	· 82nd meeting of Commission.
Friday	· 12 November	· Paris	· 83rd meeting of Commission.
Monday	· 15 November	· Paris	· 84th meeting of Commission.
Tuesday	· 16 November	· Paris	· 85th meeting of Commission. Informal meeting with Pakis- tan Foreign Minister.
Wednesday	· 17 November	· Paris	· 86th meeting of Commission.
Thursday	· 18 November	· Paris	· 87th meeting of Commission. 88th meeting of Commission.
Friday	· 19 November	· Paris	· 89th meeting of Commission. (Pakistan Foreign Minister present).
			· 90th meeting of Commission.
Saturday	· 20 November	· Paris	· 91st meeting of Commission.
Monday	· 22 November	· Paris	· 92nd meeting of Commission.
Wednesday	· 24 November	· Paris	· 93rd meeting of Commission.
Thursday	· 25 November	· Paris	· Chairman attends 392nd meet- ing of Security Council for discussion of India-Pakistan question.
Saturday	· 27 November	· Paris	· 94th meeting of Commission. Informal meeting with Pakis- tan Foreign Minister.
Monday	· 29 November	· Paris	· 95th meeting of Commission. Informal meeting with re- presentative of India.
Tuesday	· 30 November	· Paris	· 96th meeting of Commission. Informal meeting with Pakis- tan Foreign Minister.
Wednesday	· 1 December	· Paris	· 97th meeting of Commission.
Thursday	· 2 December	· Paris	· 98th meeting of Commission.
			· 99th meeting of Commission.
Thursday	· 2 December	· Paris	· 100th meeting of Commission.
Saturday	· 4 December	· Paris	· 101st meeting of Commission.
Monday	· 6 December	· Paris	· Military Adviser appointed. · 102nd meeting of Commission.

Wednesday	8 December	Paris	103rd meeting of Commission.
Friday	10 December	Paris	104th meeting of Commission. (Pakistan Foreign Minister present.)
			105th meeting of Commission. (Representative of India present.)
Saturday	11 December	Paris	106th meeting of Commission. 107th meeting of Commission. Proposals re plebiscite communicated to representatives of India and Pakistan.
Monday	13 December	Paris	108th meeting of Commission.
Thursday	16 December	Paris	Representative of Colombia and party proceed to Sub-continent. Chairman proceeds to Lake Success.
Monday	20 December	Delhi	Discussion of representative of Colombia and Prime Minister, India.
Wednesday	22 December	Delhi	Discussion of representative of Colombia and Prime Minister, India.
Friday	24 December	Karachi	Discussion of representative of Colombia and Foreign Minister, Pakistan.
Saturday	25 December	Karachi	Discussion of representative of Colombia and Foreign Minister, Pakistan.
Thursday	30 December	Paris	Military Adviser proceeds to Sub-continent.
Saturday	1 January 1949	Delhi-Karachi.	Cease-fire orders issued by India and Pakistan.
Wednesday	5 January	Lake Success	109th meeting of Commission.
Thursday	6 January	Lake Success	110th meeting of Commission. 111th meeting of Commission.
Saturday	8 January	Lake Success	112th meeting of Commission. 113th meeting of Commission.

ANNEX 1 (Paragraph 5)

Letter Dated 22 November 1948 from the Chairman of the United Nations Commission for India and Pakistan Addressed to the President of the Security Council Concerning the Situation in Kashmir.

SIR,

I have the honour to transmit the following communication from the Foreign Minister of Pakistan :

" EXCELLENCY,

I have the honour to inform Your Excellency that I have been instructed by the Pakistan Government to transmit at once the following communication to the Security Council :—

' The Pakistan Government wish to draw the attention of the Security Council to the developments in Kashmir which constitute definite violations by India of the undertaking given by both

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Saturday	. 16 October	. Geneva	. 75th meeting of Commission.
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ANNEX 1 (Paragraph 5)

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SIR,

I have the honour to transmit the following communication from the Foreign Minister of Pakistan :

" EXCELLENCY,

I have the honour to inform Your Excellency that I have been instructed by the Pakistan Government to transmit at once the following communication to the Security Council :—

' The Pakistan Government wish to draw the attention of the Security Council to the developments in Kashmir which constitute definite violations by India of the undertaking given by both

Governments in response to UNCIP's Resolution of 19 September 1948. This Resolution appealed to both Governments to their best endeavours during the absence of the Commission to lessen the existing tension in this dispute so as further prepare the ground for its peaceful final settlement. The Government of Pakistan have scrupulously observed the undertaking given by them. On the other hand, India now appears determined to force a military decision in Kashmir. Indian Army has recently been reinforced in Jammu area by three Infantry Brigades, four Militia Battalions, one Field Artillery Regiment, one Medium Artillery Regiment. A Corps Headquarters has been established in NAUSHERA controlling three divisions of army, one Airborne Division operating in Riasi and Poonch Districts. In Srinagar area reinforcement of two additional Infantry Brigades plus three Battalions and one Regiment of Field Artillery have arrived. Indian Air Force operating in Kashmir has also been considerably reinforced. Last September Indian Army made an attack in Brigade strength on Zojilla Pass which was repulsed. In October an attack in Brigade strength north from Jammu towards Uri was also held, while an attack by one Brigade from JHANGAR towards KOTLI was held 15 miles north-west of Jhangar. Indian Army has now started major offensive by at least one division supported by armoured cars from Rajauri towards Kotli and Mander and is continually moving up reinforcements to Naushera. Object undoubtedly is all out offensive to obtain possession of western Kashmir including Mirpur, Mangla Head Works and whole of Poonch. Heavy fighting is now in progress on this front and renewed flow of refugees into West Pakistan has already begun as a result of this Indian Army offensive. Indian Army has also renewed attack by at least one Brigade over Zojilla pass and has penetrated defences of Dras. These attacks on both fronts are being supported by maximum air action. It is quite clear that India's object is to secure a decision by military means immediately and so face United Nations with a *fait accompli*. Hitherto Azad forces with minimum support by Pakistan Army acting in a purely defensive role have managed to hold Indian aggression. Pakistan Air Force has so far not been employed in a combat role. Pakistan Government cannot emphasize too strongly to the Security Council that unless immediate steps are taken by them to halt Indian Army offensive the Pakistan Government will have no option but to change their policy of using minimum regular forces in Kashmir and will have to undertake counter offensive with all available resources in an endeavour to prevent the over running by Indian Army of Poonch and Mirpur Districts. This must inevitably lead to most bloody fighting between regular Pakistan and regular Indian forces which up till now Pakistan Government have sincerely endeavoured to avoid. The situation is therefore fraught with possibilities of wide extension of armed conflict'.

"2. In the course of my informal meeting with the Commission on 16 November, I understood that the Commission was formulating the basic conditions for a plebiscite under Part III of its resolution of 13 August 1948, and that it intended to present its proposals very shortly to the representatives of India and Pakistan. Realising the delicacy of the task upon which the Commission is engaged, and being extremely

apprehensive that the efforts of the Commission to bring about a peaceful settlement of the disputes between India and Pakistan might be completely frustrated by India's attempt to achieve a military decision in Jammu and Kashmir, I have the honour to transmit my Government's communication to the Security Council through the Commission instead of sending it direct.

"3. In view of the grave situation created by the aggressive action of India, which threatens to flare up into an armed conflict of the most serious magnitude between two States, members of the United Nations, I would request that the Commission may be pleased to transmit the Pakistan Government's communication to the Security Council, and to take such urgent action as the Commission may deem appropriate and effective to cope with the emergency. The Commission will readily appreciate that a military decision achieved by one party to the Kashmir dispute, while the Commission is within sight of the formulation of its proposals for a peaceful settlement of the dispute, would from every point of view be a disaster, and that urgent and effective action is needed to avert it.

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

(Sd.) ZAFRULLA KHAN,

*Minister of Foreign Affairs and
Commonwealth Relations,
Government of Pakistan "*

The United Nations Commission for India and Pakistan, as is noted in the above letter, is at present engaged in the preparation of bases for further negotiations with the Governments of India and Pakistan, and is awaiting the replies of the representatives of the two Governments to its initial suggestions. The Commission envisages its return to the sub-continent as soon as the development of the present consultations with representatives of the two Governments here in Paris renders this desirable.

The Commission has addressed a communication to the Secretary-General of the Indian Ministry of External Affairs, who is at present in Paris, asking him to secure, as a matter of urgency, his Government's observations on the situation referred to in the communication from the Foreign Minister of Pakistan. The Commission at the same time has appealed to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful final settlement.

In an effort to obtain specific information on the present military situation the Commission is in communication with the Secretary-General regarding the appointment of a military adviser who would be dispatched to the Indian sub-continent as soon as practicable and keep the Commission currently informed. The Secretary-General is being addressed separately on this subject.

The Commission will keep you informed of further developments in the situation.

(Sd.) ALFREDO LOZANO,
Chairman.

ANNEX 2 (Paragraph 5)
Letter Dated 30 November 1948 From the Chairman of the United Nations Commission for India and Pakistan to the President of the Security Council Enclosing a Letter Dated 28 November 1948 from the Representative of India to the Chairman of the Commission.

Paris, 30 November 1948.

I have the honour to refer to my letter of 22 November 1948 relating to a communication from the Foreign Minister of Pakistan in connection with the pending dispute between that country and India.

In my letter to you I mentioned that the Commission for India and Pakistan had addressed a communication to the Secretary-General of the Indian Ministry of External Affairs who is at present in Paris asking him to secure, as a matter of urgency, his Government's observations on the situation referred to in the communication from the Foreign Minister of Pakistan. The Commission, at the same time, appealed to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful, final settlement.

I have now received a reply dated 28 November 1948 from the Indian representative and I beg leave to enclose copy of that document for the information of the Security Council.

(Sd.) ALFREDO LOZANO,

Chairman of the United Nations Commission for India and Pakistan.

Enclosure:

Paris, 23 November 1948.

SIR,

I have the honour to refer to your letter of 22 November 1948, which reproduces the text of a letter dated the 19th instant, addressed to you by the Foreign Minister of Pakistan. Sir Zafrullah's letter raises three main points:—

- (1) that India had violated the undertaking given by both the Governments of India and Pakistan in response to the Commission's resolution of 19 September 1948 ;
- (2) that the Indian Army and Air Force in Jammu and Kashmir had recently been heavily reinforced ;
- (3) that India had now started a major offensive with the object of securing a decision by military means immediately and so facing the United Nations with a *fait accompli*.

On the basis of instructions and information received by my Government I submit the following answers to the three points set out in the preceding paragraph :

- (1) My Government completely deny the allegation of the Government of Pakistan that they have violated any undertaking. In this connexion, I would invite your attention to the reply of my Government to the Commission's resolution of 19 September, despatched from New Delhi on 29 September, of which, for convenient reference, I attach a copy. In that reply, the Prime Minister of India and Minister of External Affairs and Commonwealth Relations, Shri Jawaharlal Nehru, drew the attention of the Commission to the continued presence of Pakistan troops on the territory of Jammu and Kashmir, which

is now Indian territory, and of the continued offensive against Indian troops in this State by Pakistan troops as well as by other hostiles who are under the operational command of the Pakistan Army. The Prime Minister added: "The extent to which the Government of India can observe the Commission's resolution will naturally depend upon this situation". My Government maintain, in view of this reply, that there has been no breach of any undertaking by them.

- (2) As I pointed out in the course of the debate in the Security Council last Thursday, the statements in Sir Zafrullah Khan's letter to Your Excellency dated 19 November regarding the reinforcements sent by India to Jammu and Kashmir are incorrect. The Air Force has not been strengthened at all. As regards the Army, all that has happened is that, in recent months, about five thousand men have been sent to Jammu and Kashmir, partly to relieve old troops and partly to meet fresh attacks by the Pakistan Army supported by big guns. There has been a fresh disposition of old troops, in the course of which certain brigade headquarters have been established. The reference to new brigades in the Pakistan Foreign Minister's letter of the 19 November is not understood.
- (3) While the Government of India feel that they are perfectly justified, in the face of Pakistan's invasion of Jammu and Kashmir and continuous attacks, to use military means to clear Kashmir, they have been acting on the defensive during the past months and there has been no major offensive nor is any such offensive contemplated. The Commission is familiar with the terrain in Kashmir and aware of the climatic conditions which prevail there during the winter. These factors alone make the undertaking a major offensive during the winter impossible. The operations over the Zojilla Pass were intended to relieve the Kashmir valley of a threat from the north-east and the pressure by hostiles on Leh. The operation in the Poonch area which resulted in the capture of Mendbar was also undertaken to clear the road to Poonch where, as the Commission is aware, a garrison of Indian troops has been besieged for some months and is still under siege. Unless the road was kept clear, neither the garrison nor the refugees now in Poonch, numbering thousands, could be kept supplied.

In your letter under reply, Your Excellency addressed an appeal to the Government of India to refrain from any action which might aggravate the military and political situation and thus endanger the negotiations which are at present being directed towards the preparation of a peaceful final settlement. This appeal has been endorsed by the Security Council and was communicated officially to Her Excellency Mrs. Pandit in a letter from the President of the Security Council dated 27 November 1948. I have telegraphed to my Government for a formal reply to this appeal. Meanwhile, I can assure the Commission that, as already stated, the Government of India have not launched, and have no intention of launching, a military offensive. The Commission will, I submit, recognise that the Government of India's further course of action would depend on what Pakistan does.

(Sd.) G. S. BAJPAI,

*Secretary-General to the Government of India,
Ministry of External Affairs and
Commonwealth Relations.*

Attachment:

29 September, 1948.

Please convey following from the Prime Minister to the Chairman of the United Nations Commission for India and Pakistan, now in Geneva :—

I have carefully considered the resolution of the Commission which, in substance, corresponds to the resolution adopted by your Commission at its 15th meeting held on 14 July 1948, at Faridkot House, New Delhi. In reply to this resolution, I stated : "The Commission may rest assured that, consistently with their rights under international law and the Charter of the United Nations, the Government of India will continue to endeavour to give effect to the Commission's request". My Government have faithfully kept this promise. The Commission is aware of the continued presence of Pakistan troops on the territory of Jammu and Kashmir, which is now Indian territory, and of the continued offensive against Indian troops in the State by Pakistan troops as well as by other hostiles, who are under the operational command of the Pakistan Army. The extent to which the Government of India can observe the Commission's resolution will naturally depend upon this situation.

JAWAHARLAL NEHRU.

ANNEX. 3 (Paragraph 10)

Basic principles for a plebiscite proposed by the Commission to the Government of India and Pakistan On 11 December 1948

A. The Commission reaffirms its resolution of 13 August, 1948.

B. The Governments of India and Pakistan simultaneously accept supplementary to this resolution the following principles :

1. 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.
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.
3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
- (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
- (c) The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.
4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will

- determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.
- (b) As regards the territory referred to in A. 2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.
5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.
6. (a) All citizens of the State who have left it on account of the disturbance will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.
- (b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purpose, shall be required to leave the State.
7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that :
- (a) there is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite ;
- (b) no restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of the press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit ;
- (c) all political prisoners are released ;
- (d) minorities in all parts of the State are accorded adequate protection ; and
- (e) there is no victimization.
8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted.
9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial.

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations.

C. Part I and Part II of the Commission's resolution of 13 August 1948 will be put into effect without delay.

ANNEX 4 (Paragraph 12)

Letter Dated 23 December 1948 From the Secretary-General of the Ministry of External Affairs and Commonwealth Relations of the Government of India to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan.

YOUR EXCELLENCY,

I have already forwarded to you, authentic copies of two *Aides Memoire** embodying the substance of your discussions with the Prime Minister of India. On the basis of the explanation given by you of the Commission's plebiscite proposals and the understanding arrived at in the course of the conversations between you and the Prime Minister, the Government of India, animated by a sincere desire for a peaceful settlement of the Kashmir dispute and by their willingness to assist the United Nations Commission in achieving this objective, have decided to accept the proposals.

2. As you yourself said, the appointment of a Plebiscite Administrator will take some time. The Government of India have no objection to the preliminaries of choosing a person of high international standing and commanding general confidence being started, but they would prefer the proceedings to be kept confidential for the time being. No public announcement of the name of the person selected should be made without prior consultation with them.

3. My Government would be glad to be informed, if necessary confidentially, through their High Commissioner in Karachi, of the reply of the Government of Pakistan to the Commission's proposals. That Government should not be informed of the Government of India's acceptance until after it has communicated its reply to Your Excellency.

Please accept the assurances of my highest consideration.

Yours sincerely,
(Sd.) G. S. BAJPAI,
Secretary-General.

His Excellency Alfredo Lozano,
United Nations Commission for India and Pakistan,
NEW DELHI.

**Aides Memoire* attached.

ATTACHMENT 1

Aide Memoire No. 1

His Excellency Dr. Lozano, accompanied by his alternate, Mr. Samper, and His Excellency Mr. Coltan. Personal Representative of the Secretary-General of the United Nations, met the Prime Minister yesterday. The Honourable Shri Gopalaswami Ayyangar and Sir G. S. Bajpai were also

present. The discussions of the Commission's plebiscite proposals fell into two parts, (1) General, (2) Particular in reference to individual clauses.

2. The Prime Minister drew attention to Pakistan's repeated acts of aggression against India. In spite of the presence of Pakistan troops in Jammu and Kashmir, which is Indian territory now, and the offensive action of Pakistan troops, the Government of India had accepted the Commission's Resolution of 13 August. Pakistan had not accepted that Resolution. In paragraph 143 of its report, the Commission has referred to its conference with the Prime Minister on the conditions attached by the Government of Pakistan to its acceptance of the Resolution of 13 August. As stated in paragraph 144 of the report, the Prime Minister had informed the Commission that he stood on his original promises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps. This had specific reference to an amplification of Part III of the Resolution of 13 August. Nevertheless, the Government of India had agreed to informal conversations in Paris which had resulted in the formulation of the proposals now put forward by the Commission. The Government of India naturally wondered how far this process of rejection of proposals put forward by the Commission by Pakistan and the adoption of a responsive attitude on the part of the Government of India towards the Commission's proposals could continue. The Commission must realize that there were limits to the forbearance and spirit of conciliation of the Government of India. The Prime Minister emphasized, (1) that if the Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until Parts I and II of the Commission's Resolution of 13 August had been fully implemented; (2) that in the event of Pakistan not accepting these proposals, or having accepted them, not implementing Parts I and II of the Resolution of 13 August, the Government of India's acceptance of them should not be regarded as in any way binding upon them; (3) Part III of the Commission's Resolution of 13 August provided "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 consultation with the Commission to determine fair and equitable conditions whereby such free expression will be assured." The present proposals appeared to limit the method of ascertaining the will of the people regarding the future status of the State of Jammu and Kashmir to a plebiscite. While the Government of India adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored. The Commission had itself recognized the difficulties of carrying out a plebiscite in Kashmir. The Government of India feel that the exploration of other methods should not be ruled out.

3. As regards (1) Dr. Lozano enquired whether there would be objection to the appointment of a Plebiscite Administrator until Parts I and II of the Resolution of 13 August had been implemented. Both he and Mr. Colban thought that the Plebiscite Administrator could do useful exploratory work even before arrangements for holding a plebiscite could be taken in hand. The Prime Minister pointed out that it was always open to the Commission to employ advisers or experts for work within its terms of reference. The Government of India, however, would regard the appointment of a Plebiscite Administrator, as such, premature until Parts I and II of the Resolution of 13 August had been implemented. Dr. Lozano accepted (2). As regards (3), he said that the Commission wished the possibility of a plebiscite to be explored first. Should the Plebiscite Administrator, however, find a plebiscite to be impracticable, the way would be open to consider other methods

for ensuring a free expression by the people of Jammu and Kashmir of their wish regarding the future status of the State.

4. *B. 1 Preamble.*—The phrase “The Governments of India and Pakistan simultaneously accept” is incorrect in that either Government may not accept the principles supplementary to the Resolution of 13 August. Even if both Governments accept them, the acceptance cannot be simultaneous. The wording should be changed accordingly.

B. 3 (b).—The question was raised whether the form of words employed was intended to give to the Plebiscite Administrator powers of interference in the administration of the State, *e.g.*, by “direction and supervision of the State Forces and Police”, mentioned in paragraph B. 8 of the Security Council’s Resolution of 21 April 1948. Dr. Lozano said that this was not the intention of the Commission and that the words quoted above had been deliberately omitted. The Prime Minister pointed out that all the Plebiscite Administrator could in reason expect was that, for the purpose of organizing 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. Dr. Lozano said that a Plebiscite Administrator of international standing and commanding general confidence who would be appointed after consultation with the Government of India could be expected to act reasonably and that the Commission did not intend that he should usurp the functions of the State Government in the field of normal administration and law and order. His functions and powers would be limited to ensuring that at the plebiscite was free and impartial.

B. 4 (b).—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. Their presence in the territories referred to in A. 3 of Part II of the Resolution of 13 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 an obstacle to the free expression of opinion regarding the future status of the State by those who might be opposed to the accession of the State to Pakistan. Dr. Lozano pointed out that it was the Commission’s intention that there should be large scale disarming of these forces, though it would not be possible to require withdrawal, from these territories, of genuine inhabitants of these areas.

B. 6 (a).—Dr. Lozano agreed that it was not the Commission’s intention that the Pakistan Commission should operate outside Pakistan. Thus, the Pakistan Commission would *not* operate in the territory referred to in A. 3 of Part II of the Resolution of 13 August. The Prime Minister then raised the question of the “free return” to the State of all citizens who had left it on account of the disturbances. He said that the tendency of Pakistan would be to push as many people as possible into Jammu and Kashmir. If the plebiscite was to be limited, as it should be, to genuine citizens of the State, the entry of persons claiming to be citizens into the State will have to be most carefully checked. How was this to be achieved. Dr. Lozano said that the Commission fully realized the necessity of an accurate and effective check but had not gone into details. Possibly those returning to the State could be stopped and examined at the frontier. The Prime Minister pointed out that, considering the length of the frontier and the ease with which people could slip across the border over the mountain tracks, a check on the frontier would neither be easy nor effective, except by the deployment of large forces.

Apart from the problem of entry, there is the even more important problem of the rehabilitation and protection of those who have left the State on account of recent disturbances. Homes have been destroyed ; property

has been lost ; there has been wholesale dispossession of persons from the land that they used to cultivate. It is not enough to "invite" these persons to return to the State. They have to be given full security and to be housed, fed, and put in a position to maintain themselves. It may be necessary to lodge these returning citizens of the State, temporarily in camps for distribution to their homes. They could not, however, be expected to remain in relief camps for long or to take part in a plebiscite from such camps. The administrative and economic implications of this task were at once significant and onerous. They must receive full attention.

B. 6 (b).—It is assumed that the Government of Jammu and Kashmir will decide whether or not a person entered the State for a lawful purpose.

B. 7 (b).—India is a secular State ; the United Nations also are a secular organisation. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Dr. Lozano agreed 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 of speech.

As regards the freedom of lawful entry and exit, this must obviously be governed by B. 6 of the proposals. It is assumed that in the territory under their control entry and exit will be regulated by rules framed for the purpose by the Government of Jammu and Kashmir with due regard to the security of the State and the maintenance of law and order. Dr. Lozano said that a system of permits would probably be necessary.

B. 7 (c).—Persons guilty of ordinary offences against the law will not be regarded as political prisoners.

5. In all their negotiations the Government of India have emphasized the paramount need of ensuring the security of the State. The Commission recognized this in their Resolution of 13 August, they have also provided in 4 (a) of the plebiscite proposals that measures with regard to the final disposal of Indian and State forces will be taken with due regard to the security of the State. The Government of India wish to emphasize the supreme importance which they attach to adequate provision for the security of the State in all contingencies.

ATTACHMENT 2

Aide Memoire No. 2

His Excellency Dr. Lozano and His Excellency Mr. Colban met the Prime Minister at 11-00 A.M. The Honourable Shri N. Gopaldaswami Ayyangar, Sir Girja Shanker Bajpai and Mr. Pai were also present.

2. Dr. Lozano said that the *aide memoire* of the conference which took place on Monday, 20 December, was a correct account of the proceedings. He suggested, however, that the phrase "large scale disarming" of the Azad Kashmir forces used in the portion of the *aide memoire* dealing with B. 4 (b) of the Commission's plebiscite proposals did not, perhaps, represent the Commission's intention. What the Commission had in mind was the disbanding of these forces ; disarming, it was assumed, would follow. The Prime Minister pointed out that disbandment was not the same thing as disarming. Pakistan had raised something like thirty-five battalions of 23,000 to 30,000 men who now formed part of the Azad Kashmir forces. The presence of such a large number of armed people, even if the regular formations were disbanded, would not be conducive, either to ensure the security of that part of Jammu and Kashmir which is under the control of Indian and State

forces, or the security of those inhabitants of the territories referred to in A. 3 of Part II of the Resolution of 13 August who did not fully subscribe to or share the political views of pro-Pakistan elements. Moreover, the question of the re-entry into these territories of State citizens who had left it on account of the present conflict had to be kept in mind. With such a large number of members of the Azad Kashmir forces under arms, former inhabitants of these territories who held different political views would not dare to re-enter and, therefore, would be debarred from participation in a "free and impartial" plebiscite. In view of this explanation, Dr. Lozano agreed that the phrase "large scale disarming" should be regarded as correctly interpreting the Commission's intention.

3. Discussion then turned on B. 10 of the proposals. Dr. Lozano, answering an enquiry of the Prime Minister, said that the Commission did not contemplate that the Plebiscite Administrator should undertake any administrative functions in regard to the plebiscite until Parts I and II of the Commission's Resolution of 13 August 1948 had been implemented. Until such implementation, the conditions for the discharge of such functions would not exist. What the Commission had in mind was that discussions on details connected with the plebiscite might begin as soon as possible as this would create a good impression all around. Monsieur Colban supported this view on the ground that the announcement of a Plebiscite Administrator of high standing would have an excellent psychological effect. Monsieur Colban added that, of course, if difficulties arose in the implementation of Part II of the Resolution of 13 August, the preliminary consultations regarding the functions of the Plebiscite Administrator and other detailed arrangements for the plebiscite would have to be deferred. The Prime Minister replied that, under the Commission's proposals, the Governments of India and Jammu and Kashmir assumed a great many responsibilities while Pakistan had to do practically nothing. The Governments of India and Jammu and Kashmir could not, in fairness, be expected to discharge any of their responsibilities regarding the plebiscite until there was satisfactory evidence that Pakistan was carrying out its obligations under Part II of the Resolution of 13 August. Moreover, once the present proposals had been accepted, the things left over for discussion with the Plebiscite Administrator would be (1) his functions and (2) detailed arrangements for carrying out a plebiscite. A consideration of (2) would clearly be impracticable until Parts I and II of the Resolution of 13 August had been implemented. Unless cease-fire was carried out and Pakistan forces, hostile tribesmen and Pakistan nationals who had entered the State for purposes of fighting had withdrawn, there could not be, in the territories referred to in A. 3 of Part II of the Resolution of 13 August, any local authorities with whom plebiscite arrangements could be discussed. B. 9, as at present worded, could be interpreted to mean that consultations with the Plebiscite Administrator should start immediately on the signature of the truce. This clearly was not feasible. Dr. Lozano and Monsieur Colban pointed out that, when the paragraph in question was drafted, all these considerations were not present to the mind of the Commission. The Commission, according to Dr. Lozano, had assumed that since the Prime Minister of India had informed the Commission, two days after it had placed before him the conditions attached by the Government of Pakistan to their acceptance of the Resolution of 13 August, that he stood on his original premises that the Pakistan forces must be withdrawn from the State before the Government of India could consider any further steps, action in relation to B. 9 would be feasible only after satisfactory progress had been made with the implementation of Part II of the Resolution of 13 August. He and Monsieur Colban agreed that the consultations envisaged in B. 9 could take place only after the Commission was satisfied that satisfactory progress had been made with the implementation of Part II of the Resolution, that is

after hostile tribesmen, Pakistan forces and Pakistan nationals who had entered Jammu and Kashmir for the purpose of fighting had withdrawn from State territory. Dr. Lozano said that this was the interpretation of B. 9 which they would present to the Pakistan Government in Karachi.

4. Dr. Lozano stressed the importance of appointing the Plebiscite Administrator as soon as possible. In view of the preliminaries that had to be gone through, he thought that it might take some time before the Plebiscite Administrator was finally appointed. The Prime Minister pointed out that, if Pakistan accepted the present proposals and carried out its obligations under Part II of the Resolution of 13 August promptly, he saw no reason why the appointment should take much time. What he wished to emphasize was that there would be nothing which the Plebiscite Administrator could usefully do in India until progress had been made with the implementation of Part II of the Resolution as now explained by Dr. Lozano and Mr. Colban.

5. As regards alternative methods of ascertaining the wish of the people regarding the future status of Jammu and Kashmir, Dr. Lozano said that the statement in paragraph 3 of the *aide memoire* dated 21 December 1948 was substantially similar to his own record which reads " Dr. Lozano said that 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. The Plebiscite Administrator and/or the Commission could then recommend alternative solutions.

6. Concluding the discussion, the Prime Minister once again emphasized the need for security for displaced State nationals returning to the territory referred to in Part II A. 3. of the Commission's Resolution of 13 August. Equally important would be the task of rehabilitation of refugees returning to this area as well as to the part of the State under the control of the Government of Jammu and Kashmir. Hundreds of thousands of persons were involved. Not only organization and machinery but time and money would be needed to accomplish the formidable task of restoring these unhappy persons to what once was their home. Until this task was completed, the conditions for a free and impartial plebiscite would not exist. Dr. Lozano recognized the importance of this matter and pointed out that it will have to be carefully gone into when the consultations on the details of the present proposals take place.

ANNEX 5 (Paragraph 12)

Letters Dated 25 December 1948, From the Minister of Foreign Affairs and Commonwealth Relations, Pakistan, to Mr. Alfredo Lozano, Representative, United Nations Commission for India and Pakistan.

(1)

EXCELLENCY,

I have the honour to refer to Dr. Korbel's letter of 11th December, enclosing the Commission's proposals in amplification of its Resolution of 13 August. These proposals, together with the memorandum* embodying the clarifications furnished by you the text of which was confirmed in your letter of this afternoon, have been carefully considered by the Pakistan Government.

2. The views of the Pakistan Government with regard to the basic principles for a plebiscite, and the conditions, which would ensure its freedom and impartiality, have been explained to the Commission, and have been summarised in my letters of 28 November, and 5 December, 1948.

*Attached to letter No. 2, which follows.

It will be appreciated that the Commission's present proposals, as clarified and elucidated by you, fall very short of what the Pakistan Government consider necessary for ensuring a free and impartial plebiscite. The Pakistan Government note, however, that the Commission seeks to achieve this result mainly through investing the Plebiscite Administrator with all the powers he considers necessary for organising and conducting the plebiscite and for ensuring its freedom and impartiality. In order to secure that the proposals under consideration should achieve the objective for which they are designed, it is imperative that the Plebiscite Administrator should be a person of the highest international standing and unquestionable integrity. The Pakistan Government trust that the Commission and the Secretary-General of the United Nations will nominate a person competent in every respect adequately to discharge the heavy responsibility that would be laid upon him under the Commission's proposals.

3. While these proposals contain features which the Pakistan Government cannot regard as satisfactory or adequate yet in their keen desire in the present world situation to assist in the maintenance and promotion of international peace and security by bringing about a peaceful solution to the Kashmir dispute they have authorized me to inform you that they accept the Commission's proposals of 11 December, as explained and elucidated by you.

Accept Excellency, the assurance of my highest consideration.

(S.I.) ZAFRULLAH KHAN,

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

(2)

EXCELLENCY,

As agreed at this afternoon's meeting, I enclose a memorandum embodying the clarifications given by you of the Commission's proposals of the 11 December, 1948. I shall be grateful if you will kindly confirm the correctness of this record.

Accept Excellency, the assurances of my highest consideration.

(S.I.) ZAFRULLAH KHAN,

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

Enclosure :

(Memorandum embodying the clarifications given by H. E. Dr. A. Lozano of UNCIP's proposals of 11 December 1948.

General.

These proposals represent the considered views of the Commission in so far as the organization and conduct of the plebiscite is concerned, and should be accepted in their entirety. While the Commission does not close the door to further changes, and is not unwilling to consider counterproposals, no modifications or additions to these proposals can be entertained unless they are acceptable to the Commission and to the Governments of India and Pakistan.

Clause A.—

The Commission's Resolution of 13 August 1948 will be interpreted in the light of the elucidations and clarifications given by the Commission.

Clause B. 3. a.—

(i) The Plebiscite Administrator will be selected as soon as possible after the acceptance of these proposals.

(ii) The Plebiscite Administrator will be selected in consultation with the Governments of India and Pakistan, but the final decision will rest with the Secretary-General of the United Nations in agreement with the Commission.

(iii) The expression "the Plebiscite Administrator will be formally appointed to office by the Government of Jammu and Kashmir" does not mean that he will be an employee of the Government of Jammu and Kashmir, or subject to its control.

Clause B. 3. b.—

By the expression "the Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary", is meant that the Plebiscite Administrator will be competent to exercise such powers as he considers necessary for organising and conducting the plebiscite and for ensuring its freedom and impartiality and he shall be deemed to have derived those powers from the authorities concerned. The organising and conducting of the plebiscite will be the responsibility exclusively of the Plebiscite Administrator.

Clause b. 4.—

(i) For A. 2 of Part II of the Resolution of 13 August in sub-clause B. 4 b. read A. 3.

(ii) The intention of the Commission is to ensure a large scale reduction and disarmament, the exact scope of which will be determined by the Commission and the Plebiscite Administrator in consultation with the authorities concerned.

Clause B. 6. a.—

(i) The objective of the Commission is to enable all citizens of the State who have left it on account of the disturbances since 15 August 1947 to return to the State and to exercise all their rights as citizens of the States. The manner in which this operation will be carried out has not been examined by the Commission, and is a matter for determination by the Plebiscite Administrator in consultation with the Governments of India and Pakistan.

(ii) The proposals provide for two Commissions, one operating in India and the other in Pakistan. The Commission has not, however, entered into a detailed study of the manner in which these Commissions will operate and considers that it must be left to the discretion of the Plebiscite Administrator to adopt such other practical methods as may be necessary to give effect to the intentions of the Commission.

Clause B. 6. b.—

The object of this provision is to ensure the withdrawal of elements which have endangered or might endanger the maintenance of peace and order, and of refugees and other nationals of India and Pakistan who have entered the State since 15 August 1947, otherwise than for a lawful purpose. The manner in which this objective will be achieved will be determined by the Plebiscite Administrator in consultation with the Governments of India and Pakistan. ■

Clause B. 7.—

The review of cases of officials dismissed on account of their political sympathies is not excluded from the scope of clause 7. The Commission, however feels that this is a matter of detail, and should be taken up in connection with the consultations envisaged under clause B. 10 of these proposals.

Clause B. 10.—

(i) The Plebiscite Administrator will begin his study of the problem and the recruitment of his staff as soon as possible after his nomination.

(ii) The discussion of details of these proposals will not, however, be started until the truce agreement has been signed, and the Commission is satisfied that implementation of Part II of its Resolution of 13th August is making satisfactory progress.

(iii) The formal appointment of the Plebiscite Administrator will be made, and he shall assume formal charge of his duties within the State, when it is found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of its Resolution of 13 August have been carried out.

ANNEX 6 (Paragraph 16)

Press Communique Released by the Commission on Friday 7 January 1949

The Governments of India and Pakistan have informed the United Nations Commission for India and Pakistan that they have accepted the principles proposed by the Commission for the holding of a plebiscite in the State of Jammu and Kashmir for the purpose of determining the State's future status. These principles are supplementary to the Commission's resolution of 13 August 1948 which provided for a cease-fire and truce. Following the agreement of the two Governments to the Commission's last proposals both Governments ordered the forces under their control in the State to cease fire effective at 11-59 P. M., 1 January 1949.

The Governments of India and Pakistan are commended for their endeavour to reach a friendly and peaceful solution of the Kashmir problem. Worthy of especial note is the prompt proclamation of the cease-fire by both Governments.

At its meeting of 5 January at Lake Success the Commission adopted unanimously the following resolution :

(See paragraph 15 of Second Interim Report.)

PART - III

THIRD INTERIM REPORT

LETTER FROM THE CHAIRMAN OF THE UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN TO THE SECRETARY-GENERAL OF THE UNITED NATIONS INTRODUCING THE COMMISSION'S THIRD INTERIM REPORT.

5 December, 1949.

His Excellency Trygve Lie,
Secretary-General of the United Nations,
Lake Success, New York.
Sir,

I have the honour to send you here enclosed the original of the Third Interim Report to the Security Council of the Commission for India and Pakistan, with the request that you be good enough to submit the report to the Security Council as well as to the representatives of India and Pakistan at the United Nations Headquarters.

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

(Sd.) HERNANDO SAMPER,
Chairman.

I. COMPOSITION OF THE COMMISSION

The Commission is composed of representatives of five countries, Argentina, Belgium, Colombia, Czechoslovakia and the United States.

A. DELEGATES.

At the time of the signing of this report the representatives of the five countries, which constitute the Commission, are :

1. *Representatives :*

Argentina	Minister Carlos A. Leguizamon
Belgium	Ambassador Robert van de Kerchove ¹
Colombia	Mr. Hernando Samper ²
Czechoslovakia	Ambassador Oldrich Chyle ³
United States	Minister Robert Macatee ⁴

2. *Alternate Representatives :*

Belgium	Mr. Jean Bouha ⁵
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3. *Advisers :*

Mr. William L. S. Williams⁶

Adviser to the Representative of the United States.

¹. Mr. Egbert Graeffe left the Commission in November 1948 and the alternate representative, Mr. Harry Graeffe, acted as delegate until Mr. van de Kerchove's arrival in February 1949.

². Dr. Alfredo Lozano left the Commission in June 1949 and was replaced by his alternate, Mr. Hernando Samper.

³. Mr. Joseph Korb, who was representative of Czechoslovakia, left the Commission in January 1949; he was succeeded by Dr. Oldrich Chyle, who joined the Commission in May 1949.

⁴. Mr. J. Klahr Huddle, representative of the United States, left the Commission in April 1949 and was succeeded by Mr. Robert Macatee, deputy representative of the United States.

⁵. Mr. Harry Graeffe, who acted as alternate representative of Belgium, left the Commission in April 1949, and was subsequently replaced by Mr. Jean Bouha.

⁶. Mr. Ward P. Allen, who left the Commission in July 1949, was also an adviser to the U. S. Delegation until that date.

4. *Secretarial Staff :*

Mr. Edward Mike

Secretary-Stenographer for the United States Delegation.

B. SECRETARIAT.

The following personnel were appointed by the Secretary General to assist the Commission in its task :—

Principal Secretary and Personal Representative of the Secretary-General,

Mr. Erik Colban (Norway).

Military Adviser.

Lt.-General Maurice Delvoie (Belgium).

Legal Adviser and Deputy Principal Secretary.

Mr. Miguel A. Marin (Spain) (Security Council Affairs)⁷.

Personal Assistant to Mr. Colban.

Mr. Sylvain Lourie (France)⁸.

Press Officer.

Mr. Michael de Capite (U. S. A.) (Department of Public Information).

Precis Writer.

Mr. Artur Isenberg (U. S. A.).

Administrative and Financial Officer.

Mr. Hugh R. Reid (Australia)⁹ (Administrative and Financial Services).

Finance Officer.

Miss Florence B. Hartman (U. S. A.) (Administrative and Financial Services)¹⁰.

Secretary-Stenographers.

Miss Louise A. Crawford—in charge of documents (U. S. A.) (Administrative and Financial Service).

Miss Micheline C. Dupuis (Canada) (Department of Social Affairs).

Miss Edith R. Forrest—in charge of cypher service (Australia).

Miss Elizabeth M. Kerrigan (Australia) (Department of Security Council Affairs).

Miss Frances F. MacAuley (Canada) (Department of Public Information).

Miss Geraldine M. Oliva (U. S. A.) (Department of Security Council Affairs).

⁷. Mr. Sergio Hunceus (Chile) who left the Commission in September 1949, was Deputy Principal Secretary of the Commission until that date.

⁸. Mr. Richard Symonds (U. K.) who left the Commission in March 1949 was Mr. Colban's Personal Assistant until that date.

⁹. Mr. Slavomir Brzak (Czechoslovakia), who left the Commission in September 1949, was the Administrative and Financial Officer of the Commission until that date.

¹⁰. Mr. Leif Haug (Norway) who left the Commission in July 1949, was Finance Officer of the Commission until that date.

II. CHRONOLOGICAL SURVEY

A. Rotation of Chairman.

4 February to 20 February 1949	. Mr. Robert B. Macatee (United States).
21 February to 24 February 1949	. Mr. J. Klahr Huddle (United States).
25 February to 18 March 1949	. Mr. Carlos A. Leguizamon (Argentina).
19 March to 9 April 1949	. . Mr. Robert van de Kerchove (Belgium).
10 April to 20 May 1949	. . Dr. Alfredo Lozano (Colombia).
21 May to 10 June 1949	. . Mr. Robert B. Macatee (United States).
11 June to 2 July 1949	. . Mr. Carlos A. Leguizamon (Argentina).
3 July to 23 July 1949	. . Mr. Robert van de Kerchove (Belgium).
24 July to 13 August 1949	. Mr. Hernando Samper (Colombia).
14 August to 3 September 1949	. Dr. Oldrich Chyle (Czechoslovakia).
4 September to 24 September 1949	Mr. Robert B. Macatee (United States).
25 September to 27 September and 12 October to 29 October 1949.	. Mr. Carlos A. Leguizamon (Argentina).
30 October to 20 November 1949	. Mr. Robert van de Kerchove (Belgium).
21 November to 3 December 1949 and from —December to— December.	Mr. Hernando Samper (Colombia).

B. Groups and Sub-Committees.

The Commission in the course of its activities appointed two sub-committees :

1. At its 124th meeting on 17 February 1949 a Sub-Committee on Western Kashmir was appointed to investigate conditions in the Azad held area, much on the same lines as the Economic and Political Mission appointed in August 1948 which toured the eastern portion of the States. This Sub-Committee was composed of Mr. Harry Graeffe (Belgium), Chairman, Mr. Ward P. Allen (United States) and Mr. J. Richard Symonds (Secretariat). The Group left Delhi on 12 March 1949 and returned to the Indian Capital on 30 March 1949.

2. At its 125th meeting on 18 February 1949 the Commission appointed a Truce-Sub-Committee composed of Mr. Hernando Samper (Colombia), Mr. William L. S. Williams (United States) and Mr. Miguel A. Marin (Legal Adviser—Secretariat) who were entrusted with the task, in conjunction with the Military Adviser, of holding joint meetings with representatives of the

NOTE.—The Czechoslovak representative on the Commission, Dr. O. Chyle did not wish to take the chair on 21 May on the ground that he had just joined the Commission and had not attended, at that date, any formal meetings.

High Commands of the two Dominions to ascertain their views and arrive at an agreement on the truce. The Sub-Committee met on 9 and 12 March 1949. The same Sub-Committee was entrusted with the task of conducting the negotiations with military representatives of India and Pakistan in Karachi on the cease-fire line in July 1947.

During its negotiations with the Governments of India and Pakistan the Commission found it necessary in a number of instances to leave a group in one capital and to send one or several members to meet the other Government.

3. On 26 March 1949, Mr. van de Kerchove (Belgium), then Chairman, accompanied by Dr. Lozano (Colombia) left Delhi to pay a courtesy call on the Foreign Minister of Pakistan in Karachi, and to hear the views of his Government on the truce. They returned to Delhi on 29 March.

4. On 7 April 1949, Mr. van de Kerchove, Chairman, and Mr. Macatee (United States) left Delhi for Rawalpindi to confer with representatives of the Pakistan Government on the truce agreement.

5. On 12 April 1949 the members of the Commission who had remained in Delhi re-joined the main body of the Commission in Rawalpindi.

6. The Commission, having drafted the truce proposals of 15 April 1949 requested Dr. Lozano (Colombia), Chairman and Mr. Leguizamón (Argentina), to return to Delhi to submit these proposals to the Indian Government. The same proposals were simultaneously submitted to the representative of the Pakistan Government in Rawalpindi.

7. The Commission reassembled in Rawalpindi on 19 April to study the reaction of the two Governments to the proposals of 15 April 1949.

8. On 28 April 1949, Dr. Lozano left Rawalpindi for Delhi to present to the Indian Government the Commission's revised truce terms of the same date. In Rawalpindi, at the same time, Mr. Macatee (United States) submitted them to the Pakistan authorities.

9. On 13 May 1949, Dr. O. Chyle (Czechoslovakia) joined the Commission in Rawalpindi. On 19 May 1949 the members of the Commission in Rawalpindi left for Srinagar. On 21 May 1949 Dr. Lozano (Colombia) arrived from Delhi with the Government of India's reply to the terms of 28 April.

10. On 23 May 1949 the Chairman, Mr. Macatee (United States) went to Karachi to discuss with the Pakistan Government the truce terms of 28 April 1949. Upon receipt of the formal Pakistan reply they left Karachi on 30 May 1949 for Srinagar.

11. After consideration of the replies of the two Governments the Commission decided to send Dr. Lozano (Colombia) to Delhi for further consultations with the Indian Government on their reply to the Commission's terms of 28 April. He left Srinagar on 11 June 1949. Thereafter the Commission sent Mr. Macatee (U. S.) to Karachi for the purpose of consulting the Pakistan Government on its reply to the Commission's truce terms. They left on 27 June and returned on 30 June 1949.

12. On 2 August Mr. Samper (Colombia), Chairman, proceeded to Delhi with the task of ascertaining the Government of India's views on the possibility of holding a joint political meeting. On 6 August, in Karachi, he consulted the Pakistan Government on the same subject and returned to Srinagar on 7 August.

13. On 29 August, Dr. Chyle (Czechoslovakia), Chairman, left Srinagar for Karachi where he submitted to the Pakistan Government the Commission's

suggestion on arbitration. For the same purpose he proceeded to Delhi on 30 August and returned to Srinagar on 3 September.

14. The Commission then requested Mr. Macatee (U. S.), Chairman, and Mr. Leguizamon (Argentina), Vice-Chairman, to proceed to Delhi to clarify the Commission's views on the arbitration proposal. They left for Delhi on 12 September and returned to Srinagar on 16 September.

C. Chronological expose of the proceedings of the Commission

15. On 10 January the Commission submitted its Second Interim Report to the Security Council on the work of the Commission from the time it left the Sub-continent on 22 September 1948 to 10 January 1949. At that time two main events were noted :

(a) The principles relating to a plebiscite in the State were agreed to by both Governments and subsequently embodied in the 5 January Resolution, supplementary to Part III of the Resolution of 13 August, 1948 ;

(b) as a consequence of the agreement, a cease-fire became effective as of 1 January.

16. Dr. Lozano (Colombia) had proceeded to Lake Success on 25 December 1948 to report to the Commission on the outcome of his negotiations with the Governments of India and Pakistan relating to the holding of the plebiscite. The Personal Representative of the Secretary-General remained on the Sub-continent until the Commission returned on 4 February. He assured the continuity of contact with the Indian and Pakistan authorities and introduced to them and to the High Commands the Military Adviser of the Commission who had arrived on the Sub-continent on 1st January.

17. The Commission reassembled in London and left for the Sub-continent on 1 February.

18. On 5 February, under the Chairmanship of Mr. Macatee (United States), the Commission held its first meeting after its return to the Sub-continent (115th meeting). At that meeting the Personal Representative of the Secretary-General reported to the Commission on the progress of the organization of the work of the Military Adviser and of the observers under his direction. He mentioned the objectionable propaganda in Kashmir during the absence of the Commission from the Sub-continent. The question of a suitable candidate for the post of Plebiscite Administrator was also mentioned.

19. At its 116th meeting in Karachi on the 7th February, the Commission received the delegation of Pakistan. The Foreign Minister welcomed the Commission.

20. At the 117th meeting, Sir Mohammad Zafrullah Khan commented on various aspects of Part II of the Commission's resolution of 13 August, 1948.

21. On 8 February Dr. Lozano (Colombia) was invited by Sir Mohammed Zafrullah Khan to consider with him the *aides-mémoire* recording the substance of discussions between the Prime Minister of India and Dr. Lozano on 20 and 22 December 1948 on the Commission's proposals of 11 December, which later were incorporated in the 5 January Resolution, such consideration to be made in the light of the explanations presented to the Pakistan Government in Karachi on 24 and 25 December. These *aides-mémoire* were annexed to the Commission's Second Interim Report.

22. On 10 February, the Commission left Karachi for Delhi and held its 118th meeting on Friday, 11 February in Baroda House, New Delhi. At that meeting, Dr. Lozano (Colombia) reported to the Commission on conversations he had held with the Pakistan Foreign Minister on 8 February (Annex. 1). It was decided to invite representatives of the Government of India to meet the Commission on 14th February. The problem of objectionable-propaganda was debated and it was decided that letters should be sent to the two Governments requesting them to take the necessary steps to meet the Commission's pre-occupation over such action (Annex. 2).

23. At its 120th meeting, the Commission welcomed the new Belgian representative, Ambassador van de Kerchove. The Commission heard representatives of the International Red Cross Committee who described the refugee problem and the measures already taken to alleviate the plight of the several hundred thousand displaced persons who were reported to have left their homes in the State of Jammu and Kashmir.

24. On 14 February, at its 121st meeting the Commission received the Secretary-General of the Ministry of External Affairs of the Government of India, Sir Girja S. Bajpai. At the request of the Chairman Sir Girja S. Bajpai presented his Government's views on the problems relating to the implementation of the truce as envisaged in Part II of the Commission's Resolution of 13 August 1948. Sir Girja S. Bajpai mentioned articles in the Pakistan Press, as well as statements on the Pakistan and on the Azad-Kashmir radio, which were detrimental to the restoration of a peaceful atmosphere propitious to the preparation for a plebiscite.

25. At its 122nd meeting the Commission discussed the terms "local authorities" and "surveillance" in Part II A3 of the Resolution of 13 August 1948 about the interpretation of which the Government of India appeared to feel some concern. It was decided that Mr. Macatee (United States), Chairman accompanied by Dr. Lozano (Colombia), would call on Sir Girja on the same day (15 February) to give him the Commission's views on the subject.

26. On 16 February, at its 123rd meeting, the Chairman reported on his conversation with Sir Girja S. Bajpai. It was decided that a letter would be sent to Sir Girja stating what the Commission meant by the term "surveillance".

27. On 17 February at its 124th meeting, the Commission heard a report from the Military Adviser on his first complete tour of the Kashmir front. He also described the organization of the observer teams throughout the territory of the State. The Commission in pursuance of the decision taken at the previous meeting adopted a letter to be sent to the Indian Government giving the Commission's interpretation of the terms on which Sir Girja requested clarification (Annex. 3). The Commission also approved the terms of reference of the Sub-Committee appointed to conduct an enquiry and a study of the conditions in Western Kashmir (Annex. 4) (see para. 1).

28. At its 126th meeting the Commission continued consideration of the question of the implementation of Part II of the Resolution of 13 August. The procedure to be followed was examined.

29. At its 127th meeting, on 22 February, the Commission welcomed Ambassador J. Klahr Huddle who had just arrived from the United States. The terms of reference of the Sub-Committee on the Truce Agreement, the creation of which was approved at the 125th meeting and the task of which was to work in conjunction with the Military Adviser in the drafting of the truce agreement, were then adopted (Annex. 5) (see para. 2). The Commission approved letters to both Governments informing them of the establishment of a Sub-Committee on the Truce Agreement (Annex. 6). The Commission

also studied Sir Girja S. Bajpai's reply to the Commission's letter of 17 February.

30. Study of the Indian Representative's letter (Annex. 7) continued on to the 128th meeting. It was agreed in the light of this letter that a further meeting with Sir Girja would be advisable.

31. At its 129th meeting on 23 February Sir Girja S. Bajpai drew the attention of the Commission to an editorial of the Pakistan newspaper "Dawn" dated 20 February, and in this connection reiterated his Government's determination that a free and impartial plebiscite should be held.

32. The Commission, at its 130th meeting on 24 February, approved a reply to Sir Girja's letter of 18 February which was to be left with him as an *aide mémoire* embodying the Commission's views on points raised in that letter (Annex. 8). A copy of this document was forwarded to the Pakistan Government.

33. On 25 February, Mr. Huddle (United States), Chairman, accompanied by Dr. Lozano (Colombia) called on Sir Girja S. Bajpai to submit to him the Commission's *aide mémoire*. On this occasion, Sir Girja expressed the Government of India's concern over the reports on the abduction of women in Western Kashmir.

34. At the 131st meeting on 28 February the Military Adviser reported on a few minor violations of the cease-fire. The question of a police force in the territory to be evacuated by Pakistan Armed Forces was brought up.

35. At the 132nd meeting, 2 March, the Commission approved a letter to be sent to the two Governments inviting them to meet in New Delhi with the Truce Sub-Committee for joint talks on the implementation of Part II of the Resolution of 13 August 1948 (Annex. 9).

36. At the 133rd and 134th meetings, 3 and 4 March, the Commission examined certain difficulties raised by the Government of Pakistan with regard to the impending tour of the Sub-Committee on Western Kashmir. The Commission also studied the procedure to be followed by the Truce Sub-Committee.

37. At the 135th meeting, 7 March, previous to the joint meetings of the Truce Sub-Committee, the Commission received the military representatives of the Pakistan High Command for a discussion on the truce problems.

38. At its 136th meeting, the same day, the Commission continued, with the members of the Truce Sub-Committee, examination of the procedure to be adopted during the joint meetings.

39. On 8 March, 1949, at its 137th meeting, the Commission received the representatives of the Government of India who had come to take up with the Commission various problems of the truce. It was agreed that the Truce Sub-Committee would hold its first joint meeting with the Pakistan and Indian military representatives on the following morning.

40. On 9 March, the Truce Sub-Committee met with the delegations of India and Pakistan. Maj. Gen. Cawthorn (Pakistan Army) presented a comprehensive statement setting forth the views of the Pakistan Government on the successive steps which should be taken for the implementation of Part II of the Resolution of 13 August 1948 (Annex. 10).

41. At the 138th meeting, held in the afternoon of 9 March, Sir Girja S. Bajpai was received by the Commission. He discussed the *aide-mémoire* dated 25 February submitted to him by Mr. Huddle (United States), then Chairman and Dr. Lozano (Colombia) (see Annex. 8).

42. At its 139th meeting the Commission considered further the various problems connected with the truce.

43. At its 140th meeting, 11 March, the Commission took cognizance of a letter from Sir Girja S. Bajpai dated 10th March. Sir Girja's letter (Annex. 11) made it clear that the approach to the truce of the Pakistan delegation, as presented by Gen. Cawthorn on 9 March, was opposed to that of India.

44. At its 141st meeting, the Commission approved a reply to Sir Girja's letter of 10 March. It was decided to send Sir Girja's latest communication, with a covering letter to the Pakistan Government.

45. On 12 March the Commission's Truce Sub-Committee held its second joint meeting with the delegations of the two Dominions. Since the Indian delegation did not present its views in answer to the Pakistan statement of 9 March, Gen. Cawthorn declared that he did not believe it would be of any use to hold further joint meetings until the Indian Government was in a position to offer its comments or proposals. The meetings of the Truce Sub-Committee were adjourned.

46. At its 142nd meeting, 14 March, the Commission, after having heard the report of the Truce Sub-Committee on its meeting of 12 March, formally approved the final reply (Annex. 12) to Sir Girja's letter of 10 March 1948. The letter to the Pakistan Government transmitting Sir Girja's letter and the Commission's reply was also approved.

47. At its 143rd, 144th and 145th meetings, 16, 17 and 18 March, the Commission continued consideration of the Truce and connected questions. It also considered the appointment of a plebiscite Administrator.

48. At its 146th meeting, 21 March, the Commission approved the letter to be sent to the Indian Government on the status of the Pakistan representative who might be requested to accompany the Commission should it move to Srinagar (Annex. 13). The Commission took up various questions connected with the welfare of civilian prisoners in the State of Jammu and Kashmir who allegedly were to be executed. The Commission, having been apprised of the availability of Fleet Admiral Chester W. Nimitz as Plebiscite Administrator, now took cognizance of the two Governments' agreement.

49. At the 147th meeting, 22 March, it was agreed that Mr. van de Kerchove (Belgium), Chairman, and Dr. Lozano (Colombia) would go to Karachi to call on the Foreign Minister of Pakistan before the latter's departure for the General Assembly.

50. At its 148th meeting, 23 March, the Commission considered Sir Girja's reply (Annex. 14) to the Commission's letter of 21 March regarding the Pakistan representative who might be called upon to accompany the Commission to Srinagar. The Commission immediately drafted a reply (Annex. 15).

51. At its 149th meeting, 24 March, the Commission was officially notified that Admiral Nimitz had been nominated Plebiscite Administrator by the Secretary General of the United Nations.

52. At the 150th, 151st and 152nd meetings, 25, 26 March, the Commission dealt with various current matters.

53. The delegation composed of the Chairman and of the representative of Colombia was received in Karachi on 27 March by Sir Mohammed Zafrullah Khan. On 28 March Mr. van de Kerchove (Belgium) Chairman, called on the Prime Minister of Pakistan.

54. At its 153rd meeting, 30 March, in Delhi, the Commission heard the report of the visit to Karachi by Mr. van de Kerchove (Belgium), Chairman, and Dr. Lozano (Colombia). The Commission also considered a letter from

Sir Girja S. Bajpai on 28 March enclosing a memorandum parallel to the Pakistan statement referred to in paragraph 26 above and giving the views of the Government of India on the Truce (Annex 16). The Commission heard an oral report by the Sub-Committee on Western Kashmir which had returned from its tour of the Azad Kashmir territory.

55. The Commission invited Sir Girja S. Bajpai to its 154th meeting, 30 March, to offer any further comments which the Indian Government might want to make in addition to the memorandum on the Truce which he had already forwarded to the Commission.

56. At its 155th meeting, 1 April, Dr. Lozano (Colombia) reported on a conversation with Sir Girja on questions of the truce.

57. At its 156th meeting, 2 April, the Sub-Committee on Western Kashmir presented its report to the Commission.

58. The Commission devoted its 157th and 158th meetings to the study of a memorandum prepared by the Truce Sub-Committee to serve as a guide for the delegations which were to approach the two Governments in order to ascertain their views on concrete proposals for the truce. It was adopted at its 159th meeting, 6 April.

59. On 7 April Mr. van de Kerchove (Belgium), Chairman, and Mr. Macatee (United States) left for Rawalpindi and had conversations with the Pakistan Government. Dr. Lozano (Colombia) and Mr. Leguizamon (Argentina), had remained in New Delhi for similar conversations with the Indian Government. On 12 April Dr. Lozano (Colombia) and Mr. Leguizamon (Argentina) joined the members in Rawalpindi in order to take part in a full meeting of the Commission, and return to Delhi with definite proposals.

60. At the 160th meeting, 13 April, the Commission met in Rawalpindi, and the members who had remained in Delhi reported on the conversations held with the Indian Government. During these conversations which took place on 8 and 11 April in Delhi, with Sir Girja S. Bajpai, the contents of the memorandum of 6 April (para. 54) were discussed. The Commission then decided that detailed truce proposals be drafted in the light of negotiations which had taken place to date.

61. At a further meeting held on the same date the Commission considered papers submitted by the Military and Legal Advisers concerning truce proposals.

62. At its 162nd meeting on 14 April the Commission approved the Truce Proposals and covering letters to be sent to the two Governments (Annex. 17).

63. On 15 April Dr. Lozano (Colombia), Chairman, and Mr. Macatee (United States), Vice-Chairman, delivered to the Governments of India and Pakistan in Delhi and Rawalpindi, respectively, the Truce Proposals approved on the previous day.

64. Mr. Macatee (United States) Vice Chairman, received in Rawalpindi a letter dated 15 April (Annex. 18) from Mr. Gurmani requesting some clarifications of the Commission's proposals of the same date to which a reply (Annex. 19) was sent next day.

65. In Delhi, Dr. Lozano (Colombia) received a letter dated 17 April from Sir Girja S. Bajpai submitting the Government of India's views on the proposals of 15 April (Annex. 20). Dr. Lozano met Sir Girja in New Delhi on 18 April to examine the Truce Proposals with him.

66. The Commission then reconvened in Rawalpindi and held its 163rd meeting, 20 April, 1949. It proceeded with an exchange of information and views between those members who had been in Delhi and those who had remained in Rawalpindi.

67. At its following meetings the 164th and 165th, the Commission considered objections raised by the two Governments to the proposals of 15 April and entrusted the Truce Sub-Committee with the task of submitting proposals for their revision.

68. At its 166th meeting, 22 April, the Commission met Mr. Gurmani, Minister for Kashmir Affairs, Government of Pakistan, who spoke comprehensively on the different aspects of the truce problem.

69. Revised truce terms were unanimously approved by the Commission on 26 April at its 170th meeting (Annex 21). Covering letters to the two Governments were also approved. The Commission requested the unreserved acceptance of the Truce Terms (Annexes 22, 23).

70. On 26 April in the afternoon the Commission received a letter from Mr. Gurmani dealing with the question of the Northern Areas of the State (Annex 24). The Commission replied on the following day that the Truce Terms to be presented to the two Governments would deal with the question.

71. In the afternoon of 28 April the Commission's latest Truce Terms were delivered to the two Governments. This was done in Delhi by Dr. Lozano (Colombia), Chairman, and in Rawalpindi by Mr. Macatee (United States), Vice-Chairman.

72. In Delhi, Dr. Lozano (Colombia) met Mr. Gopaldaswami Ayyangar, Acting Minister for External Affairs, on the 28th and 30th April, and held preliminary talks with him on the Commission's Truce Terms of 28 April. Dr. Lozano, however, was requested to await the return to the Sub-continent of Sir Girja S. Bajpai who had gone to the Commonwealth Conference in London. Upon Sir Girja's return, Dr. Lozano met him on the 8th, 12th, 14th, and 18th May and offered such explanations as were requested.

73. On 14 May Dr. Lozano (Colombia) met Prime Minister Nehru, who declared that his Government could not accept any proposals which might lead in the future to discussion and misunderstandings between the two Governments. Pandit Nehru referred particularly to two major points, (1) the disarming and disbanding of the Azad Kashmir forces and (2) the right which his Government claimed to garrison strategic points in the North.

74. On 18 May Dr. Lozano (Colombia) received the reply of the Government of India from Sir Girja and on 21 May rejoined the Commission in Srinagar,

75. Mr. Macatee (United States), Vice-Chairman, held a number of interviews in Rawalpindi with Mr. Mohammed Ali, Secretary General of the Government of Pakistan, on the 3rd, 4th and 5th May, during which Mr. Macatee supplied the Pakistan representative with the explanations he requested.

76. The Commission at its 173rd meeting in Srinagar, 21 May, discussed various current matters.

77. At its 174th meeting, 22 May, the Commission received Dr. Lozano's report on the talks which had taken place in New Delhi. Mr. Macatee (United States) informed the Commission of his conversations. The Commission, having received the reply of the Government of India, and since it could not expect the Government of Pakistan's reaction for a few more days, decided to hold unopened the Indian letter in order to open the Indian and Pakistan letters simultaneously when the latter had been received. It was also decided that Mr. Macatee (United States), Chairman, would leave on the following day for Karachi to be at the disposal of the Pakistan Prime Minister.

78. On 23 May, Mr. Macatee (United States) met the Prime Minister and subsequently held meetings on the 24th, 25th, 26th and 27th May with the representatives of the Government of Pakistan. The discussion was centred mostly around the problem of the withdrawal of forces from the territory of the State and the question of the Northern Area.

79. On 30 May, the Government of Pakistan delivered to Mr. Macatee (United States), Chairman, its reply to the Commission's Truce Terms of 28 April.

80. At its 175th meeting, 1 June, the Commission heard the report of Mr. Macatee (United States), Chairman, and took cognizance of the replies of the two Governments to the Commission's Truce Terms of 28 April 1949.

81. From its 176th to 182nd meetings, 3 to 10 June, the Commission considered the replies of India and Pakistan.

82. The Commission at its 183rd meeting, 10 June, decided that Dr. Lozano (Colombia) would proceed to New Delhi to address himself to the competent authority in order to determine to exact conditions on which India would agree to the Truce Terms of 28 April 1949. It was understood that Dr. Lozano's mission would be one of enquiry.

83. On 11 June, Dr. Lozano (Colombia) left Srinagar for Delhi and returned on 19 June bringing with him a letter, dated 17 June from the Secretary General of the Indian Ministry of External Affairs, further defining the opinion of the Indian Government with regard to the Commission's revised Truce Terms of 28 April 1949.

84. The study of this communication and of the whole situation occupied the Commission during the 184th to the 190th meetings, 19 to 29 June. On 22 June the Commission decided to request Mr. Macatee (United States), to go to Karachi in order to ascertain on what conditions Pakistan might be willing to accept the Commission's Truce Terms. He had conversations with the Minister for Foreign Affairs, and the Secretary General of the Pakistan Government. The Pakistan Minister for Kashmir Affairs was also present. Mr. Macatee reported to the Commission at its 191st meeting on 30 June that Pakistan had nothing to add and nothing to detract from what had been said in its reply of 30 May.

85. During its examination of the situation the Commission decided that the possibilities of further separate discussions with the two parties were exhausted. The questions of joint political meetings and of arbitration on the Truce were discussed.

86. The Commission decided at its 192nd meeting, as a first step, to invite the two parties to a joint meeting in Karachi with the Truce Sub-Committee for the demarcation of the cease-fire line. At the 193rd meeting, 2 July, a letter of invitation to the two Governments was approved (Annex. 25).

87. On receipt of the Commission's invitation both parties agreed to meet in Karachi for the purpose of reaching an agreement on the cease-fire line without prejudice to political or legal questions or claims. The meetings took place from 18 July to 27 July. On 27 July, after having reached complete agreement on the cease-fire line, the two delegations signed the agreement (Annex 26) which was subsequently ratified by both Governments.

88. From its 193rd to 200th meetings, the Commission dealt mainly with the questions of joint political meetings of the two Governments under the auspices of the Commission and with the possibility of solving the differences between the two Governments on the truce problem by means of arbitration.

89. At its 202nd meeting, 14 July, the Commission, in principle, agreed to invite the two Governments to joint political meetings, but to postpone its final decision until the results of the military meetings in Karachi were known.

90. At its 204th meeting, 28 July, the Commission was informed of the outcome of the Karachi Military Conference.

91. In the course of its 205th meeting, 29 July, the Commission adopted a proposal to request Mr. Samper (Colombia), Chairman, to proceed to India and Pakistan to sound out both Governments on their reactions to a proposal of joint political meetings for the purpose of reaching agreement on the implementation of Part II of the Resolution of 13 August, 1948.

92. In the course of the 206th meeting, 29 July, the Commission decided (with the Czechoslovak delegate abstaining) that, in the event of a non-acceptance of the idea of a joint political meeting by either or both of the two Governments, or in the event of the failure of such a political meeting, it would ask both Governments if they would agree to submit the points in dispute between them regarding the Truce to arbitration, it being further decided that provided he were willing to be so nominated, Admiral Nimitz would be proposed as Arbitrator.

93. The 207th meeting, 3 July, was devoted to consideration of current matters

94. On 1 August the mission which was to ascertain the attitudes of both Governments regarding a joint political meeting, left Srinagar for Delhi.

95. On 2, 3, and 4 August Mr. Samper (Colombia), Chairman, inquired of Sir Girja S. Bajpai and Sir Mohammed Zafrullah Khan, as well as of the Prime Minister of Pakistan on 6 August, as to their views on the possibility of joint political meetings. They accepted the principle of such meetings.

96. At its 208th meeting, 7 August, Mr. Samper (Colombia), Chairman, reported on his conversations in Delhi and Karachi. He drew the attention of the Commission to the fact that both Governments expected the Commission to suggest a provisional agenda for the joint meeting.

97. The Commission devoted its 209th and 210th meetings, 8 August, to the study of the procedure to be adopted for the planned joint political meetings.

98. At its 211th meeting, 9 August, the Commission sent a letter (Annex 27) to the two Governments, inviting them to a joint meeting at ministerial level to begin in New Delhi, and enclosed in that letter a provisional agenda and a memorandum to each summarizing their points of view with respect to the Commission's Truce Terms of 28 April.

99. At its 212th meeting, 11 August, the Commission continued consideration of the preparation for the joint meetings.

100. At its 213th meeting, 12 August, the Commission examined the replies of the Governments of India and Pakistan (Annexes 28 and 29) to its invitations for the joint meetings.

101. At its 214th meeting, 13 August, the Commission approved the text of letters (Annex 30) to the Governments of India and Pakistan, communicating to each the reply of the other with regard to the provisional agenda.

102. From its 215th to 218th meetings, from 13 to 17 August, the Commission made further preparation for the joint meetings.

103. At its 219th meeting, 18 August, the Commission took cognizance of the replies of the two Governments (Annexes 31 and 32) to the Commission's letter of 13 August 1949, and after careful study of the opposed views contained

in them, and of the antecedents of the problem, telegraphed both Governments (Annex 33) that the Commission had decided to withdraw its invitation to the joint meetings.

104. At its 220th meeting, 19 August, the Commission approved a letter (Annex 34) to the two Governments notifying them of the reasons which motivated the Commission to call off the joint meetings.

105. From its 221st to 225th meetings, 22 to 25 August, the Commission studied the next course of action. At its 226th meeting, 26 August, the Commission approved a memorandum (Annex 35) to be submitted to both Governments suggesting that the differences between the two Governments concerning the questions raised by them regarding the implementation of Part II of the Resolution of 13 August be submitted to arbitration; the Arbitrator to be Fleet Admiral Chester W. Nimitz. It was further agreed that Dr. Chyle (Czechoslovakia), Chairman, would travel to Karachi and Delhi and to present the Commission's memorandum.

106. Dr. Chyle (Czechoslovakia), Chairman, presented the memorandum to Sir Mohammed Zafrullah Khan in Karachi on 29 August and to Sir Girja S. Bajpai in Delhi on 30 August. He returned to Sringar on 3 September.

107. At its 228th meeting, 3 September, the Commission heard the Chairman's report on his interviews with the Pakistan Foreign Minister and with the Secretary General of the Ministry of External Affairs, Government of India.

108. At its 229th, 230th and 231st meetings, 5, 6, 7 September, the Commission, while awaiting the replies of the two Governments to its proposed course of action, considered various current matters.

109. At its 232nd meeting, 9 September, the Commission considered the replies of the Governments of India and Pakistan to its memorandum on arbitration (Annexes 36 and 37).

110. At its 233rd and 234th meetings, 9, 10 September, the Commission further considered the replies of the two Governments and approved the text of a letter (Annex 38) to the Indian Government for the purpose of clarifying certain points on which there seemed to be some misunderstanding. It was further agreed that Mr. Macatee (United States), Chairman, accompanied by Mr. Leguizamon, (Argentine), Vice-Chairman, would travel to Delhi to present this letter with any explanatory comments which might prove necessary.

111. At its 235th meeting, 16 September, Mr. Macatee (United States), Chairman, and Mr. Leguizamon (Argentine), Vice-Chairman, reported on their mission to New Delhi. They brought with them a further letter (Annex 39) from Sir Girja S. Bajpai, dated 15 September, containing the Government of India's comments on the Commission's memorandum and letter of 10 September.

112. At its 236th, 237th, and 238th meetings, 17, 18, 19 September, the Commission further considered Sir Girja S. Bajpai's latest communication. At its 238th meeting it approved a reply (Annex 40) to be sent to Sir Girja, as well as to the Pakistan Government's answer to the suggestion for arbitration. The Commission at this meeting decided to leave the Sub-continent for Geneva to prepare its Third Interim Report to the Security Council.

113. At its 239th meeting, 20 September, the Commission considered certain current matters and agreed to leave Srinagar on 23 September for Karachi and Delhi for the purpose of taking leave of the Governments before departing for Geneva.

114. At its 240th and 241st meetings, 21 September, the Commission approved the text of a press communique to be issued prior to its departure from the Sub-continent (Annex 41).

115. The Commission then left Srinagar for Karachi on 23 September, and on 24 September, after having paid a courtesy call on the Prime Minister of Pakistan, proceeded to Delhi where it took leave of Sir Girja S. Bajpai on 25 September and of Prime Minister Nehru on 26 September.

116. At its 242nd meeting, 12 October, in Geneva, the Commission took cognizance of the letter dated 1 October, (Annex 42) from Mr. Gurmani, Minister for Kashmir Affairs, Government of Pakistan, dealing with his Government's position on the various aspects of the Truce.

117. At its 287th meeting, 29 November, in Geneva, the Commission received a letter dated 21 November (Annex 43) from Sir Girja S. Bajpai, commenting on Mr. Gurmani's letter of 1 October, which had been forwarded to the Indian Government for information.

III. INTRODUCTION.

A. Complaint of India before the Security Council

118. On 1 January 1948 the Government of India, by a letter from its representative to the United Nations to the President of the Security Council (Annex 44) lodged a complaint against the Government of Pakistan, under Article 35 of the Charter.

119. In the complaint India alleged that a situation existed which was likely to endanger the maintenance of international peace and security. Such a situation existed, the Government of India said, owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, were receiving from Pakistan for operations against the State of Jammu and Kashmir. This State, according to India, had acceded to the Dominion of India and was a part of India.

B. Pakistan's Reply and Counter complaint

120. The Pakistan Government, by letter from the Minister for Foreign Affairs, dated 15 January 1948, and addressed to the Secretary-General of the United Nations (Annex 45) denied that it had given aid or assistance to the invaders of the State of Jammu and Kashmir, conceding that a number of independent tribesmen and persons from Pakistan were helping the "Azad (Free) Kashmir Government" as volunteers; that it was wrong to state that Pakistan territory had been used as a base for military operations, and that it was also incorrect that the Pakistan Government was supplying military equipment to the "invaders" or that Pakistan officers were training, guiding and otherwise helping them.

121. In the same communication, after contesting the validity of the accession of the State of Jammu and Kashmir to India, the Government of Pakistan brought to the attention of the Security Council, under Article 35 of the Charter, the existence of other disputes between the two Governments, and requested that appropriate measures be adopted for the settlement of these disputes and the restoration of friendly relations between the two Governments.

C. Terms of Reference of the Commission

122. The Security Council, having heard the statements made by the representatives of the Governments of India and Pakistan, adopted, on 17 January 1948, a Resolution calling upon the Governments of India and Pakistan to take immediately all measures within their power to improve the situation and to refrain from any acts which might aggravate it.

123. On 20 January the Security Council further passed a Resolution (a) setting up a Commission of three members and (b) investing it with a dual function :

“(1) To investigate the facts pursuant to Article 34 of the Charter ;

(2) To exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties, to carry out directions given to it by the Security Council, and to report how far the advice and directions if any, of the Security Council, have been carried out.”

124. The Security Council, on 21 April 1948,

(a) Resolved that the membership of the Commission established by the Resolution of the Council on 20 January 1948 should be increased to five, the Commission was subsequently constituted by representatives of Argentina, Belgium, Colombia, Czechoslovakia and the United States of America.

(b) Instructed the Commission to proceed at once to the Indian Sub-continent and 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 [in the State of Jammu and Kashmir] and to the holding of a plebiscite by the two Governments, acting in co-operation with one another and with the Commission”. It further instructed the Commission to keep the Council informed of the action taken under the Resolution. (Annex 46). The Resolution was not accepted by either Government.

125. On 3 June 1948 the Security Council adopted a Resolution directing the Commission of Mediation to proceed to the area of dispute “with a view to accomplishing in priority the duties assigned to it by the Resolution of 21 April 1948”, and further directed the Commission “to study and report to the Security Council when it considers appropriate, on the matters raised in the letter of the Foreign Minister of Pakistan dated 15 January 1948”.

D. Activities of the Commission from July 1948 to January 1949

126. Upon its arrival on the Sub-continent, the Commission found that it was confronted with a situation which the Security Council had not contemplated during its debates—that regular forces of the Pakistan Army were participating in the fighting in the State of Jammu and Kashmir.

127. Under the terms of the Security Council’s Resolution of 21 April 1948, the Commission was instructed to induce the Pakistan Government to exercise its influence on the tribesmen and the Pakistan nationals not normally resident in the State, to withdraw from the State of Jammu and Kashmir. This accomplished, it was intended that there should follow a progressive withdrawal of Indian troops to the minimum strength required for the support of the civil power in the maintenance of law and order in the State.

128. Actually, the forces engaged in hostilities in the State of Jammu and Kashmir were, on one hand, the State Forces supported by troops of the Indian Army, and on the other hand assisted by Pakistan regular forces, Azad Forces, tribesmen and Pakistan nationals not normally resident in the State assisted by Pakistan regular forces. On 8 July 1948 the Commission was officially notified by the Pakistan Government of the presence in the State of three brigades of regular Pakistan force.

129. The Commission was also faced with the fact that the Azad Movement constituted a political and military body, engaged in an active revolt against the Government of Jammu and Kashmir and controlling an appreciable portion of the territory of the State of Jammu and Kashmir.

130. It was clear that the primary and most urgent task was to obtain a cessation of hostilities, and accordingly, the Commission devoted its good offices and mediation almost exclusively to that end.

131. The conversations the Commission held showed that the Government of India was unwilling to consider a cease-fire without provisions for the withdrawal of Pakistan forces from the State, whereas the Government of Pakistan requested an unconditional cease-fire to be followed by consideration of the conditions for a final settlement of the dispute.

132. In an effort to reconcile the two positions, the Commission resolved to submit on 13 August 1948 the following proposals to the Governments of India and Pakistan :

“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 co-operation 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 national referred to in Part IIA2 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."

133. The Pakistan Government, by letter to the Commission dated 19 August (First Interim Report, S/1100, Annex. 26) stated that there were only two practical ways of dealing with the Jammu and Kashmir situation, namely :

- (1) to bring about a " cease-fire " pure and simple, such as 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.

134. The Indian Government, by letter to the Commission dated 20 August 1948 (First Interim Report, S/1100, p. 32) signified its acceptance of the Commission's proposals of 13 August 1948.

135. By another letter, also dated 20 August (First Interim Report, S/1100, p. 35) addressed by the Prime Minister of India to the Commission, the Government of India stated that it desired " that, after Pakistan troops and irregulars have withdrawn from the territory [of the sparsely populated and mountainous regions of the State in the north], the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us ". In its reply of 25 August (First Interim Report, S/1100, p. 35) the Chairman of the Commission, acknowledging receipt of the Prime Minister's letter, stated that " 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."

136. In a letter from the Minister of Foreign Affairs of Pakistan to the Chairman of the Commission dated 19 August 1948 (First Interim Report, S/1100, Annex. 26), the former stated that " assuming that a truce could be agreed upon the basis of the Commission's proposals [13 August Resolution], 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." The Commission replied in a letter dated 27 August 1948 (First Interim Report, S/1100, Annex. 27) that " 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, agree 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."

137. The Commission then conferred with both Governments on the possibilities of agreement on an unconditional cease-fire or, alternatively, on an amplification of Part III of the Resolution of 13 August dealing with the final settlement. These consultations led to no positive results, and on 19 September 1948 the Commission decided to leave for Europe to prepare an Interim Report to the Security Council. The Commission felt that contact with members of the Security Council, as well as with representatives of the Governments of India and Pakistan attending the General Assembly, was desirable.

138. Before leaving the Sub-continent the Commission passed a Resolution appealing to the Governments of India and Pakistan to refrain from any action which might aggravate the military and political situation. This Resolution was subsequently endorsed by the Security Council.

139. The Commission submitted its First Interim Report (S/1100) to the Security Council in Paris on 9 November 1948.

140. While in Paris, the Commission approached representatives of the two Governments to explore the possibilities of an agreement on principles for a plebiscite in the State, supplementing Part III of the 13 August Resolution. As a result of these talks the Commission, on 11 December, 1948, submitted to both parties proposals to serve as the basis for a plebiscite, and expressed the hope that they might "be found acceptable in their entirety by both Governments" (Second Interim Report, S/1196, Annex. 3).

141. On the same day the Commission decided that Dr. Lozano (Colombia), should proceed to the Sub-continent to provide the two Governments with any explanations they might desire on the Commission's proposals.

142. These conversations led to the letters dated 23 and 25 December from the Governments of India and Pakistan, respectively, which constituted acceptances of the Commission's proposals. (Second Interim Report, S/1196, Annex. 4 and 5).

143. On 5 January 1949 the Commission, having received from the Governments of India and Pakistan their acceptances of the Commission's plebiscite proposals of 11 December, 1948, which are supplementary to Part III of the Resolution of 13 August 1948, adopted a Resolution incorporating the agreement already reached as follows :

"The United Nations Commission for India and Pakistan,

Having received from the Governments of India and Pakistan, in communications dated 23 December and 25 December, 1948, respectively, their acceptance of the following principles which are supplementary to the Commission's Resolution of 13 August, 1948.

1. 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 ;
2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed ;
3. (a) The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed to office by the Government of Jammu and Kashmir.
- (b) The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.
- (c) The Plebiscite Administrator shall have authority to appoint such staff or assistants and observers as he may require.
4. (a) After implementation of Parts I and II of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine, in consultation with the Government of India, the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

(b) As regards the territory referred to in A. 2 of Part II of the resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities.

5. All civil and military authorities within the State and the principal political elements of the State will be required to co-operate with the Plebiscite Administrator in the preparation for and the holding of the plebiscite.

6. (a) All citizens of the State who have left it on account of the disturbances will be invited and be free to return and to exercise all their rights as such citizens. For the purpose of facilitating repatriation there shall be appointed two Commissions, one composed of nominees of India and the other of nominees of Pakistan. The Commission shall operate under the direction of the Plebiscite Administrator. The Governments of India and Pakistan and all authorities within the State of Jammu and Kashmir will collaborate with the Plebiscite Administrator in putting this provision into effect.

(b) All persons (other than citizens of the State) who on or since 15 August 1947 have entered it for other than lawful purposes, shall be required to leave the State.

7. All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator that :

(a) There is no threat coercion or intimidation, bribery or other undue influence on the voters in the plebiscite ;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State regardless of creed, castes or party shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of press, speech and assembly and freedom of travel in the State, including freedom of lawful entry and exit ;

(c) All political prisoners are released ;

(d) Minorities in all parts of the State are accorded adequate protection ; and

(e) There is no victimization.

8. The Plebiscite Administrator may refer to the United Nations Commission for India and Pakistan problems on which he may require assistance, and the Commission may in its discretion call upon the Plebiscite Administrator to carry out on its behalf any of the responsibilities with which it has been entrusted ;

9. At the conclusion of the plebiscite, the Plebiscite Administrator shall report the result thereof to the Commission and to the Government of Jammu and Kashmir. The Commission shall then certify to the Security Council whether the plebiscite has or has not been free and impartial ;

10. Upon the signature of the truce agreement the details of the foregoing proposals will be elaborated in the consultations envisaged in Part III of the Commission's resolution of 13 August 1948. The Plebiscite Administrator will be fully associated in these consultations ;

Commends the Government of India and Pakistan for their prompt action in ordering a cease-fire to take effect from the minute before midnight of 1 January 1949, pursuant to the agreement arrived at as provided for by the Commission's resolution of 13 August 1948 ; and

Resolves to return in the immediate future to the sub-continent to discharge the responsibilities imposed upon it by the Resolution of 13 August 1948 and by the foregoing principles."

144. Since the first clause of the Commission's plebiscite proposals reaffirms the Resolution of 13 August 1948, Pakistan's acceptance of the former entailed acceptance of the latter, the Indian Government having already given its acceptance.

145. On 10 January 1949 the Commission presented its Second Interim Report to the Security Council (S/1196.)

146. Meanwhile, in view of their acceptance of the proposals of the Commission, the Governments of India and Pakistan agreed to order a cease-fire which became effective one minute before midnight, 1 January 1949.

147. On the recommendation of the Commission, the Secretary-General appointed a Military Adviser to the Commission, who reached the Sub-continent on 1 January 1949. In order to enable the Military Adviser to assist the Commission in the implementation of Parts I and II of the Resolution of 13 August, the Commission requested the Secretary-General to provide also for the designation of an adequate number of military observers.

148. The Commission returned to the Sub-continent on 4 February 1949.

IV. THE PERIOD FROM FEBRUARY TO NOVEMBER 1949

A. TASK BEFORE THE COMMISSION.

149. Upon its return to the Sub-continent, the Commission had for its guidance the Resolutions of the Security Council of 20 January and 3 June 1948 establishing the Commission as one of good offices and mediation and directing it to proceed to the area of dispute with a view to accomplishing in priority the duties assigned to it in the Security Council Resolution of 21 April 1948. It, further, was to assist the Governments of India and Pakistan in the implementation of :

(a) its Resolution of 13 August 1948, which is comprised of three parts : Part I, the cease-fire order, already effective ; Part II, the truce agreement ; Part III, which is complemented by ;

(b) the Resolution of 5 January 1949, which set forth the principles to be followed in the preparation and the holding of a plebiscite in the State of Jammu and Kashmir.

150. It was evident that the most urgent questions were : (a) the completion of the implementation of Part I relating to the cease-fire ; and (b) the establishment of details relating to the implementation of the Truce provided for in Part II of the Resolution of 13 August 1949.

B. SITUATION PREVAILING WHEN THE COMMISSION ARRIVED ON THE SUB-CONTINENT.

151. When the Commission arrived on the Sub-continent on 4 February 1949 fighting in the State of Jammu and Kashmir had ceased.

152. The High Commands of the Indian and Pakistan Armies had, on 15 January, on their own initiative, held a conference in New Delhi (Annex. 47). It was decided, at this meeting, with reference to Part I of the 13 August Resolution, that the cease-fire in Jammu and Kashmir should be advanced from an informal to a formal basis. As far as Part II—Truce—was concerned, the conference was of an explorator nature. The Commander-in-

Chief agreed on certain proposals related to the Truce which were to be referred for approval to their respective Governments. The Military Adviser to the Commission was asked to take part in the conference in order to be informed of the decision and recommendations of the High Commands. The holding of this meeting and the decisions and recommendations reached were an encouraging development.

153. The Commission's immediate plan was to invite the views of the Governments of India and Pakistan regarding the carrying out of their commitments as embodied in the Resolution of 13 August. The Commission expected that the two Governments, moved by the same spirit which prompted them to agree to the cease-fire and the holding of the 15 January conference would reach a speedy agreement on the details for the implementation of Part II of the 13 August Resolution.

154. Upon its arrival in Karachi on 4 February 1949, the Commission entered into consultations with the Pakistan Foreign Minister. During these conversations, the Commission was informed that considerable progress had already been made in the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein, who had entered the State for the purpose of fighting. The Foreign Minister believed that by the middle of that month (February), the obligation of the Pakistan Government in this respect would have been fulfilled.

155. The following submissions were presented by the Pakistan Government on Part II of the Resolution of 13 August 1948 ;

(a) *Paragraph A. 1. in connection with B. 1.*—A plan should be prepared by which the withdrawal of the Pakistan forces and the "bulk" of the Indian forces would be synchronized. The Azad forces should be withdrawn from the forward areas for reorganization and training. When this process was completed, these forces would replace the Regular Pakistan troops.

(b) *Paragraph A. 2.*—The Pakistan Government would complete the fulfilment of its commitments by the middle of February 1949.

(c) *Paragraph A. 3.*—It was necessary to define—

(1) "evacuated territory", in order to determine the areas under the control of both Governments.

(2) "local authorities", which raised the question of the Azad Kashmir "Government" and the Pakistan Political Agent in Gilgit.

(3) the scope of the word "surveillance".

(d) *Paragraph B. 1.*—See sub-paragraph (a) above.

156. In addition to the consultations on the implementation of the Truce Agreement, at the request of the Pakistan Government, certain matters relating to the Resolution of 5 January 1949 were also discussed.

157. Upon its arrival in New Delhi, the Commission heard the representative of the Government of India, who, while submitting the views of his Government on the Truce, indicated that he limited the scope of his submission to the broad outlines of the problem. He felt that before any of the details for the implementation of the Truce could be elaborated, the scope and the meaning of the Resolutions of 13 August and 5 January should be clearly understood. For example, he felt that the expressions "local authorities" and "surveillance" should be well explained so as to leave no doubt. The Indian representative also mentioned the disbanding and disarming on a large scale of the Azad Forces as an essential condition to be fulfilled, before any plebiscite could be held.

C. ACTIVITIES OF THE COMMISSION.

(1) *Different Means of Negotiations.*

158. In endeavouring to assist the Governments of India and Pakistan to carry out their commitments as embodied in the Resolutions of 13 August and 5 January, and mindful of its character as a body of good offices and mediation, the Commission employed various procedures. On different occasions during the past year it engaged in separate negotiations; it requested the two Governments to submit their own proposals. It submitted to both parties on its own initiative compromise formulas. On numerous occasions it sent delegations to confer with both Governments. It entrusted its Sub-committees with specialized tasks. The Commission also invited both Governments to joint meetings of military representatives as well as of representative of cabinet rank. Finally, it suggested arbitration of those differences which existed concerning the implementation of Part II of the 13 August Resolution.

(2) *Completion of Part I of the Resolution of 13 August 1948 (demarcation of the cease-fire line.)*

159. When the cease-fire was announced on 1 January 1949, it was understood that the forces on both sides would remain behind the actual fighting line with such adjustments as the Commanders-in-Chief might agree on. The demarcation of a line was an important step, not only for the purpose of furthering the implementation of Part I, but in order clearly to establish the position of the forces and thus avoid the danger of incidents and violations of the cease-fire order.

160. On 4 July 1949, following repeated attempts to negotiate agreement on military and political aspects of the Truce simultaneously, the Commission addressed a letter to the two Governments (Annex. 25) inviting them to a joint meeting for the purpose of demarcating the cease-fire line. It was stated that this meeting would be without prejudice to political issues or to future negotiations concerning the implementation of Part II of the 13 August Resolution.

161. The reaction in both Dominions was favourable to this initiative. The Governments of India and Pakistan accepted the invitation. From 18 July to 27 July 1949 authorised military representatives of both Governments met in Karachi under the auspices of the Truce-Sub-Committee with the representative of Colombia as Chairman.

162. During the military talks, the Indian and Pakistan delegates conceded important adjustments in the factual positions which, until that date, had been a matter of considerable controversy and had presented serious difficulties to further agreement. On 27 July the delegations of India and Pakistan signed an agreement (Annex. 26) under the provisions of Part I of the 13 August Resolution, stating that as a complement to the suspension of hostilities in the State of Jammu and Kashmir on 1 January 1949, "a cease-fire line [was] established". The demarcation of this line was specified in paragraphs B.2(a) to (d) of that Agreement. It was further stated that "both sides [should] be free to adjust their defensive positions behind the cease-fire line [and that] there [should] be no increase in forces or defenses". It also stipulated that the Commission would station observers where it deemed necessary and that "the delegations [should] refer this agreement to their respective Governments for ratification [should] refer this agreement to be deposited with the Commission no later than 31 July 1949".

163. Both Governments ratified the agreement and deposited with the Commission their instruments of ratification.

164. Although a number of minor incidents took place during the six and one half months before the cease-fire line was finally demarcated, observer teams, composed of officers from Belgium, Canada, Mexico, Norway and the United States of America headed by the Commission's Military Adviser, in close co-operation with the military authorities on both sides, greatly contributed to preventing that any of these should become major breaches of the cease-fire.

165. The line contemplated in the cease-fire agreement of 27 July 1949 has been completely demarcated on the ground. The Commission trusts that this step will prove to be an important contribution to the peaceful settlement of the whole dispute.

(3) Implementation of Part II of the Resolution of 13 August 1948.

166. After preliminary discussions, the Commission felt that it could no longer expect the two Governments, independently of the Commission, to agree on the details for the implementation of the Truce. The proposals submitted at the meeting of the two Commanders-in-Chief on 15 January 1949 were rendered inoperative, since they were not endorsed by their Governments.

167. Consequently, the Commission, in a letter dated 2 March 1949 (Annex. 9) invited the Governments of India and Pakistan to send their civil and military representatives to meet with the Commission's Truce Sub-Committee. In that letter the Commission suggested that "in order to advance the work as quickly as possible and to build upon discussions previously held, the representatives of [the two Governments] be prepared to inform the Sub-committee of the measures already taken by [them] 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".

168. The joint meetings began in New Delhi on 9 March. The first meeting was devoted largely to the consideration of the cease-fire line. The Pakistan delegation, understanding that the Indian delegation would respond in like manner in a subsequent meeting, presented a comprehensive scheme (Annex. 10 for the implementation of Part II of the 13 August Resolution.

169. The Government of India did not agree with the premises on which the plans of the Pakistan delegation were based. The Indian delegation informed the meeting that it was unable to respond to the Pakistan delegation by presenting a similarly comprehensive plan, until a basis for agreement was reached. The meetings were adjourned. Subsequently, on 28 March the Commission received the Government of India's own views (Annex. 16).

170. Seeking to narrow the differences on the Truce existing between the two parties, there ensued a series of conversations and exchanges of communications between the Commission and both Governments. For this purpose, the Chairman and the representative of the United States proceeded to Rawalpindi, Pakistan, to confer with the Pakistan Minister in Charge of Kashmir Affairs, while the Vice Chairman and the representative of Argentina remained in New Delhi. These negotiations were conducted along parallel lines in each capital and were designed to explore avenues of approach which, it was hoped, would lead to agreement on the truce. The conversations demonstrated that the formula which the Commission had in mind at that time was unacceptable to both Governments. The Commission felt that they did, however, provide a basis for the formulation of a plan. At this point the commission concluded that it should, itself, take the initiative by proceeding to draft truce proposals for presentation to the two Governments.

171. The Commission having been joined in Rawalpindi by the members who had remained in New Delhi, compared the reactions of each Government and proceeded itself to draft Truce proposals (Annex, 17) which were presented on 15 April to both Governments for their acceptance. Neither Government accepted them.

172. The answers of the two Governments furnished the Commission with views which, although still opposed, appeared to provide scope for the formulation of revised proposals.

173. The Commission transmitted to the Governments of India and Pakistan on 28 April under the designation of "Truce Terms" (Annex, 21) proposal it deemed represented a fair compromise. In its accompanying letter (Annexes 22 and 23), the Commission stated that it considered 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 expressed to both Governments the urgency which it attached to the withdrawal of armed forces from the State of Jammu and Kashmir. The Commission added that it did not believe that fruitful results would be obtained at that time from further discussions and requested from both Governments their "unreserved acceptance".

174. The Truce Terms of 28 April are divided in three parts :

Part I.—Cease Fire Line ; Part II.—Withdrawal of Troops ; Part III.—General Provisions.

175. Part I.A. through I. C. relating to the cease-fire line have already been implemented as a result of the Karachi Agreement. Paragraph I. D. refers to the sparsely populated and mountainous region of the territory of Jammu and Kashmir in the north. As the Government of India had repeatedly claimed the right to post and maintain garrisons at some strategic points in this region the Commission, in an effort to meet the position of the Government of India, provided 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 was necessary for the defence of the area, the Commission and/or the Plebiscite Administrator might agree to the Government of India stationing garrisons north of the cease-fire line, upon advice from the observers or upon reports from the Government of India.

176. Part II of the Truce Terms dealt with the withdrawal of troops from the territory of the State. Following the principles embodied in Part II of the 13 August Resolution, the Commission established the schedules of withdrawal of the Pakistan troops and the bulk of the Indian Forces. In its covering letter to the Indian Government (Annex, 22), the Commission submitted a plan for the withdrawal of the bulk of the Indian forces from the State. This suggestion was made in conformity with the terms of paragraph B. 1 of Part II which stipulated that the bulk of the Indian forces would be withdrawn from the State of Jammu and Kashmir, in stages to be agreed between the Government of India and the Commission.

177. Part III of the Truce Terms contained various general provisions. It established :

(a) That the territory evacuated by the Pakistan troops be administered by the local authorities under the surveillance of the Commission ;

(b) That immediately upon the acceptance of these terms the Commission will 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) Other provisions which were made for the release of prisoners of war and for the publicity to be given throughout the State of Jammu and Kashmir to the fact that peace, law and order would be safeguarded and that all human and political rights would be guaranteed. The Truce Terms also provided that they should be without prejudice to the territorial integrity and the sovereignty of the State of Jammu and Kashmir.

178. The Indian Government answered by letter, dated 18 May (Annex. 48) and the Pakistan Government by letter, dated 30 May (Annex. 49), submitting their respective views on the Commission's Truce Terms. Neither letter constituted an acceptance, but brought out clearly that great differences of opinion still existed between the two Governments.

179. Following the receipt of the replies, the Commission sent a Mission to New Delhi to ascertain on what conditions the Government of India would accept the Truce Terms. A similar mission was sent to Karachi. The reports of these two missions proved significant and valuable in that both clearly revealed that the main obstacles to the implementation of Part II of the Resolution of 13 August were still unaltered; in spite of the Commission's several efforts to mediate a compromise agreement through separate consultations, the two Governments maintained, on the whole, their previous attitude towards the conditions under which they would be able to carry out their obligations.

180. In response to the Mission's enquiries, the Government of India addressed a letter to the Commission dated 17 June (Annex. 50), followed by a further letter dated 19 June (Annex. 51).

181. The main questions raised by the Indian Government in its above-mentioned letters of 18 May 17 June and 19 June, 1949 (Annexes 48, 50, and 51) concern (a) the disbanding and disarming of the Azad Kashmir Forces and its relations with the withdrawal of the bulk of the Indian forces, and (b) the treatment of the sparsely populated areas of the North. The contents of these documents are analyzed in Part V of the present report.

182. The position of Pakistan as regards the controversial questions was stated in its reply to the Commission's Truce Terms dated 30 May 1949 (Annex. 49) and later reaffirmed to the delegation sent to Karachi.

183. The positions of the two Governments appearing to be widely divergent on important issues, the Commission was forced to conclude, after more than three months of separate negotiations on the Truce Terms, that it must resort to another procedure. The successful outcome of the Karachi military conference and the favourable atmosphere surrounding it indicated that the Commission should now endeavour to bring the two Governments together to discuss jointly the political aspects of the Truce.

14. The suggestion of joint political meetings was accepted by both Governments in principle. The Prime Minister of Pakistan and the Secretary-General of the Indian Ministry of External Affairs were of the opinion that, in order to create the best possible conditions for the meetings, the Commission should furnish to each the views already expressed by the other on the truce and further, that it would be advisable for the Commission to present a tentative agenda for their consideration.

185. On 9 August 1949, the Commission invited the Governments of India and Pakistan to join meetings at ministerial level to be held under the auspices of the Commission (Annex. 27) for the purpose of considering the implementation of Part II of the Commission's Resolution of 13 August. A provisional agenda and a resume of each Government's views on the main points of the Commission's Truce Terms of 28 April were enclosed. It was

pointed out in the letters that the discussions in the joint meetings would be independent of the Truce Terms.

186. The replies from the two Governments (Annexures 28 and 29) indicated their agreement to meet, but already at this stage made strong reservations on the provisional agenda which the Commission has suggested.

187. The Commission sent each Government the reply of the other to its invitation (Annex 30), and pointed out that the two Government's views regarding the agenda could be examined at the initial meeting in the consideration of point 1 of the proposed agenda " Adoption of the Agenda ".

188. Neither Government was willing to accede to the Commission's request that their comments on the agenda be withheld until joint consideration of it took place at the meetings. In its reply (Annex. 32), the Government of Pakistan stated that the problem of the Azad Kashmir Forces could not be discussed at the forthcoming conference and that the whole question of the Northern Region was not only beyond the scope, but contrary to the Resolution of 13 August 1948. The Government of India, on the other hand, stated (Annex. 31) that the inclusion in the agenda of these two items was essential. The Commission concluded that as a responsible body, it could not continue to sponsor meetings which seemed foredoomed to failure at the outset. It also shared the preoccupation of the two Governments concerning the consequence of a possible failure of the meetings. The Commission therefore informed the Governments that it abandoned the idea of the proposed joint meetings (Annex. 34).

(4) *Suggestion for Arbitration*

189. Having had to cancel the joint meetings, the Commission felt that mediation by it, under the limitations within which it was obliged to perform its task, was exhausted. As a final effort to find a solution to the Truce which was halting progress on the implementation on the Resolution of 5 January and the plebiscite, the Commission decided to ask the parties whether they would agree to submit to arbitration the points at issue.

190. On 26 August the Commission approved the terms of memorandum (Annex. 35), to be presented to both Governments, on arbitration of the differences existing between them concerning all questions raised by them regarding the implementation of Part II of the Resolution of 13 August 1948.

191. The Chairman of the Commission proceeded to Karachi and to New Delhi to submit for consideration the envisaged new courses of action.

192. By letter of 7 September 1949 (Annex. 37) the Government of Pakistan informed the Commission that it agreed to the suggested course of action.

193. The letter of the Secretary-General, External Affairs, Government of India, dated 8 September (Annex. 36) concluded by stating that the Government of India was unable to accept the Commission's suggested course of action.

194. The Indian reply appeared to be based on a misunderstanding. In order to offer additional explanations and to submit the Commission's further letter dated 10 September (Annex. 38), the Chairman and Vice-Chairman proceeded to New Delhi.

195. The explanations, however, did not overcome the differences which the Government of India found in accepting arbitration, as applied to the Truce. The Commission was informed of this by letter dated 15th September (Annex. 39).

196. In suggesting to both Governments that they agree to arbitration of the Truce, the Commission had, as a last resort in the process of placing its good offices at their disposal envisaged a course of action that would settle the questions in which mediation had proved unsuccessful. Since this procedure did not meet with the approval of one of the Governments, it was evident that, in the circumstances, the Commission could no longer hope to continue in effective mediation of the differences, without a broader field of action. It was decided, therefore, to report to the Security Council in the expectation that a speedy solution could thus be reached.

V. ANALYSIS OF THE MAIN PROBLEMS.

A. *The General Problem*

197. The present section of the report is devoted to an explanation of the overall problem and analyses of the three main difficulties, *i. e.*,

Disposal, of Azad Kashmir Forces,
Withdrawal of regular forces from the State, and
The Northern Area.

It is designed to explain how these problems developed so as to constitute obstacles to the arrival at a truce and, as a consequence, to a solution of the dispute: and how the implementation of a truce which appeared to be a question mainly of procedure and of short duration—approximately three months—became in fact a matter of substance.

198. Before entering into the factual analysis of the main problems, the Commission feels that it must mention a factor more difficult to evaluate in its effects on the attitude of the Governments of India and Pakistan to each other and, therefore, to the mediation of the United Nations in the Kashmir dispute—adjustments yet to be made on various territorial, military, financial and humanitarian questions resulting from the partition of the Sub-continent; in particular, during the period of the Commission's mediation covered in this report, the two Governments encountered further difficulties concerning the problems of waterways and evacuee property which have not yet been solved although solution has been sought at several inter-Dominion conferences.

199. The preceding narrative of the Commission's activities has dealt broadly with the main points at issue between the two Governments in regard to the implementation of their undertakings as embodied in the Resolution of 13 August 1948 and the Resolution of 5 January 1949. The Commission has found, during its labours of the past year, that the attitude of each Government toward these points has followed as a logical consequence of these basic premises which they have adopted as regards the dispute and with which the Security Council is already familiar. Before discussing in detail the principal issues which have stood in the way of an agreement to carry out a truce, and at the risk of over simplification, there follows a statement of the general position of the disputants as represented by them. It is, of course, evident that the definitive and authoritative expositions of the two Governments is to be found in their own communications.

The Indian Position

200. (a) India considers herself to be in legal possession of the State of Jammu and Kashmir by virtue of the instrument of accession of October 1947, signed by the Maharajah of the State and accepted by the then Governor-General of India. From this basic premise, that is, the legality of her presence in the State and of her control over it, there flow logically certain corollary attitudes. The assistance which Pakistan rendered to tribesmen, who made incursions into the State, constituted therefore a hostile act; the entry of

elements of the Pakistan regular Army into the State was an invasion of Indian territory. India has her armies in Kashmir as a matter of right, and controls the defence, communications, and external affairs of the State as a consequence of the act of accession. Pakistan has no *locus standi* in Kashmir.

(b) From the fact of accession flows India's claim to be responsible for the security of the State ; hence, the problem of demilitarization must take into account the importance of leaving in the State sufficient Indian and State forces to safeguard the State's security. A plebiscite in the State would be for the purpose of confirming the accession which is, in all respects, already complete.

(c) India's claim regarding the northern areas of the State is also based on her fundamental argument. Her refusal to discuss with the Pakistan Government, or even to allow it to know the details of withdrawal of the bulk of the Indian forces is not only in line with that part of the Resolution which provides for the prior withdrawal of Pakistan troops, but follows on her insistence that Pakistan is illegally in Kashmir and has no rights in the matter. India's position on the question of the Azad Forces is not only bound up with India's preoccupation regarding the security of the State, but involves the principle that forces which are in revolt against the Government of the State must be disbanded and disarmed. The cardinal feature of India's position is her contention that she is in Kashmir by right, and that Pakistan cannot aspire to equal footing with India in the contest. The Government of India, in its letter of 21 November to the Commission reiterated its position and commented upon the arguments of Pakistan (Annex 43).

The Pakistan Position

201. (a) Pakistan bases its case on the contention that the accession of the State of Jammu and Kashmir to India is illegal and rejects that there is any basis whatsoever for India's contention that the legality of this accession is "in fact and law beyond question". This stand was first stated in the Pakistan complaint before the Security Council in January 1948, and has been reaffirmed to the Commission as recently as on 1 October 1949 in a letter from the Minister of Kashmir Affairs, Government of Pakistan (Annex 42). Pakistan's main arguments for its case are the following :

(1) 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.

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

(3) The act of accession was brought about by violence and fraud and as such it was invalid *ab initio* ; and

(4) 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.

(b) Pakistan states further that the Azad Movement was indigenous and spontaneous, the consequence of repression and misrule by the Maharajah's Government. The tribal incursions were likewise spontaneous and were the result of the reports of atrocities and cruelties perpetrated on the Muslim

peoples of Kashmir and the East Punjab. The entry of Pakistan forces into Kashmir was necessary in order to protect her own territory from invasion by Indian forces, to stem the movement of large numbers of refugees driven before the Indian Army into Pakistan, and in order to prevent the Government of India from presenting the world with a *fait accompli* by taking possession of the entire State by force. Pakistan quoting clause 1 of the Commission's Resolution of 5 January 1949, to the effect that the purpose of the plebiscite is to determine whether Kashmir should accede to India or to Pakistan, rejects the Indian view that the State of Jammu and Kashmir is a part of India, a view which, Pakistan says, begs the very question which is in dispute. It is Pakistan's opinion that her action in lending assistance to the people of Kashmir is far less open to criticism than was India's intervention at the request of an autocratic ruler. Pakistan has, from the first presentation of her case before the Security Council, contested the whole of the Indian thesis. She considers herself as having equal status with the Government of India and entitled, as a party to the dispute, to equal rights and considerations.

(c) The contention of Pakistan to equal status with India has had a direct influence on its position regarding the problems posed by the implementation of the truce: in Pakistan's view the truce should establish a balance of forces between the two parties and Pakistan asks, therefore, to be apprised of the plans of the withdrawal of the bulk of the Indian forces before signing a truce agreement. It is Pakistan's opinion that any disbanding and disarming of the Azad Kashmir forces, which are local forces, should be balanced by a similar disposition of the State Forces or at least by a further reduction of the remaining Indian forces after withdrawal of the bulk. As regards the Northern Area question, Pakistan, apart from other arguments based on factual considerations and on the letter of the 13 August resolution, denies the claim of India to the right to assume in those territories the defence of the State of Jammu and Kashmir as a result of the established relations between India and the State.

202. By now it will have been seen that the three principal issues have emerged in clear focus. They must be solved before the two Governments can find themselves able to agree to proceed toward a final settlement of the dispute. These issues may be referred to as the withdrawal of forces, the question of the Azad Forces, and the question of the Northern Area. The first two issues are closely interrelated; the third issue is rather more independent. These issues have become fundamentals in the dispute between India and Pakistan over the State of Jammu and Kashmir; the attitudes of both Governments regarding them stems from the premises which form the basis of their cases.

B. *The Azad Kashmir Forces.*

203. The Resolution of 13 August 1948 recorded one major change in the situation as contemplated by the Security Council during its deliberations in the early part of that year, namely, the presence of Pakistan troops in the State of Jammu and Kashmir. It did not, however, record a second element which has developed subsequently into a serious problem in the implementation of that Resolution: The Azad (Free) Kashmir Movement whose fighting forces today number some 32 well-equipped battalions. This movement, Muslim in character, has become the centre of strong and violent resistance to the accession of the State to India. It controls a considerable part of the Western area of the State, claims to be fully organized as a Government and its political activities appear to be directed toward the accession of the State to Pakistan. The Government of India, of course, grants no recognition to the Azad organisation and holds, officially, at any rate its existence to be a

problem of internal public order. On the other hand, the Government of Pakistan has rendered important assistance to the Azad Movement: it has offered the Azad forces with officers of the Pakistan Army. Units of the Pakistan Army itself are present in Azad Kashmir and have operated in the closest co-operation with the local forces. However, Pakistan has not given formal recognition to the "Azad Kashmir Government". In a letter dated 6 September 1948 Pakistan informed the Commission that it cannot make commitments on behalf of the Azad organization. The Commission has never negotiated with its representatives: having no international standing, the organisation can have no international responsibility.

204. At the time that the Commission adopted the Resolution of 13 August 1948 it had reason to believe that the Azad forces did not constitute a properly organized and equipped military force and that consequently their disposal, once the Pakistan Army had withdrawn from the State, would not constitute a major difficulty. In accepting the 13 August Resolution, India apparently agreed that these forces could be dealt with after the truce became effective. Four months later, during the conversations which immediately preceded the Commission's resolution of 5 January 1949, the Government of India stressed the importance it attached to the disbanding and disarming of these forces as a condition vital to the holding of a plebiscite. The Commissioner agreed that a large-scale reduction and disarming of the Azad forces should take place. Provision for this was made in the Resolution of 5 January as follows:

"As regards the territory referred to in A. 2. of Part II of the Resolution of 13 August, final disposal of the armed forces in that territory will be determined by the Commission and the Plebiscite Administrator in consultation with the local authorities".

205. The Government of India now insists that arrangements for the disbanding and disarming of the Azad forces must be established before it can agree to a withdrawal of what can be qualified, even restrictively as the bulk of the Indian forces in the State. With the passage of time India has shown a growing tendency to consider the question of the Azad the central problem in establishing a withdrawal plan. The Government of Pakistan has agreed to the principle of demilitarization of the State but insists upon a strict adherence to the terms of the 13 August Resolution—the Azad Forces should not be treated as a part of the Truce arrangements, but only at such time as the final disposal of the forces remaining on the Indian side of the cease-fire line is considered.

206. Following the Commission's return to Delhi, on 18 February 1949 the Government of India stated:

"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 nationals can return to the area now in 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".

The Commission shared this view and it did not run counter to the opinion of the Government of Pakistan. Subsequent developments, however, made the matter more complex.

207. The Pakistan Minister for External Affairs, in his first meeting with the Commission, spoke on the implementation of the truce and referred to the desirability of creating a Civil Armed Force from the ranks of the Azad Forces in the territory to be evacuated by the Pakistan troops; the function of this force, to be trained and reorganized by small nucleus of Pakistan officers, would be to maintain law and order in the Azad territory. This suggestion had first been put forward at a meeting of the Commanders-in-Chief held in New Delhi on 15 January 1949.

208. This suggestion was formally presented as a concrete proposal by the Pakistan delegation to the Commission's Truce Sub-committee on 9 March (Annex. 10). The statement contained a detailed plan for the reorganization and training of the Azad Forces based on the principle of creating a military balance in the State once the Pakistan regular troops have withdrawn. Mention was made of only a minor reduction in these Forces. Pakistan, under reference to Part II of the Resolution of 13 August, has maintained that any reduction in these forces would be conditional upon a reduction in the State armed forces and a reduction in the Indian armed forces beyond that of the bulk.

209. The Government of India (Annex II) took exception to the premises on which the Pakistan statement was based and declared that it would be impossible to accomplish a Truce Agreement along lines so fundamentally unacceptable to it. The Indian Government maintained that any arrangements with regard to the Azad forces undertaken during the Truce period should be such as to pave the way for their ultimate disbanding and disarming; it was prepared to discuss with the Commission the formation of a Civil Armed Force, not for the creation of a military balance between the forces on each side, but for the maintenance of law and order in the Azad Kashmir territory.

210. While a military balance would exist in the State during the Truce period in the sense and to the extent that the Resolution of 13 August does not call for the disposal of the Azad Forces, the Commission could not accept the Government of Pakistan's interpretation that "the declared objective of the truce arrangement 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 condition throughout the State such as would be conducive to the organization and holding of a plebiscite (Annex 12).

211. In the Government of India's first submission on the implementation of the Truce on 28th March (Annex 16), which covered the main aspects of the matter, it was stated that as long as the Azad Kashmir Forces were not disbanded and disarmed, it would be necessary for the Government of India, in the interest of the security of the part of the State under its control, to maintain larger forces than would otherwise be necessary. The Government of India contended that the disciplining and reorganization proposed by the Government of Pakistan would make these forces a greater menace to the security of the rest of the State and that there would be no security for those inhabitants not sharing the political views of pro-Pakistan elements. India regarded the disbanding and disarming of these forces essential but pointed out that a Civil Armed Force had to be created for the maintenance of law and order in the Azad Kashmir territory.

212. By the beginning of April 1948 it was evident that concerted action by the two Governments not only was not forthcoming, but that their views were increasingly divergent and that the Commission would have itself to draft terms for an agreement. The question of the Azad Forces was undoubtedly crucial. The Commission elaborated a general plan which envisaged the creation of a Civil Armed Force, with the assistance of Pakistan, of approximately

10 battalions. This suggestion was presented orally to representatives of both Governments—more in the nature of a sounding out than a concrete proposal. The discussions which ensued, however, proved that Pakistan was thinking along the lines of a reorganization, with only a minor reduction, of the forces which were to retain a military and not civil character. India, on the other hand appeared then to be thinking more along the lines of the creation of a civil police force. In the later stage of the discussions the representatives of Pakistan indicated that their Government would be willing to consider a Civil Armed Force for the evacuated territory, but only after a Truce Agreement had been signed and made public. Pakistan considered it impossible to persuade the Azad Forces to reduce their present strength in anticipation of a satisfactory agreement. They repeated that any reduction should be conditional upon the further reduction of Indian and State forces.

213. The Commission's first Truce proposals, dated 15 April 1949 (Annex 17) do not mention the Azad Kashmir Forces. Conversations had shown that no agreement would be possible on the creation of a Civil Armed Force during the withdrawal period, and the Government of Pakistan insisted that the disposal of the Azad Forces was a matter that could not be dealt with at all in the Truce Agreement.

214. The inability of the Government of India to accept these proposals centered around the point (Annex 20) mentioned above. Although the Government of India understood the omission to be explained by the absence of reference to the disarming of the Azad Forces in Part II of the Resolution of 13 August, it nevertheless desired that the assurance given to the Prime Minister on 22 December 1948 should be made clear beyond doubt, and that decisions to implement this assurance should be taken not later than the completion of the withdrawal of Pakistan troops. The Government of India referred to the Aides memoire (Second Interim Report, S/1196, Annex 4) in which it appears that it was the Commission's intention that large scale disbanding and disarming of the Azad Forces would take place as a condition precedent to the holding of a plebiscite.

215. The Government of Pakistan contended that there was a divergence between the proposals and the resolution of 13 August, as clarified to her, and on the basis of the points which the Government of Pakistan understood to be at variance, raised objections which, in effect, were refusal of the proposals as submitted. These points concerned, in the main, the withdrawal of troops and the defence of the Northern Area. Both of these problems are dealt with at length in the following chapter.

216. The Commission's revised proposals [the Truce Terms of 28 April 1949 (Annex 21)] introduced the following clauses with respect to the Azad Forces:—

“ III.B Immediately upon the acceptance of these terms, the Commission will 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.

“ III. C. If, before the expiration of the seven weeks contemplate 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".

217. The concept of providing for an initial implementation of Point 4 of the Resolution of 5 January 1949, through consultations with the authorities on both sides immediately upon the signature—and not completion—of the truce, represented a compromise between the desire of the Government of India that the Azad question be disposed of as a part of the withdrawal of the bulk of her forces, and Pakistan's insistence that it not be considered until the plebiscite arrangements were begun.

218. Extension of time for the withdrawal of the Pakistan Army was provided for in order that the Pakistan Army might assist in implementing the decisions which would ensue from those consultations. (See covering letters to the two Governments, Annexes 22 and 23).

219. India's reply to the Commission's Truce Terms, 18 May (Annex 48) reiterated the position taken in its previous correspondence with respect to the question of the Azad Forces and noted that the assurance which had been requested was neither given nor placed beyond all doubt. It was further noted that only "consultations...with local authorities and not decisions were called for. The Government of India expressed its concern that nothing was said in the proposals as to what would happen if no decisions were reached within the period of the withdrawal of the Pakistan forces; it could not contemplate the eventuality that arrangements for the plebiscite might proceed even if the 32 Azad battalions remained intact. Stressing that both from the stand point of the security of the State and the freedom and impartiality of the plebiscite the disbanding and disarming of the Azad Kashmir Forces should not be left in a state of uncertainty or be the subject of challenge and dispute, the Indian reply declared that it was 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".

220. In answer to the Commission's inquiry as to the conditions on which India would be prepared to accept the Truce Terms, the Secretary General of the Indian Ministry of External Affairs on 17 June 1949 (Annex 50) requested the following assurances :

- " 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 I (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".

Other conditions in that letter, relating to withdrawals and the Northern Area, as will be shown, went considerably beyond the scope of the proposals.

221. Neither was the Pakistan reply of 30 May (Annex 49) an acceptance of the Commission's Truce Terms. As regards the Azad Kashmir Forces, the Government of Pakistan understood that it was intended to associate the Plebiscite Administrator with discussions which dealt with the final disposal of forces in the State, not under the terms of the Truce, but under the Resolution of 5 January, 1949. The Commission could of course readily agree that the plebiscite Administrator Designate participate in the taking of decisions which affected the conditions for the plebiscite. However, the Pakistan Government added that it understood the extension of time for the Pakistan withdrawal only to be so as to reorganize the Azad Kashmir Forces and not actually to implement decisions within that period of time, and defined the understanding by declaring that "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". This was clearly contrary to the position taken by the Government of India.

222. At this juncture the Commission unanimously decided that it was useless to continue to negotiate separately with the two Governments since four months of repeated efforts had not brought the parties any closer to an agreement. To overcome the difficulties inherent in modifying the proposals by consulting first one and then the other of the parties, a joint meeting at ministerial level was suggested. As before, the question of the Azad Forces was immediately raised by the two Governments, this time in their observations on the procedural question of a provisional agenda. The Government of Pakistan in its letter dated 16 August (Annex 32) stated that the question of the disarming and disbanding of the Azad Forces "cannot be discussed during the forthcoming truce talks". India, on the other hand (Annex 31) insisted that the inclusion of this subject was "essential".

223. India, in not accepting the course of action contained in the Commission's last suggestion, which was that the differences arising out of the implementation of Part II be submitted to arbitration, informed the Commission that it declined to make any practical distinction between the Pakistan Army and the Azad Forces, which, India stated, having been armed, organized and trained by the Pakistan Army, were today in reality part of the Pakistan Army and that they should be disbanded at the same time as the Pakistan Army withdrew. The Indian Government declared that :

"this outstanding issue...is not a matter for arbitration but for affirmative and immediate decision" (Annex 36).

"... 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.I. of Part

II of the Resolution of 13 August, 1948, is no more a matter for arbitration than the complete withdrawal of the Pakistan forces" (Annex 39).

224. The Pakistan Government accepted without comment the course of action proposed by the Commission in its memorandum on arbitration.

225. There is, indeed, no doubt that the Azad forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the Azad Kashmir Forces has actually increased since August 1948, there is no question that those forces, who have since then been working in close cooperation with the Pakistan regular army and who have been trained and officered by that army, have increased their fighting strength. It is reasonable to suppose that if the Commission had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the Azad territory, the Commission would have dealt with this question in Part II of the Resolution of 13 August.

226. It cannot be said that either side has complied with the letter of Part I, Section B of the Resolution which prohibits any increase of military potential by either country in the territory of Jammu and Kashmir.

C. Withdrawal of Forces

227. As a result of the Cease-fire Agreement and the demarcation of a line on the ground, the State of Jammu and Kashmir at present is divided into two areas; the part of the State east and south of the cease-fire line is occupied by the Indian Army with the State Forces and the Jammu and Kashmir Militia under its command, and includes the Valley of Kashmir and Jammu; the territory west and north of the cease-fire line is under Pakistan control, and includes Western Kashmir adjoining Pakistan and the large mountainous territory to the north.

228. Four principles were agreed to by the Governments of India and Pakistan in connection with the withdrawal of forces from the States by Pakistan, that (a) her troops are to withdraw from the State; and that (b) she will use her best endeavours to secure the withdrawal of tribesmen and Pakistan nationals not normally resident in the State who entered for the purpose of fighting; by India, that (a) she will begin to withdraw the bulk of her forces in stages to be agreed upon with the Commission once the Commission has notified her that the tribesmen and Pakistan nationals have withdrawn and that Pakistan forces are being withdrawn; and that (b) the Government of India will maintain within the lines existing at the moment of the cease-fire such forces as are considered necessary to assist local authorities in the observance of law and order.

229. In early March the Commission received the first concrete indication of the manner in which one of the parties envisaged the implementation of the Truce. A statement was presented by Pakistan to the Truce Sub-Committee (Annex 10) which dealt in detail with proposals for the reorganization of the Azad Forces in conjunction with the withdrawal of the regular forces, a program which was suggested to take place within a period of three months. It also commented on the Indian withdrawal plan. Two statements in this document brought into clear relief the divergence of the view points with respect to the truce problem, divergence which was constantly to be the source of disagreement in future negotiations; the Pakistan delegation held

(a) that the objective of the truce agreement is to create a military balance between the forces on each side and (b) that the withdrawal of her regular forces depended upon plans acceptable to the Pakistan Government for the synchronization of this withdrawal with that of the bulk of the Indian forces

230. India, on the other hand, has (a) never accepted the claim of Pakistan to equality of rights in a military or any other sphere, but considers that the presence of Pakistan troops in Kashmir constitutes an act of aggression and a violation of international law ; and (b) has refused to discuss with Pakistan any feature of the withdrawal of Indian forces, maintaining that the timing and staging of the Indian withdrawals and the strength of Indian forces to be retained in the State were matters for settlement between the Commission and the Government of India. The Government of India at this time also made it clear that the fulfilment by the Government of Pakistan of the conditions of withdrawal was a condition precedent to the implementation by the Government of India of any arrangement regarding the withdrawal of its own forces. (Annex. 11).

231. The Truce Sub-Committee meetings in March led to no agreement with respect to the implementation of Part II of the Resolution of 13 August 1948. The Indian delegation found that the Pakistan statement involved political considerations and declined at that time in the Sub-Committee to present its comprehensive views. The resulting correspondence, however placed the Commission face to face with the conflicting interpretations which it would have to reconcile if a Truce were to be arrived at.

232. On 28 March 1949, the Government of India declared (Annex. 16) that it was prepared to accept a period of three months for the completion of the withdrawal of Pakistan forces and for the creation of a Civil Armed Force to maintain law and order in the Azad Kashmir territory. The memorandum, which was in the nature of a response to the Pakistan delegation's presentation before the Truce Sub-Committee, also contained a suggested schedule for the withdrawal of Indian forces. In this memorandum the Government of India stated that it was not willing to disclose its own program to the Government of Pakistan, until a satisfactory agreement had been reached regarding the withdrawal of Pakistan forces and the replacement of the Azad Kashmir Forces by a Civil Armed Force.

233. With these issues in mind, and constrained to formulate suggested terms within the framework of Part II of the 13 August Resolution, which makes an important distinction between the withdrawal of the Indian and Pakistan forces, but makes no reference to the disposal of the Azad Forces, the Commission began the study of proposals which it might submit for the approval of both Governments.

234. The first proposals were submitted on 15 April 1949. As regards the withdrawal of forces the proposals strictly followed the procedure indicated in Part II of the Resolution of 13 August 1948. A period of 7 weeks was envisaged for the complete withdrawal of Pakistan troops. In a covering letter to the Government of India a plan was suggested for the withdrawal of the bulk of the Indian forces to take place within a period of three months. The Commission's proposals of different time limits for the withdrawal of the Pakistan and Indian forces was determined by the inadequacy of road conditions between Kashmir and India and the differences in terrain and distances between forward area in Kashmir and base areas in India and in Pakistan. For Pakistan, withdrawal is comparatively easy to achieve and can be quickly carried out. For India it is a more difficult and longer military operation.

235. In its reply, the Pakistan Government again raised the question of synchronization for the withdrawals and the request to be apprised of the proposed programme of withdrawal for Indian forces. The Commission replied that it would find itself in a position to disclose the schedule of withdrawal of the bulk of the Indian forces when agreement thereon had been reached with the Government of India, and when both Governments had indicated their agreement to the other provisions of the 15 April proposals. The Commission also reiterated its statement (First Interim Report, S/1100, Annex. 27) that synchronization of the withdrawals would be arranged between the respective High Commands and the Commission.

236. In response to the Commission's proposals of 15 April, the Indian representative (Annex. 20) said that the presence of thirty two battalions of Azad Kashmir Forces was a factor which the Government of India had to take into account in determining the phasing of its withdrawals. He pointed out that during the seven-weeks period for the withdrawal of Pakistan troops, the Government of India could not, with due regard to the security of the State, to the maintenance of law and order, and to the sealing off of the border against unwarranted infiltration, withdraw more than twelve battalions. (This reduction was considerably less than had been suggested in the Commission's plan for the three-months' period and in no case could be considered to constitute the bulk of the Indian forces.) He wrote that further withdrawals would depend upon and would have to be regulated according to the actual disbandment and disarming of the Azad Kashmir Forces.

237. The Commission revised its proposals and submitted the Truce Terms on 28 April 1949.

238. In an effort to meet the request of the Government of India with respect to the Azad Forces, the Commission introduced a provision under which it would enter into consultations with the local authorities for the disposal of those forces immediately upon the acceptance of the Truce Terms. Although the period for the withdrawal of Pakistan forces was maintained at seven weeks, provision was made for its extension to three months, in order to allow the Pakistan Army to participate in the reorganization of the Azad Forces, should decisions be reached during the consultations. The Commission still could not meet Pakistan's demand that she be informed of the withdrawal plans for the Indian forces, but it informed the Pakistan Government that the withdrawals would be faithful to the Commission's Resolution of 13 August and would represent a coordination in timing which, in the Commission's view, would constitute a synchronized action.

239. In replying to the Commission's Truce Terms of 28 April (Annex. 21) the Government of India did not specifically deal with the question of withdrawals, but in a further reply to the Truce Terms dated 17 June (Annex 50) the Indian Government presented its own scheme for the withdrawal of its forces, reaffirming its reference to the interdependence of the phasing of the withdrawal of Indian forces and the progress made with the disbanding and disarming of the Azad Kashmir Forces. India asked that her scheme not be communicated to the Government of Pakistan until a Truce Agreement had been arrived at. The Indian plan was, in the opinion of the Commission, far from a fulfilment of India's undertaking under the terms of the 13 August Resolution.

240. The response of the Government of Pakistan to the 28 April Truce Terms (Annex. 49) deals at length with the withdrawal problem as conceived by the Pakistan Government. Again the obstacles to Pakistan's acceptance of the Truce Terms refer mainly to the synchronization of the withdrawals in accordance with a programme which can only be achieved, in Pakistan's

view if both High Commands have full information with respect to each withdrawal. The Pakistan Government's letter pointed out that the terms as presented to it gave no information as to the strength and composition of the Indian forces which were to be withdrawn, of the time during which the Indian forces would withdraw from the State, nor of the stages of withdrawal of the Indian forces. Complaining of the lack of information, the Pakistan Government stated that :

"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".

241. Pakistan has been consistent throughout in her contention that the withdrawal of the forces on the two sides should be synchronized, that is, in the opinion of the Pakistan Government, that they should take place simultaneously and be arranged in such a manner as to obtain a balance between the remaining forces. This position is fundamentally opposed to the contention of the Government of India and has proved irreconcilable with it. The Pakistan Government bases this position on a statement contained in a memorandum annexed to a letter from the Commission of 27 August 1948 (First Interim Report, S/1100, Annex. 27). The Government of Pakistan had requested an indication from the Commission of the manner in which the Commission proposed to secure a synchronised and simultaneous withdrawal of the Pakistan Forces and the bulk of the Indian Forces from the State." The Commission, in replying quoted Part II.B 1 of the Resolution to indicate that no simultaneity was intended, and added that synchronization would be arranged between the respective High Commands and the Commission.

242. The Commission's reply regarding synchronization cannot be interpreted out of the context of the Resolution which, as has been pointed out, draws a distinction between the withdrawal of Indian and Pakistan forces. Pakistan troops are to begin to withdraw in advance of the Indian troops and their withdrawal is not conditioned on Pakistan's agreement to the plan of the Indian withdrawal. The Commission's reference to synchronization should be interpreted to mean that discussions with the Government of India concerning the withdrawal of the bulk of its forces would ensue without delay and lead to the establishment of a time sequence for the two withdrawals agreed upon between the respective High Commands and the Commission after the acceptance of the Truce Terms by both Governments. The Commission was not able to share the view of the Government of Pakistan that the only method of assuring this form of synchronization was by the full and free exchange of information between the Indian and Pakistan Governments regarding withdrawal plans. It was feasible, in the Commission's judgment and the Commission's military adviser had had this in mind, that the arrangements could be coordinated and supervised by the mediation party, namely, the Commission, so as to cause the two withdrawals to represent a dual operation which would be coordinated in timing and would result in a military situation in the State which was not such as to place either side at a disadvantage.

243. The Pakistan Government could not in reason expect nor could the Commission have granted, a "synchronization" which would have been in compatible with the terms of the Resolution of 13 August. That Resolution does not suggest that Pakistan should be entitled to make her withdrawals conditional upon the consultations envisaged between the Commission and the

Government of India having led to an agreed schedule of withdrawal of Indian troops. What Pakistan could expect would be that assurance be made that the withdrawals of the two armed forces be arranged and carried out in such a way as to prevent the creation of a situation which might constitute an opportunity for one or the other party to reopen the hostilities. The danger of such an eventuality should not be overemphasized.

244. The Commission did take into account Pakistan's concern that the withdrawal be synchronized. It repeatedly assured the Pakistan Government that this would be evident in the agreement itself, and it must be noted that the terms were to be published in full immediately upon the acceptance of the two Governments. The withdrawal plan for the Indian forces, a part of that agreement, was consequently, to be published in advance of implementation by either side.

245. As has been seen from the discussion of the Azad problem and from the foregoing discussion on withdrawals, India is not prepared to withdraw such part of her forces in Kashmir as might be characterized as the "bulk", whether measured quantitatively or qualitatively, unless agreement with Pakistan on the large-scale disbanding and disarming of the Azad Forces is reached. Indeed, the Indian Government no longer discusses the withdrawal of her forces in terms of their "bulk" alone. Changes in the military situation in the State have occurred which, in the view of the Government of India, must condition the strength of forces which India can withdraw from the State and which, in her opinion, must be taken into account in applying the terms of Part II of the Resolution. The importance which the Government of India attaches to these changes has so conditioned the forces she is willing to withdraw, that the Commission has been unable to agree on a plan which would comply with the provisions of Part II of the Resolution of 13 August 1948.

246. As long as the Government of India maintains its position that Pakistan should not have information regarding the nature and timing of the Indian withdrawal before acceptance of the Truce by both parties, and as long as Pakistan considers that this information alone will vouchsafe beforehand that synchronization in the withdrawals is provided for, the prospects for an implementation of the Truce are remote.

247. The Commission has tried to obtain India's agreement to communicate to Pakistan the Indian proposals, or in any event the Commission's proposals, but without success. In its last communication to the Commission on the subject (Annex. 51) the Government of India reiterated its stand that the question of the forces which India should retain in the State was a matter entirely between the Commission and India.

248. Replying to the Commission's proposals that the issues relating to the implementation of Part II of the 13 August Resolution be settled by arbitration, the Government of India reaffirmed this position. In its letter of 8 September 1949 (Annex. 36) the Government of India stated that "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 13 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".

• 249. In essence, the problem of the withdrawals lies in the fact that the sequence for the demilitarization of the State, as contained in the Commission's Resolutions of 13 August and 5 January, is not adequate to solve the present situation. The situation in the State has changed; the Resolutions remain unchanged. Again in this question, the Commission endeavoured to find means of reaching an agreement without contravening the terms of the Resolution, but, taking into account the changes that have occurred in the situation, it found that the Governments were strict in adhering to the letter of those clauses which met their position.

250. The conclusion to be drawn from the experience of the Commission during the past year, and from the attitudes of the two Governments as regards the withdrawal problem is clear: developments in the State during the past year necessitate a modification in the original plan of demilitarization. Such a modification must treat the problem of demilitarization as a whole, eliminating all distinctions and comprising all questions concerning the final disposal of all armed forces in the State of Jammu and Kashmir.

D. The Sparsely Populated and Mountainous Areas in the North of the State.

251. In order properly to appreciate the special character of the territory to the north, it should be borne in mind that this vast area is extremely mountainous, the ranges forming a part of the Himalayas. There are passes that reach between 12,000 and 19,000 feet. The area forms the basis of the river Indus and only the routes along this river remain open throughout the year. The sparse population consequently is concentrated in the river valleys, with few, if any, major centres, and facing great difficulties of communication. The land tracks which must cross the passes, are used by traders for only some five months in the year.

252. The Government of India first referred specifically to this area, and established its claim with respect to it in August 1948, on accepting the Resolution of 13 August 1948. The Prime Minister wrote (First Interim Report, S/1100, p. 35) that "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. . . . 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. . . . We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen. . . . and to guard the main trade routes from the State into Central Asia".

253. During the first six weeks of negotiations in 1948 the Commission was occupied almost exclusively with bringing about an agreement between India and Pakistan on the cease-fire. Although at that time resistance was being offered to the authority of the State of Jammu and Kashmir and sporadic fighting did take place in the north, regular forces of the Indian and Pakistan armies were not fighting in that area of the State. The conflict took place in the west where the Azad Kashmir Movement has its headquarters. The Commission was informed by the Foreign Minister of Pakistan in July 1948 that regular Pakistan troops went into Kashmir (a) to prevent an Indian *fait accompli* in the State, (b) to halt the influx of refugees entering Pakistan from the east and (c) to ward off the danger of an armed attack upon Pakistan.

254. Subsequently the Commander-in-Chief of the Pakistan Army defined the purpose of sending Pakistan troops into the State to be the holding

of the general line Uri—Poonch—Naushera. This line runs north-south along Western Kashmir. The Commission had, therefore, not given particular consideration to the situation which would arise in the Northern Area with the cease-fire; nor did the Commission at that time, under the stress of the urgency with which both Governments viewed the state of "undeclared war" have the time nor the facilities to investigate on the spot the situation to the north. The Commission in reply (First Interim Report S/1100, p. 35) to the Prime Minister stated that because of the peculiar conditions of the area, it did not specifically deal with the military aspect of the problem in the Resolution of 13 August and added that it believed that the question raised in the Prime Minister's letter could be considered in the implementation of the Resolution. However this statement cannot be taken as a commitment but as an intention to study at a later date the best means for dealing with a special situation.

255. From the outset of the Commission's activities in February 1949 the contested issue of the administration and defence of the Northern Area was one to which both Governments attached great importance. The conflicting interpretations in this regard were first made clear during the Commission's Sub-Committee meetings in March. The military representatives of India declared that they were not in a position to treat the cease-fire line in the North on the same level as the cease-fire line in the west since their Government considered that the former entailed political considerations and had to be dealt with independently and in the light of the Prime Minister's reservations as quoted above. The Pakistan representatives, on the other hand, advanced the argument, which was consistently maintained throughout the future negotiations, that the area to the north was as much a part of the evacuated territory as the area to the West and that both were under the effective control of the Pakistan High Command; they could not admit to any claim by the Government of India which would entitle her to advance beyond the positions occupied at the moment of the cease-fire nor that the State Government should be permitted to extend its administrative authority.

256. The Government of India on 28 March suggested a line which it wished to see established. This line included the territory which the Government of India felt answered the description given in the Prime Minister's letter of 20 August 1948. The Government of India stated that it did not intend to garrison these sparsely populated portions extensively, but that all it proposed to do was to maintain garrisons at selected points.

257. On 13 April the Secretary-General, Ministry of External Affairs of the Government of India, sent the Commission a statement on his Government's views with respect to the truce. In it were further defined the strategic points which, in India's view, should be garrisoned by Indian armed forces. Fifteen points were mentioned. The Government of India expected that in addition to these points it would retain the right to patrol the intervening areas.

258. The claims of the Government of India in this connection were entirely counter to Pakistan's views on the matter. The representatives of Pakistan were unwilling even to consider the Northern Area as requiring separate or special treatment. There was no question in their minds that the provisions of Part II of the Resolution of 13 August applied equally to all parts of the State where fighting had taken place and where armed forces were facing each other. Since Pakistan maintain that this area had always been under its effective control, it drew the conclusion that any provision made in the light of India's claim would be a contravention of the Resolution of 13 August under which the territory evacuated by the Pakistan troops was to be administered by the local authorities under the surveillance of the Commission.

259. The Commission wished to comply with the offer made to the Government of India in August 1948 that the question could be considered in the implementation of the Resolution. It did so in every attempt which was made to secure agreement on a truce. It gave serious consideration to India's position, which was based on legal claims, and to her contention that in acceding to the creation of an evacuated territory in Western Kashmir over which she was to have no control pending a final solution, she was not to be expected to assent in the creation of another such territory in the North which India considered of importance to the defence of the State and of the trade routes to Central Asia. However, the Commission was equally bound to keep foremost in mind that the truce agreement was meant to be only an instrument by means of which the State was to be demilitarized and that the duration of this interim period was a short one. The Commission could not envisage a situation whereby extension of military activity of any sort might take place, nor could it be heedless to the likelihood of armed resistance by the local population should Indian forces be garrisoned beyond the cease-fire line.

260. The Commission's first truce proposals of 15 April provided that "In the sparsely populated and mountainous region of the territory of Jammu and Kashmir to the north, Observers will be stationed, who, in the event that the defence 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".

261. This formula was regarded as an equitable compromise between the opposed views of the two Governments; it minimized the possibility of a renewal of fighting, yet took into consideration India's claim to responsibility for the defence of the State. However, both Governments expressed their dissatisfaction with it.

262. The Government of Pakistan presented a lengthy statement of its views regarding the area in question (Annex. 24). It contested the basis of the Indian claim to post garrisons in the area, stating that "ever since the overthrow of the Dogra Regime [the Maharajah's Government] the territory has been firmly under Azad control and has been properly administered". The Government of Pakistan argued that the military operations in the area for over eight months proved that there was no basis in fact in the Indian statement that the Maharajah's administration in this area remained undisturbed except by "roving bands", but represented instead the resistance of an organized and determined force of local men who fought the Indian armed forces; and pointed out that after the overthrow of the Maharajah's regime in October 1947, the Maharajah's Government had never recovered its hold over any part of the territory. The Pakistan Government further argued that there was no real danger of any tribal incursion, since such an incursion could only take place through territory held by Pakistan and Pakistan has given assurance to deal effectively with this contingency; and that Pakistan would be in a better position to deal with the hypothetical possibility of foreign aggression from the north. In any case, according to Pakistan, any act of foreign aggression would be a matter for the Security Council to consider. It could not be regarded as the sole or primary concern of India. In addition, Pakistan introduced economic, hydrographic and administrative considerations in favour of the thesis that the Northern Area is not integrated with the Kashmir Valley, but is instead more closely related to Pakistan.

263. Additional to the paper noted above, the Pakistan Government on 26 April 1949, recapitulated why it regarded the proposal to post Indian troops in the area north of the cease-fire line as a contravention of the Resolution of

13 August 1948. The Government of Pakistan laid stress on their understanding that the area in question is "evacuated territory in precisely the same way as the area west of the cease-fire line and referred to the Commission's letter of 3 September 1948 in which it is stated that" . . . 'evacuated territory' refers to those territories which are at present under the effective control of the Pakistan High Command. Since Pakistan maintains that the Northern Area already in August was under the tactical control of the Pakistan Army, it considers that the area should be treated as "evacuated territory" for the purposes of the truce. Further it pointed out that the Indian forces are to be "posted within the lines existing at the moment of the cease-fire".

264. In replying to the 15 April proposals the Government of India re-affirmed its request that it be allowed to maintain garrisons at strategic points. It felt that the question of the administration of the area could be discussed separately (Annex. 20).

265. In spite of the views of the two Governments, which remained firmly opposed, the Commission did not feel that it could in good conscience compromise on what it considered not only a fair proposal but one which would best achieve the purposes of the truce. The Commission did not ignore India's claim to the right to safeguard the security of the State nor did it put into question the legality of the Jammu and Kashmir Government. It had, nevertheless, to consider, as a Commission of mediation for the preservation of peace, the danger should Indian forces other than in an emergency, be permitted to occupy garrisons in an area which was declaredly hostile to those forces and to representatives of the State Government. The Commission was obliged to reaffirm, in a modified form, the principle it had already recommended to both Governments on 15 April.

266. In the Commission's revised proposals the truce terms of 28 April, the problem was dealt with as follows :

" 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 point . "

267. In its reply to the truce terms on 18 May 1949 (Annex. 48) the Indian Government repeated that the principle that Indian troops should garrison important strategic points should be accepted. The Government of India suggested that the points to be so occupied be the subject of discussion with the Commission, and again remarked that the question of the administration of this area be left over for the time being.

268. In a further letter, dated 17 June commenting on the Commission's truce terms (Annex. 50) the Government of India referred to the fifteen strategic points in the Northern Area at which it believed Indian garrisons, should be maintained. It now stated that it would be willing to occupy only seven points in the expectation that all regular and irregular Pakistan forces 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 from any other source, the Government of India desired to be free to garrison any or all of the fifteen points mentioned previously. India explained that she

felt compelled to make this reservation because she believed that measures taken by Pakistan such as the construction of roads, the provision of arms and supplies to points like Skardu could, in the view of India, mean only that Pakistan did not wish to withdraw from the territory or, after withdrawal, intends that those who stay behind can create turmoil.

269. In connection with the Northern Area, the reply of the Pakistan Government to the truce terms referred to Pakistan's previous correspondence on the subject and summarized four considerations in view of which the Pakistan Government again submitted that the proposal was not in accord with the Resolution of 13 August 1948, and "is unnecessary and, far from assuring peace and tranquility in this area, is likely to create conditions, of unrest and insecurity". The Government of Pakistan repeated (a) that the posting of Indian garrisons in the area is contrary to the provision in the resolution which permits the retention of Indian troops only in the lines in existence at the time of the cease-fire; (b) the proposal conflicts with the definition already mentioned above (para. 263) and contained in the Commission's letter of 3 September, as well as with the assurance that neither the Government of India nor the Maharajah's Government will be permitted to send military or civil officials to the evacuated territory; (c) the proposal appears unnecessary since the threat envisaged might arise either from tribesmen or from a foreign power and in neither case is the Government of India indicated to safeguard the security of this area. Arguments to substantiate this contention are set out in the Pakistan reply.

270. In the correspondence between the Commission and the two Governments regarding the agenda for the proposed Joint Meetings the question of the inclusion in the agenda of the problem of the Northern Area was immediately raised. The Government of India, in its letter of 18 August (Annex. 31) stated that it considered the inclusion in the agenda of the subject of the administration and defence of the Area as "essential". The Government of Pakistan, on the other hand, in its letter of 16 August (Annex. 32) stated that India's desire that the question of the responsibility for the administration and defence of the Northern Area be clarified at the Joint Meetings "... is not only outside the scope of the proposed joint truce talks but is contrary to the clear provisions of the 13 August Resolution and cannot be entertained".

271. The Pakistan Minister for Kashmir Affairs referred, in his letter of 26 April 1949 (Annex. 24) to the Commission's letter to the Foreign Minister of Pakistan of 3 September 1948, which defined "evacuated territory" as referring to the territories in the State of Jammu and Kashmir which were at that time ("at present") under the effective control of the Pakistan High Command. The Pakistan Minister contended that this definition brought the whole of the northern area inside the "evacuated territory" and for this reason no officials of the State Government, nor any Indian troops, should be given access to the territory.

272. It seems, however, very doubtful whether the northern areas were in fact in the autumn of 1948 under the "effective" control of the Pakistan High Command, in the sense that the Commission understood the term "effective control". The Pakistan Government (Annex. 24) stated that no Pakistan regular troops at any stage were employed in the operations which took place between May and December 1948. Only one Pakistan officer, Commandant Gilgit Scouts, exercised "overall tactical and administrative control" in the area. But at the same time it is true that the local population was in active and organized resistance to the Indian Army. It was precisely because the Commission understood "evacuated territory" to mean that territory in Western Kashmir where regular forces of the Pakistan army were operating and assisting the Azad Kashmir forces that the Commission in

August stated to the Prime Minister of India that the question of the military aspect of the territories to the North of the State had not been dealt with in the Resolution of 13 August. The Commission was informed that it was for the defence of the western area that the Pakistan regular forces had entered the State of Jammu and Kashmir.

273. While the Indian claim may have been based on valid arguments at the time it was first made in August 1948 (the Pakistan Government has said that there was no basis in fact to the claim even then), the Commission was faced with the incontrovertible fact that in March of the following year the validity of India's arguments was open to question in the light of the Commission's objective. The authority of the State Government had not only been challenged; by 1 January 1949, the authority of the Jammu and Kashmir Government had been eliminated from the area. The entry of Indian forces into the area north of the cease-fire line would almost inevitably lead to a renewal of hostilities. In consequence the Commission could expect that the Government of India, taking into consideration the wholly temporary nature of the truce, would be willing to waive a claim which was to be decided shortly thereafter in the preparation of conditions for the holding of the plebiscite. Neither Government however has been prepared to keep that consideration actively in mind when defining their positions *vis-a-vis* the withdrawal and reduction of armed forces in the State.

274. When it drafted the 13 August Resolution the Commission did not consider the northern area in the same light as it did Western Kashmir. However, by January 1949 Pakistan undeniably held military control over the northern areas; the area was administered by local authorities, not of the Jammu and Kashmir government, with the assistance of Pakistan officials. The spirit of the 13 August Resolution had to be observed. Its underlying principle was the withdrawal of forces from the State, the reduction, not the extension of military activities. It contemplated, and expressly stated, that the Indian Government would 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.

275. The situation in the Northern Area to-day is such that the posting of garrisons by the Indian Army at any point beyond those which are now held by it would result in an extension of military activities by the Government of India although it need not necessarily imply an increase in the military potential which both Governments have agreed is not to take place on either side.

276. The Karachi Military Conference of July has settled the question of the cease-fire line. The line is now demarcated and agreed to by India and Pakistan. Until such time as the conditions envisaged in the Resolution of 5 January have been created and normal life begins to return to the State of Jammu and Kashmir, the line which is to-day a guarantee against a resumption of hostilities should be scrupulously observed by the Governments of India and Pakistan and the opposing forces should remain behind it.

VI. CONCLUSIONS.

277. The Commission has endeavoured in the previous chapters to present an objective and factual report on its activities on the sub-continent from February to September 1949.

278. The roots of the Kashmir dispute are deep; strong under-currents—political, economic, religious—in both Dominions have acted, and do act, against an easy and prompt solution of this outstanding dispute between

India and Pakistan. These currents which at this early stage of national formation are often antagonistic and account to a considerable degree for the misgivings, reluctance and hesitancy, which the Commission felt were often present in the negotiation and which restricted both Government in the concessions which they might otherwise have been prepared to make to facilitate agreement. The Commission, however, has no doubt that both Governments are keenly conscious of their duties and responsibilities as members of the United Nations, and that both desire a final and peaceful solution of the Kashmir question.

279. In drafting the report the Commission has therefore intentionally avoided comment on its own appreciation of the broad and complex background of the relations between the two countries, significant as the overall relations unquestionably are in the greater understanding of any one issue. It has felt it wise to restrict itself to the specific problems arising out of the implementation of the agreement entered into by India and Pakistan under the Resolutions of 13 August 1948 and 5 January 1949. The Commission must note, however, that the issues of the disposal of Azad Forces, the withdrawal of troops, and the defence and administration of the Northern Area, have made of the Truce an end in itself; the difficulty in disposing of them to the satisfaction of both Governments has been, if they are judged independently of other implications and exclusively as preliminaries to a plebiscite, out of proportion to their real importance.

280. The agreements in the Resolutions represent an advance toward a final settlement. The Commission has all along been reassured by the representatives of both Governments that they are willing to meet their obligations. As a consequence of that advance the primary and immediate objective of the Security Council was fulfilled with the cessation of hostilities on 1 January 1949 and in the Karachi Agreement of July when the cease fire line was demarcated. That it is not the intention of either Government to resort to the use of force is proven by their efforts to observe the cease-fire and their mutual co-operation in correcting and minimizing such minor incidents as did occur during the months before a line had been demarcated on the ground.

281. The function of investigating the facts with which the Commission was invested by the Security Council has also been completed. The protracted negotiations of the past have provided thorough knowledge of the facts of the case. This is a positive achievement. The main issues which have prevented the Governments of India and Pakistan from progressing more rapidly toward a settlement of their dispute over Kashmir, and the conditions which they believe should regulate the putting into effect of their commitments, are now in sharp focus. The Commission trusts that United Nations action in the future should prove more effective with the foundation which this investigation provides.

282. The Commission employed a variety of methods in its efforts to bring about agreement of the two parties to the implementation of their undertakings. During the past months it has conducted separate negotiations with representatives of the two Governments, it has sponsored joint talks, and has submitted to them the Commission's own proposals based on frequent consultations, and lastly, suggested arbitration of their differences with respect to the Truce.

283. The period of investigation has been completed. Within the framework of its terms of reference, following in its endeavours the provisions contained in its Resolutions of 13 August 1948 and 5 January 1949, the Commission feels that the possibilities of mediation open to it have been exhausted.

Over a prolonged period, in a changing and dynamic situation and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the Resolution of 13 August has become inadequate in the light of the factual conditions in the State. The Commission has been unable, therefore, to mediate much beyond what is today a rather outmoded pattern. The State of Jammu and Kashmir has not been demilitarized, as was envisaged in Part II of the Resolution of 13 August, and until this is achieved the conditions necessary to the holding of a plebiscite cannot begin to be established. As has been seen from those parts of the report entitled *Withdrawal of Forces and the Azad Kashmir Forces*, the Commission believes that the problem of demilitarization must be treated as a whole, and that the distinctions relative to demilitarization which exist in the division of the problem into Truce and Plebiscite periods as visualized in the original plan of demilitarization has proven one of the most difficult obstacles in achieving agreement on the problem. It is evident that the presence of large numbers of troops in the State is not conducive to the creation of a peaceful atmosphere. The demilitarization of the State is essential to permit the holding of a free and unfettered plebiscite.

284. It is imperative that a settlement of the Kashmir issue be reached and the Commission believes that it can be reached. To this end, conditions should be established at an early date which will make possible the holding of a plebiscite whereby the wishes of the people of the State regarding the future of the State may be freely ascertained.

285. The Commission doubts whether a five-member body is the most flexible and desirable instrument to continue in the task. In the Commission's view, a single person can now more effectively conduct the negotiations which, to be successful, must be carried out in active and constant consultation with the two parties. The designation of a single person with broad authority and undivided responsibility offers a more practical means of finding the balance and compromise necessary to advance the settlement of the dispute.

286. Finally, the Commission feels that, since the Government of Pakistan accepted the suggestion that the issues relating to the Truce be settled by arbitration, and that the Government of India has stated that it does not object to the principle of arbitration as provided for in the Charter, further consideration should be given to the use of this procedure.

Note.—Declaration of the Belgian Delegation

With reference to the last paragraph of the Chapter of the Appendix to the present Report, entitled "Admission of Representatives of the State of Jammu and Kashmir to the Constituent Assembly of India", the Belgian Delegation feels that it is its duty to draw the serious attention of the Security Council to this matter, as it reveals a conception of the problem, the consequences of which are liable to create important difficulties for the peaceful settlement of the Kashmir question. If, before the plebiscite envisaged in the Resolution could take place, the Government of India was to proceed to the organization of a "Constitutional" life by means of elections or by a consultation of the people in the part of Kashmir under its control. This policy would lead to the gravest consequences.

VII. RECOMMENDATIONS

1. That the Security Council should ask the two Governments to take all necessary precautions to secure that their agreements regarding the cease-fire be faithfully observed; also that the two Governments be enjoined to abstain from any measure liable to augment tension in the State of Jammu and Kashmir pending the final settlement of the future of the State.

2. That the Security Council designate as its representative a single individual whose terms of reference will be defined after the consultations envisaged in point 3, below, and who would proceed to the Sub-continent with broad authority from the Council to endeavour to bring the two Governments together on all unresolved issues; the representative designated to take into account the objectives pursued by the resolutions of the Commission, already agreed to by both Governments, for the establishment of conditions conducive to the holding of a plebiscite in the State of Jammu and Kashmir whereby the will of the people as to the future of the State may be freely and impartially ascertained.

3. That the Security Council should consult with representatives of the two Governments in order to arrive at terms of reference for its representative—including consultation regarding the scope of his authority to settle eventually by arbitration, those issues involved in the demilitarization of the State of Jammu and Kashmir as may remain outstanding which impede the creation of conditions for the holding of the plebiscite.

(Sd.) CARLOS A. LEGUIZAMON (Argentina).

(Sd.) ROBERT VAN DE KERCHOVE d'HALLEBAST (Belgium).

(Sd.) HERNANDO SAMPER (Colombia).

(Sd.) ROBERT B. MACATEE (United States of America).

Geneva—3 December, 1949.

APPENDIX
RELATED QUESTIONS

- I. Nomination of Plebiscite Administrator.
- II. Prisoners of War and Political Prisoners.
- III. Refugee Problem.
- IV. Objectionable Propaganda.
- V. Admission of Representatives of the State of Jammu and Kashmir to the Constituent Assembly of India.
- VI. "Local Authorities "

RELATED QUESTIONS

I. NOMINATION OF THE PLEBISCITE ADMINISTRATOR.

1. Paragraph (3)(a) of the Resolution of 5 January 1949 reads as follows:

"The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence."

2. The Governments of India and Pakistan were consulted on names of personalities who would be acceptable as Plebiscite Administrator. Both Governments agreed that Fleet Admiral Chester W. Nimitz would be acceptable to them and on 24 March 1949, following the Commission's recommendation to the Secretary-General, the Commission was notified of his acceptance and nomination.

3. The Plebiscite Administrator will enter into his functions only when agreement will have been reached between the two parties on the completion of Part I and on the details for the implementation of Part II of the Resolution of 13 August 1948.

II. PRISONERS OF WAR AND POLITICAL PRISONERS.

4. This question relates more specifically to the Resolution of 5 January, which, cannot be implemented concurrently with the Resolution of 13 August, but only subsequently.

5. In March 1949 the Commission was informed by the Pakistan Government that political prisoners in Kashmir were reported to have been given heavy sentences and even condemned to death by the Maharaja's Government.

6. The Government of India however raised the objection that the Resolution of 5 January, paragraph 7 of which covers such questions, cannot be put into force until the truce has been signed and the Plebiscite Administrator appointed.

7. The Commission therefore judged that it would be difficult to pursue the question further, but it obtained an assurance that the prisoners considered at that time had not been sentenced to death, and that their cases were still proceeding in court.

8. The Commission's Truce Proposals of 15 April (Annex 17) contained a clause to the effect that all prisoners of war would be released within one month and that all emergency laws promulgated as a consequence of hostilities would be repealed within one month and all political prisoners arrested or prosecuted under these laws, whether condemned or not, would be released during the same period. In its reply dated 17 April (Annex 20) the Indian Government declared that they accepted the proposal concerning prisoners of war and that with regard to the rest of the clause in question it was not clear under which provision of the Resolution of 13 August it had been made. The Indian note further stated that the matter fell under point 7 of the Commission's Resolution of 5 January 1949. It could not be regarded by the Government of India as legitimately connected with the Truce Agreement proposed. The Pakistan Government made no observation. In their final

Truce Terms of 27 April 1949 (Annex 21) the Commission, in order to keep more strictly to the letter of the Resolution of 13 August 1948 replaced the previous clause by the following :

“ 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.”

9. The Government of Pakistan replied to this proposal in its letter dated 30 May 1949 (Annex 49).

“ 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.”

10. The Commission sought to bring about those conditions in formulating its proposals.

III. REFUGEE PROBLEM

11. As a consequence of the disturbances a great number of persons had to leave their homes in the State of Jammu and Kashmir. The problem of the Kashmir refugees is naturally a matter of deep concern to the Governments of India and Pakistan.

12. This problem is not dealt with in the Resolution of 13 August 1948 but is covered by that of 5 January 1949. Consequently the Commission need not take it up at present, although it should be borne in mind in view of the need to create a favourable atmosphere for the plebiscite and also on humanitarian grounds.

13. Paragraph 6(a) of the Resolution of 5 January 1949 stipulated that all citizens of the State who had left it on account of the disturbances would be invited and be free to return and exercise all their rights as such citizens. The same paragraph contemplates the appointment of two commissions, one composed of nominees of India and the other of nominees of Pakistan, to operate under the direction of the Plebiscite Administrator for the purpose of facilitating the return of the refugees to their homes.

14. After an interview on 11 March with representatives of the International Red Cross, who described their activities in the field of relief for Kashmir refugees, a letter was sent by the Commission to the two Governments asking them to study this problem.

15. In this letter the Commission referred to the citizens of the State of Jammu and Kashmir who had left it at the time of the disturbances and who under the Resolution of 5 January 1949, should be invited to return to their homes and be guaranteed their rights as citizens of the State.

16. It was suggested by the Commission that, as provided for under the Resolution of 5 January 1949, two refugee commissions should be set up in the near future, both operating under the authority of the Plebiscite Administrator.

17. The Commission felt and still feels that very useful preparatory work can be done by the two Governments even before the Plebiscite Administrator enters upon his functions.

18. On 3 May, the Personal Representative of the Secretary-General sent a further letter on behalf of the Commission asking the two Governments for information as to what steps they had taken to set up the two above-mentioned commissions.

19. The Pakistan Government replied on 6 May that a certain amount of preliminary work had been done but that no decision had been taken on the composition and functions of the proposed commission.

20. On 10 May the Government of India informed the Commission that the Government of Jammu and Kashmir was drawing up a plan for the collection of information about persons who, as a result of the hostilities, had been obliged to leave their homes, whether such persons were inside or outside the State; it added that with this end in view a number of enquiries had been made of the commandants of refugee camps in the State and in India proper.

21. The Personal Representative of the Secretary-General sent a letter of reminder bearing on this subject to the two Governments on 7 September.

22. The Government of India replied that the refugees in India, who were dispersed in a large number of camps, were going to be concentrated in a single camp on the border of the State of Jammu and Kashmir in order to facilitate their repatriation.

23. As regards the refugees in India who are not in camps, the Indian Government is prepared to take a census of them but considers that this could best be done when their repatriation is imminent since they are predominantly a floating population.

24. The Indian Government would welcome a plan for repatriation to the Azad territory, since almost all the refugees in question come from that territory.

25. It takes the view that in the meantime a repatriation commission would serve no useful purpose.

26. The Indian Government considers that under the auspices of the Plebiscite Administrator a joint plan of action with the Pakistan authorities should be drawn up.

27. The Pakistan Government's reply, dated 21 September 1949, states that a census is being carried out of refugees in Pakistan and Azad Kashmir and that the results will be communicated to the Commission.

28. As regards the Pakistan Refugee Commission which the Commission had proposed to be set up, the Pakistan Government asks for information about the functions of this body and indicates its preference for a joint commission of representatives of the two Governments, as was suggested in Paris at a meeting held on 2 December 1948. Alternatively it suggests that both the commissions to be established should operate within the State of Jammu and Kashmir under the surveillance and direction of the Plebiscite Administrator.

IV. OBJECTIONABLE PROPAGANDA

29. When the Commission returned to the Sub-continent, both Governments drew its attention to the propaganda which was being carried on on the opposite side in the State of Jammu and Kashmir.

30. This propaganda, which maintained the suspicion and hatred resulting from the hostilities was hardly compatible with the Commission's work.

31. In the Resolution of 13 August, there is a clause requiring the two Governments to appeal to their respective people to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations. In the Commission's view, the cease-fire in the military sphere should have been accompanied by a "cease propaganda".

32. In a letter dated 12 February (Annex 2), the Commission requested the two governments, in identical terms, to exercise their influence so as to bring about the cessation of all propaganda which goes beyond legitimate political activity.

33. The Commission regrets that this undesirable propaganda does not as yet seem to have been abandoned.

V. ADMISSION OF REPRESENTATIVES OF THE STATE OF JAMMU AND KASHMIR TO THE CONSTITUENT ASSEMBLY OF INDIA

34. The Commission received from the Pakistan Minister for Kashmir Affairs a letter dated 11 June 1949 (Annex 52) protesting against the decision taken by the Constituent Assembly of India to reserve four seats for the representatives of the Government of Jammu and Kashmir and also against certain statements made on the occasion of that decision by members of the Delhi Government.

35. The Commission replied in a letter dated 20 June 1949 (Annex 53) stating that it would submit the Pakistan Government's communication to the Security Council. That is what is now being done.

36. It cannot be denied, however, that this step was undesirable from the political point of view, since it was bound to increase tension between India and Pakistan on the Kashmir question.

37. In the Commission's view, it is difficult to oppose this measure of the Indian Government on purely legal grounds. The Commission did not consider there was any useful purpose to be served in approaching the Indian Government on this matter.

38. The Pakistan Government refers to this matter in its letter of 1 October (Annex 42). Commenting upon that letter, Sir Girja S. Bajpai in his letter dated 21 November (Annex 43) sets forth the reasons which in his Government's view justifies the participation of representatives of the Jammu and Kashmir Government in the Constituent Assembly of India as follows :

"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."

VI. "LOCAL AUTHORITIES"

39. Part II, Section A. 3, of the Resolution of 13 August 1948 provides that pending a final solution, the territory of the State evacuated by the Pakistan troops would be administered by the local authorities under the surveillance of the Commission.

40. The Commission was not faced with the need to define its relations to the local authorities, nor was it called upon to investigate the matter in detail since this provision was to go into effect only as a result of a Truce Agreement. The provision was intentionally phrased in the broad term "local authorities" in order to overcome the difficulties which might have arisen in August 1948 as regards the actual administration of the area and which, at that time, might have entailed a delay in bringing about the cease-fire. In this connection, the Indian Government pointed out that in the territory to be evacuated by the Pakistan troops, the Commission would have to consider not only local officials, but also the "Azad Kashmir Government".

41. The Government of India expressed to the Commission its concern that *de facto* recognition of this "Government" not be granted by the Commission and that, on the other hand, the guarantees of freedom of speech, etc., for which India undertakes to secure respect in the part of the State of Jammu and Kashmir under her control and which are essential for the preparation of the plebiscite, be not only paper guarantees in Azad territory, but be enforceable and enforced.

42. In the Government of India's view the Azad territory constitutes a vacuum which can only be filled by the "surveillance" of the Commission.

UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN
ANNEXES TO THE THIRD 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.

PRESENT :

1. H.M. Foreign Affairs and 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. A. Khan—*Under Secretary*.

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 Colben 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 any 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 Aides Memoirs 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 items 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 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.M. (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 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. 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 B.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 anything 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. Samper 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. Samper 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 *bona fide* 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 he 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.
9th February, 1949.

(Sd.) M. AYUB,
Liaison Officer.
9th February, 1949.

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 Foreign Affairs 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,

(Sd.) ROBERT B. MACATEE,

Chairman.

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 memoires*.

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 Par II A3 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,

(Sd.) ROBERT S. MACATEE,
Acting Chairman.

ANNEX. 4

(S/AC.12/128, 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 Graeffe (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 concurrently informed of the progress of its work.

ANNEX. 6

(S/AC.12/134, 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.

ANNEX. 7

(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. Mactee,

When Dr. Lozano 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 to 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 nationals 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 Zafrullah "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 and 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,
(Sd.) G. S. BAJPAI.

ANNEX. 8

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

Aide 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 Resolution 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 these 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. 9

(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 Sub-committee 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.

(Sd.) CARLOS A. LEGUIZAMON,
Chairman.

ANNEX. 10

(S/AC. 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-fire:
 - (i) The local commanders in the areas Chota-Kazinag, 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 18 February regarding the Gurais 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 these 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 Azad 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 IIA 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 dependent 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, reorganization 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 8 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.H.Q. 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 fulfil 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, Gurais.
- (b) *Two infantry brigades* each of three battalions in the Poonch-Naushera 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 Abdulla 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.

(Sd.) MAJOR-GENERAL W. J. CAWTHORN.
ANNEX 11

(S/AC. 12/T.C.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.

10th 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 a copy of the statement made by 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 synchronization 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 States 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, 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 Delegation 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 the letter of the Prime Minister of India to Mr. Korbél, 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. Korbél'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 impossible of accomplishment on the basis of the proposals of the Pakistan Delegation discussed in the preceding paragraphs of this letter.

Yours sincerely,
(Sd.) 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 Girdja,

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 Sub-committee 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.

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 A.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 meeting of the Commission and its Truce Sub-committee.

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

Sincerely yours,

(Sd.) 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,

(Sd.) 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,

(Sd.) 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 fulfilment 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,

(Sd.) R. VAN DE KERCHOVE,
Chairman.

(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 desired 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 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.

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,
(Sd.) G. S. BAJPAI.

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 *seriatim* :

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 24th August, 1948, to Mr. Korbet; 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 Pakistan 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 plebiscite 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 reaffirm 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 1946, 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-Pakistani 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 Forces 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 prepared 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.

ANNEX. 17

(S/AC.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, annexing 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.*

*See page 4 of this Annex.

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 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.

(Sd.) ALFREDO LOZANO.

Chairman

The Hon'ble Mr. M. A. Gurmani,
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 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).

*See page 4 of this Annex.

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.

(Sd.) 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 TITHWAL and from CHORWAN to the north of DRAS, 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 defence 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 Dr. 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 Chakothe and Tithwal, and from Chorwan 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, 1949; 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 E.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.

(Sd) GURMANI.

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

ANNEX 19

(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 recognize 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 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 Sub-division 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.

(Sd.) R. MACATEE,
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, 1948²³ 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 1: 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 Cheswan 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. Korbel.

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 treat 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. 248-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 regarded by the Government of India as legitimately connected with the truce agreement now proposed.

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

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

(Sd.) G. S. BAJPAI,
Secretary General.

ANNEX 21

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

Truce Terms transmitted to the Government of India and Pakistan by the Commission.

1. 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 TITHWAL and from CHORWAN 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.

2. 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.

III. 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 disarming 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 B 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 preparation 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.

(Sd.) A. LOZANO,
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 15th 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 You 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 coordination 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, provide 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 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. The Commission request your Government's reply within one week.

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

(Sd.) ALFREDO LOZANO,

Chairman.

ANNEX 24

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

Letter dated 26 April 1949 from the Ministry 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

*See page 237

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 the areas west of the cease-fire line.

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.

(Sd.) M. A. GURMANI.

Paper presented by the Government of Pakistan on the Area North of the Cease-Fire line excluding 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, communication 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 extremely mountainous with the high Kirakoram range averaging 18,000 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 and 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-Karakoram Pass (18,240 ft.) Changla Pass (18,370 ft.).—Leh. 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 animal 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/Kamari Pass (13,500 ft.) Guraiz-Trabal (11,500 ft.) Srinagar—150 miles.

Srinagar—Guraiz 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 (17,47 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—Rundu—Gilgit (Bunji)—Chilas—Babusar (13,000 ft.)—Balakot—Havelian [Railhead in Hazara District (N.W.F.P.)] approx. 272 miles. Also from Chilas down the Indus river to Hazara District and Swet 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 (Bunji)—Skardu 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 route through the Kashmir Valley to Rawalpindi railhead.

(ii) Skardu-Gilgit-Shandpur Pass (12,210 ft.)—Chitral Durgai (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, exact 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,

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 Bobusar and Chitral routes.

In addition the 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:—

(a) 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 force 50 per cent. Muslim, 50 per cent. non-Muslim).

Skardu (Baltistan).—One Coy (State force, 25 per cent. Muslim, 75 per cent. 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 Rondou 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 of 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 Guraiz 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. Thimmaya, 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 Zanskar-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 the 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 Deosai, 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 Guraiz 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.

Conclusions.

10. (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 far 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 Chairman to the Governments 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.

(S1.) CARLOS A. LEGUIZAMON.

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 18 July to 27 July 1949 under the auspices of the Truce Subcommittee of the United Nations Commission for India and Pakistan.

B. 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 MANAWAR in the south, north to KERAN and from KERAN east to the glacier area, as follows:

(a) The line from MANAWAR to the south bank of the JHELMUM 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 PATRANA area: KOEL (inclusive to Pakistan) north along the KHUWALAKAS Nullah up to Point 2276 (inclusive to India), thence to KIRNI (inclusive to India).

(ii) KHAMBHA, PIR SATWAN, Point 3150 and Point 3606 are inclusive to India, thence the line runs to the factual position at BAGLA GALA, thence to the factual position at Point 3300.

(iii) In the area south of URI the positions of PIR KANTHI and LEDI GALI are inclusive to Pakistan.

(b) From the north bank of the JHELMUM River the line runs from a point opposite the village of URUSA (NL 972109), thence north following the BALJASETH DA NAR Nullah (inclusive to Pakistan), up to NL 973140, thence northeast to CHHOTA KAZINAG (Point 10657, inclusive to India), thence to NM 010180, thence to NM 037210, thence to Point 11825 (NM 025354, inclusive to Pakistan), thence to TUTMARI GALI (to be shared by both sides, posts to be established 500 yds. on either side of the GALI), thence to the northwest through the first "R" of BURJI 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 BATARASI, thence to just south of SUDPURA, thence due north to

the KATHAKAZINAG Nullah, thence along the Nullah to its junction with the GRANGNAR Nullah, thence along the latter Nullah to KAJNWALA PATHRA (inclusive to India), thence across the DANNA ridge (following the factual positions) to RICHMAR GALI (inclusive to India), thence north to THANDA 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 8930 (in Square 9053), thence straight north to Point 10164 (in Square 9057), thence to Point 10323 (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 975819).

(c) From Point 4996 the line follows (all inclusive to Pakistan) the JAMGAR Nullah eastward to Point 12124, to KATWARE, to Point 6078, then 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 11812. Thence the line runs (all inclusive to India) to Point 13220, thence across the River to the east to Point 13449 (DUHMAT), thence to Point 14586 (ANZBARI), thence to Point 13554, thence to Milestone 45 on the BURZIL Nullah, thence to the east to ZIANKAL (Point 12909), thence to the south-east to Point 1114, thence to Point 12216, thence to Point 12867, 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 13647 (KAROBAL GALI, 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 16458, thence to MARPO LA (to be shared by both sides), thence through Point 17561, thence through Point 17352, thence through Point 18400, 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, NATSARA, SHANGRUTH (Point 17531), CHORBAT LA (Point 15700), CHALUNKA (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-fire line 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 KAL to Point 13071; 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 KHAMBRI BAL 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 defences 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 FAITH WHEREOF THE UNDERSIGNED SIGN THIS DOCUMENT IN THREE ORIGINAL COPIES.

Done in Karachi on 27 July 1949.

For the Government of India
(Sd.) S. M. SHRINAGESH.

For the Government of Pakistan
(Sd.) J. CAWTHORN,

Maj.-Gen.

For the United Nations Commission
for India and Pakistan

(Sd.) HERNANDO SAMFER
M. DELVOIE.

(S/AC.12/240, 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, enclosing memoranda 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 28 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 Commission has also received a reply to the truce proposals from the Government of India [Pakistan].

2. 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 fulfil 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 co-operation 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 provisional agenda for these 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.

*Page 3 of this Annex.

**Pages 4 to 7 of this Annex.

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.

(Sd.) HERNANDO SAMPER,

Chairman.

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 realised 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 tranquillity in this area, is likely to create conditions of unrest and insecurity.

Withdrawal of Troops (Truce Terms, Paragraph II. A, 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 synchronized 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 program 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 relating 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/AC.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. Korbél, 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. Gopaldaswami 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.

(Sd.) G. S. BAJPAI,
Secretary-General.

ANNEX. 29
(S/AC.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.

(Sd.) ZAFRULLA KHAN,
Minister of Foreign Affairs and
Commonwealth Relations.

ANNEX. 30

(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 regarding 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 N. 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.

(Sd.) HERNANDO SAMPER,
Chairman.

Letter to Pakistan

Excellency,

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.

HERNANDO SAMPER,
Chairman.

ANNEX. 31

(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. Gopalswami 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.

G. S. BAJPAL.

ANNEX 32

(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 of 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. Gurmani (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, 1948, and should therefore not be included in the agenda of the Conference convened for the implementation of Part II 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 yourself 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 to 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, 1948, 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,

1946, 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 matter should be introduced in the agenda.

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

ZAFRULLA KHAN.

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 letter follows.

CHYLE,
Chairman,
UNCIP.

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

ANNEX 34

(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 16 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.

Dr. O. CHYLE,

Chairman.

ANNEX 35

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

Memorandum approved by the Commission at its 6th Meeting on 26 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. Hopeful that the success of the meetings of the military representatives held in Karachi presaged 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 members 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/A.C.12/262, 9th September 1949)

Letter dated 8th 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 of 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. Korbel'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 as true of a settlement of the dispute over the truce terms as of the overall dispute about the future of the 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 B.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.

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.

(Sd.) M. A. GURMANI.

ANNEX. 38

(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-

- (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, it 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 subparagraphs (i)(d) and (ii) of paragraph 5 refer to procedure and indicate that this is a matter which should be decided upon subsequent. 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 forgoing your Government may reconsider the Memorandum submitted to Your Excellency on 30 August 1949.

Accept, Excellency, the assurances of my highest consideration.

(Sd.) ROBERT B. MACATEE,
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 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".

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.

(Sd.) B. S. BAJPAI.

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.

Letter 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.

(Sd.) 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 Bajpai, 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 will, 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.

(Sd.) ROBERT B. MACATFE,
Chairman.

ANNEX 41

(S/AC.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 conversation 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 13th 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 in so far as Part I of the 13th 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 reaffirms 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.

ANNEX. 42

(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 certain 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 Maharaja 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. Korbel 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 Shankar Bajpai 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 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 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.

(Sd.) 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 disarming 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.

The reply 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 repealed by subsequent agreements. On August 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".

In the 16th August, 1949, the Government of Pakistan replied "Your telegram of the 20th, 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, 1948, 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 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 any 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 was 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. Gurnani'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. (paragraph 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. Gurnani'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 Gopaldaswami 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 the 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 no more than express approval of the method of plebiscite as a democratic way of settling the question whether or no 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 Disarming of the Azad Kashmir Forces

13. To the Pakistan Minister "it appears that it was only when the Commission formulated its true 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. Gurmani 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. Korbél'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 negative this extraordinary interpretation. Had the Commission intended, as urged by Mr. Gurmani, "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. Korbél 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.

(Sd.) G. S. BAJPAI,
Secretary-General.

ANNEX. 44

(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, any 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 Baramula. Beyond Baramula 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, of 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 Baramulla 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 North-West 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 invader 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. Indefinite 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, desire 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. PILLAI,

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 within 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 against India

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 Boundry Commission set up under the Indian Independence Act, 1947, to effect a demarcation of boundries 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

mained, 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 Junagadh railways and the postal 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 loot directed against the Muslim population of the State. A region 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 1846 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 allay 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 "accede" 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 these 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 to the 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 Article 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 wholeheartedly 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, Manavadar 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 the 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 prepartition 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 recure 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 forces 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 munificent 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 fanatical 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 Udham 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 *causis 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

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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 Fouj' 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 Gandhi, 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 Talukadari States of Sardargarh, 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 wean 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 1946 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 15th 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 fall 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 18th 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 65,00 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 Patiala, 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 Abdulla. Sheikh Abdulla 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 national 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 air-men. The attacks have, however, continue 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 armed forces 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 re-organization 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 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 1st April 1948 but that a separate currency Authority should be set up by Pakistan by 1st 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 hoc*s. The limit for such *ad hoc*s 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 *ad hoc*s 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)

Resolution 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 co-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 will be established in Jammu and Kashmir a Plebiscite Administration to hold a plebiscite as soon as possible on the question of the accession 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 15th 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/MA.3, 11 February 1949)

Minutes of the Interdominion Commanders-in-Chief Conference held at Army Headquarters, India, on 15th January 1949.

PRESENT

India :

General K. M. Cariappa, OBE, Commander-in-Chief, Indian Army.
Lt. Gen. S. M. 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. Sher 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, MBE, MC, GSO I (C.-in-C., and COS Sectt.), GHQ, Pakistan.

In attendance for item 4 :

Lt. Gen. M. Delvoie, Military Adviser to UNCIP.

Introductory

1. 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.

Decisions reached by the Conference.

2. (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-JHANGAR-KOTLI for the maintenance of their troops. Similarly, Indian Army required the use of the road POONCH-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. B(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 nationals 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 organisation of this Force and to ensure compliance with the orders of UNCIP. This nucleus of regular Pakistan Army personnel should be withdrawn when UNCIP 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 UNCIP 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. B(i) (b) above would be withdrawn.

C.-in-C. Indian Army undertook to bring this recommendation to the notice of the Government of India.

**Communication of decisions to Lt. Gen. M. Delvoie, Military Adviser,
UNCIP.**

4. 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.

Exchange of Prisoners

5. 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 last exchange. DMO 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 SKARDU. 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.

Return of Abducted Women

6. Commander-in-Chief India raised the question of the return of abducted women (of service personnel) and said that already 8 or 10 had been 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.

Maintenance of detachments in the Kishenganga Area.

7. 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.

Reported cases of burning of villages in Jammu and Kashmir.

8. 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.

(Sd.) A. J. WILSON,
Lieut.-Colonel,

(Sd.) S. P. KAPILA,
Lieut.-Colonel.

G.S.O. I.(C.-in-C. and
C.O.S. Sectt.)

Military Assistant to C.-in-C.
Indian Army.

(S. P. KAPILA)

G.H.Q. Pakistan.

(A. J. WILSON),

15th January 1949

15th January 1949.

ANNEX 48

(S/AC.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.

Disbanding and disarming of the so-called "Azad Kashmir" forces

2. In my letter No. 253-PASG/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 A of Commission's 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.

Both 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.

Treatment of the sparsely populated and mountainous areas in the North

3. 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. Korbelt 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.

(Sd.) G. S. BAJPAI,

Secretary-General.

ANNEX 46

(S/A.C.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 28th 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 resolutions of 13 August 1948 and 5 January 1949. They trust that be confined to the implementation of Parts I and II of the Commission's Resolution of 13th August 1948.

Secondly, the Pakistan Government have always been, and still are, determined to implement in full all their commitments under the Commission 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 1 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 base 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 16th 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 13th 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 completed 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 Bill 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 west 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 Karakorum 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 tranquillity 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 true terms is not in accord with the Commission's Resolution of 13th August 1948, is unnecessary and, far from assuring peace and tranquillity 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 13th 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 tranquillity 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 1948, 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-a-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 representative 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 (Paragraphs III B and C)

13. The Pakistan Government understand that the discussions envisaged in paragraphs II 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 in 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 these submissions will meet with the approval of the Commission.

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

M. A. GURMANI.

ANNEX 50

(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. Lozano, 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 18th 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 DURDHNTAL, SHARDI, 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.

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,

G. S. BAJPAI.

(S/AC. 12/213, 16 June 1949)

Letter dated 11 June 1948 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 Primin 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 4 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 Governments 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. Gopaldaswami 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. Gopaldaswami 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. Gopaldaswami 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. Gopaldaswami 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 K. T. 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 21st 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.

(Sd.) 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.

(Sd.) CARLOS A. LEGUIZAMON

ADDENDUM TO UNITED NATIONS COMMISSION FOR INDIA AND
PAKISTAN

THIRD INTERIM REPORT

Minority Report of the Czechoslovak Delegation

The third interim report of the Commission places on record the failure of a seven months' effort to fulfil its task of causing, by its mediation, the Governments of India and Pakistan to settle the Kashmir dispute by the peaceful means of a plebiscite. From the said failure of the Commission's mediation mission it has to be concluded that the resolutions of 13 August 1948 and 5 January 1949 which are the starting points of all negotiations, are out of keeping with the actual, present-day situation in the State of Jammu and Kashmir and that no compromise acceptable for both the Governments can be reached on their basis.

In putting on record the impossibility of attaining a positive result, the majority of the Commission proposes that the task the Commission had been charged with should best be entrusted to one mediator, and in the paragraph 286 of its report indicates also the road to arbitration.

The report, together with a description of the various phases of the negotiations and relevant documentation is to show that the mediation proceedings were handled correctly and in every way objectively, and that the negotiations that were conducted on the basis of the resolutions of 13 August 1948 and 5 January 1949, were wrecked on account of the intransigent attitude of the two Governments.

The Czechoslovak delegation co-operated to full extent with the Commission to achieve the solution of the Kashmir problem and in presenting its views in a separate report it wishes to throw light on those phases of the Commission's mediation efforts where the majority report lacks to state clearly the reasons of the failure.

It is of course quite obvious that as a mere holder of a mandate from the Security Council, the Commission could, on taking over its task, only take cognizance of the given situation, and no fault can be ascribed to it as far as the core of the dispute proper is concerned.

On the other hand, however, it is necessary to state that the mediation efforts of the Commission did not contribute in a constructive way to the positive solution of the whole problem.

It needs placing on record that

- (a) the Commission has made a serious mistake that it cancelled the joint political conference which had been convened with the assent of both the Governments for 22 August 1949, to New Delhi;
- (b) by its unauthorized proposal for the arbitration of the Truce Agreement it overstepped its terms of reference;
- (c) the secret arbitration offer of the Commission was, before being presented to the Governments of India and Pakistan, placed at the disposal of the Governments of the United States of America and the United Kingdom and President Truman and Prime Minister Attlee, in a synchronized action, made use of it for a public interventionary pressure;

- (d) the verbatim text of the secret arbitration memorandum came into the hands of the British High Commissioner in New Delhi and Karachi at the same time or even sooner than it was officially presented to the Indian Government, without even an attempt on the part of the Commission—despite urging by its chairman at the time—to institute due investigation of both cases of a flagrant breach of the integrity of the Commission's proceedings;
- (e) the Commission did not show sufficient sagacity when presenting its basic proposal of a solution of the Kashmir problem, the proposal which was adopted as the resolution of 13 August 1948, in which the Commission deeply underrated the significance of the "Azad Forces" and failed altogether to take into account the situation in the "North Area", on which two problems subsequently all the Commission's work kept on foundering;
- (f) the Commission did not succeed to win over the public confidence on neither side and on the contrary left the sub-continent charged by the press, both before the conclusion of its labours and after its departure, of pusillanimity and even of double-dealing.

The Commission stated itself in its first interim report that it came on sub-continent uncertain how it will be received and whether it will acquire the necessary co-operation of both Governments. This lack of confidence in its mission, however, can be seen throughout its labours. Instead of taking a firm stand on definite issues, where it was necessary, the Commission preferred to go by way of clarification promises compromising thus its own position and achieving on the whole in a positive way nothing.

The failure of the Commission's mission is therefore not solely ascribable to the intransigence of the Governments of India and Pakistan, both of whom understandably tried in the course of repeated negotiations to gain the most advantageous position for each other; the reasons must be also looked for in the activities of the Commission *per se*, with a proper light thrown on the substance of the whole problem of Kashmir.

The report of the Commission sets forth the three most important obstacles which balked its efforts to reach agreement:

- (a) Disposal of Azad Kashmir Forces,
- (b) Withdrawal of regular forces from the State, and
- (c) The Northern Area.

The reasons for the insolubility of these problems must be sought just in the shortcomings of the resolution of 13 August 1948. In its Part II, the full implementation of which is the basic condition for any further measures that would ensure a fair and unhampered carrying out of a plebiscite, there is no mention whatever of "Azad Forces", because the Commission did not assume that the cease-fire line would be of such long duration. The "Azad Forces" meanwhile grew by the spring of 1949 into 32 disciplined and fully armed battalions, which according to an evaluation by the military adviser of the Commission represent a "formidable force". Owing to this fact, which is at variance with Part I, Section B of the said resolution forbidding both parties any increasing of their military potential, the situation has materially undergone an absolute change and so a new problem was created as to what within the meaning of the resolution represents a "bulk" of the Indian army in

Kashmir. From this have arisen logically further difficulties concerning the disarming of the "Azad Forces" and the synchronization of the withdrawal of military troops.

Similarly, due to the lack of sagacity on the part of the Commission, the situation was rendered more difficult also for the solution of the other main problem, the "Northern Area".

When dealing with its proposal to both Governments, adopted as the resolution of 13 August 1948 first by the Government of India—and subsequently sanctioned in the resolution of 5 January 1949 also by the Pakistan Government—the Commission entirely omitted to concern itself with the situation in strategically very important territory to the North of Kashmir.

Having ascertained this shortcoming the Government of India submitted a reservation in respect of the resolution, dated 13 August 1948, concerning its right to administer the northern territory, of which, on the basis of the military situation then existing, it maintained that it could not be put on par with the "Azad territory" to the West of Kashmir. Instead of rectifying the aforesaid shortcoming by a formal rider to the resolution—which in fact the Government of Pakistan sanctioned only five months later—the Commission replied by a letter dated 25 August 1948, in which it acknowledged to the Prime Minister of the Indian Government the receipt of his reservation and stated that "the question might be examined when the resolution of 13 August 1948 was implemented".

This obligation of the Commission, which—due to the Commission's own faulty judgment—therefore did not represent any formal part of the resolution of 13 August 1948, the Commission now explains as only a declaration of an intention to study later on the situation in the North, outside of the scope of the Part II, of the said resolution.

From the legal point of view, the Government of Pakistan does not, therefore, consider the Commission's letter of 25 August 1948 as legally binding on it, because it was only a question of the exchange of correspondence between the Commission and the Indian Government. Moreover, the situation in the "Northern Area" had meanwhile undergone a material change, in that the Pakistan army, which was not bound by the resolution of 13 August 1948, conquered many strategically important places during the interval before, by the resolution of 5 January 1949, it was also sanctioned by the Government of Pakistan.

It is only natural that, each from its own standpoint, the Governments of India and Pakistan should hold views diametrically opposed to each other.

The Government of India and Pakistan evaluate the legal weight of the Commission's letter of 25 August 1948, each from its own standpoint quite contrarily, of course. In this regard it has to be pointed out, that as early as of 3 September 1948, the Government of Pakistan notified to the Commission its definition of evacuated territory "as referring to the territories in the State of Jammu and Kashmir, which were at that time under the effective control of the Pakistan High Command". And here—due to the Commission's lack of understanding of the situation—is the core of all subsequent legal contentions affecting the Northern Area, which the Commission has not been able to abridge.

While the Government of India made on 20 August 1948 a clear reservation regarding the position in the Northern Area—two weeks after that, Government of Pakistan in its aforesaid notification made a claim of grant

consequences mortgaging practically the political future of vast territories in the State of Jammu and Kashmir where the Pakistan army or forces under its High Command could have gained upper hand.

The Commission claims that at that time had no practical means to its disposal to verify the factual situation in the different parts of the State of Jammu and Kashmir. This is, however, exactly the reason why the Commission should have been firm at least on the legal ground and not to have taken course to empty promises. The Commission facing later on the materially changed situation in the Northern Area is bound to admit that while the reservation of the Government of India of 20 August 1948 may be legally valid, it is physically impossible to implement it.

The letter of the Pakistan Minister for Kashmir Affairs of 26 April 1949, contending that the definition of 3 September 1948 brought the whole of the Northern Area inside the "evacuated territory" is a logical sequel to the Pakistan's position of 3 September 1948, and at the same time a reflection of the Commission's shortsightedness.

Whatever are the reasons for not rectifying the oversight in the resolution of 13 August 1948, by a proper formal, legal instrument, it is to a great extent the Commission's own fault that its mediatory efforts to solve this second main problem have not proved successful.

In this connection it has to be pointed out another matter of real importance: Legal question of retroactivity of the resolution of 13 August 1948. The Belgian and Czechoslovak delegations requested the Legal Adviser of the Commission to submit a working paper showing the Commission's position in this regard. The said working paper—through no fault of the Legal Adviser whose efforts should be rather appreciated—amounts to a master-piece of evasiveness. The Commission itself cannot clarify its own legal instrument.

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After the rejection of its proposal of 28 April 1949, to bring about a Truce Agreement, to which both Government lodged material reservations, the Commission's majority considered on the whole any further efforts in mediation as futile and, from the beginning of June 1949, the USA delegation strove to bring the Commission round to the idea of solving the question of the truce by arbitration.

In its declaration which took the form of a resolution—document S/AC.12/2233—the Czechoslovak delegation on the other hand argued that "it is the conviction of the Czechoslovak delegation that there exists on the part of the Commission a legal and at the same time even a moral duty to send invitations to both Governments to attend a joint political meeting before taking into consideration any other means of solution".

The Commission was prepared to accept the Czechoslovak proposal but only subject to a successful termination meanwhile of the planned negotiations for the fixing of a definitive line of demarcation, on the realization of which the Czechoslovak delegation insisted with all the weight at its command.

This tying-up with a favourable result of the military negotiations in Karachi the Czechoslovak delegation declined with the basic declaration that "it is a serious political matter which must be considered on its own political grounds without any junction with military talks in Karachi, whatsoever might be their result." The majority of the Commission nevertheless adhered to its standpoint that the ultimate decision on the

convening of a joint political meeting of both Governments will be made according to the result of the military consultations.

The pessimistic attitude of the Commission toward any negotiations for an agreement on the fixing of a definitive line of demarcation was shown to be entirely unjustified, and after their complete success the Commission approved in its morning session on 29 July 1949—with the only exception of the USA delegation, which abstained from voting—the Czechoslovak proposal for the calling of a joint political conference of both Governments.

However, the measure of mistrust with which the Commission took this last of its important steps in mediation can be gauged from the fact that on the same day, 29 July in its afternoon session, it also passed—the Czechoslovak delegation abstaining—the proposal of the USA delegation of arbitration proceedings for a Truce Agreement, for which the Governments of India and Pakistan were recommended to accept as arbitrator Admiral of the Fleet Chester W. Nimitz.

The reasons given for the hasty passing of the arbitration proposal of the USA delegation was the much stressed anxiety that the joint political conference might end in failure and that, in order to save time, it was necessary to have a new proposal in readiness.

The Governments of India and Pakistan actually did accept the proposal of a joint political conference which was to make a start on 22 August 1949 in New Delhi, with members of the cabinets of both Governments taking part. However, four days prior to its inauguration, the Commission decided in its session on 18 August 1949, to send telegrams to both Governments, saying that the Commission itself was cancelling the joint political conference.

The reason for which this decision was made was the finding of unbridgeable conflicts in the answers of both Governments as to their ideas of the programme of the conference. A detailed explanation in this respect is being set forth in the majority report. What the report omits to mention, however, is that these conflicting points of view were well known previously not only to the Commission itself but also to two Governments. The Czechoslovak delegation agreed with the view that a possible failure of the joint political meeting might give a worse turn to the situation, but it maintained that the responsibility rests with the Governments of India and Pakistan, which had expressed their willingness in principle to enter into direct negotiations with each other under the chairmanship of the Commission. A prepared conference that had already been widely announced by the international press can be cancelled only by the participating Governments. They would in that way themselves offer proof that mediation is excluded when they cannot even be persuaded to make any start whatever with the discussion of questions in dispute.

These fully reasoned arguments fell rather flat, however, and in spite of the warnings uttered by the Czechoslovak delegation that an infringement of the terms of reference was involved, the Commission forthwith set about preparing the arbitration action it has passed in advance on 29 July 1949.

How out of order it was, however, to cancel on the Commission's own responsibility an already convened joint political conference could be seen at the end of August 1949, on the occasion of the handing over of the arbitration offer to the two Governments. The Pakistani Minister of Foreign Affairs, Sir Zaffrullah Khan informed the chairman of the Commission on

29 August 1949 in Karachi—in presence of the principal secretary to the Commission—that the Pakistan Government was greatly surprised that the Commission had cancelled the conference. Something to the like effect was also said on 30 August 1949, in New Delhi to the chairman of the Commission and its principal secretary by a representative of the Indian Ministry of Foreign Affairs and, two days later, by the Prime Minister of the Indian Government, Pandit Nehru, who manifested great astonishment and expressed disappointment at the decision of the Commission. The reason for their standpoints was the conviction they voiced that parties to a dispute need not have identical views—for that is why disputes are being carried on—but they must sit down round a table and must at least start discussions if any solution is to materialize.

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The course of the discussions on the offer of the arbitration of the Truce Agreement—to which the Commission was not even authorised on the basis of its terms of reference—made it clear indeed that the Commission was not free from outside influences, although it was to act only according to the mandate of the Security Council in the interest of the United Nations Organization as a whole. The interventions by President Truman and Prime Minister Attlee were only made possible on the basis of precise and timely information emanating from the Commission itself. This reality needs examining, just as it is necessary to subject to investigation the circumstances that and how it should be possible for a secret memorandum of the Commission on the subject of arbitration to get into the hands of British High Commissioners in New Delhi and Karachi at the same time or earlier than it could be officially presented to the Government of India.

In this connection it should be also observed that since May 1949 there appeared in the press of the USA frequent notices of the shortly to be expected arrival of Admiral Chester W. Nimitz on the sub-continent. At the beginning of June the American press brought the news—said to be emanating from Lake Success—that the Commission would take the road of arbitration proceedings. This news was published a day ahead of the time when the USA delegate placed before the Commission his first arbitration proposal. The reports of the American press were of course explained as pure speculation on the part of journalists but by a rather strange coincidence they did find precise expression for proposals which were just being handled by the Commission in its non-public sessions. Coupled with information conveyed time and again by Admiral Nimitz to the press the Commission considered it as an interference with its work, and its secretariat repeatedly drew by means of cables the attention of Lake Success to the necessity of remedying matters.

As far as Admiral of the Fleet Chester W. Nimitz is concerned, there is no doubt that he acted in good faith. In his various utterances there was, however, a lack of reticence in connection with the cool and reserved wording of the letter of 18 March 1949, by which the Indian Government acquainted the Commission with its consent to the Admiral's designation as Plebiscite Administrator. The Commission, however, did not—as it was highly advisable—convey to the Admiral Nimitz the verbatim text of the said notification and bears, therefore, itself the responsibility for the lack of moderation on the part of the designated Plebiscite Administrator.

The climax to the undesirable publicity came with the article datelined Lake Success, 23 August 1949, transmitted by PTI under the headline:

"Kashmir deadlock may be referred to an arbitrator". The Commission took up this matter in its meeting on 24 August 1949, and in expressing its concern over this type of publicity, considered it unanimously an interference with its work and prestige. In the course of an exchange of views it was decided to address a telegram to the President of the Security Council asking that the Secretary-General should be requested to publish in the press a statement stressing that it lay with the Commission itself to decide what action it should take and counter thus the impression that the Commission derived initiative from the press of any other sources—document S/AC.12/SR.223.

A question all on its own is the case of a member of the United Nations Secretariat, Mr. Cordier—document S/AC.12/257—who, on 26 August 1949, withheld the aforesaid cabled protest of the chairman of the Commission at the time a Czechoslovak delegate, to the chairman of the Security Council, at that time a delegate of the Soviet Union, against outside interference with the work of the Commission. The cablegram was unanimously approved and voted upon by all members of the Commission, which only got to know through Mr. Cordier's cabled reply of 4 September 1949, that he had not delivered the complaint which was addressed to the Chairman of the Security Council personally. In this connection it should be particularly stressed that this interference of the Secretariat with the competence of the Commission and the Security Council at the same time exactly coincides with the time of the Anglo-American intervention, which was carried out on 31 August 1949. The explanations given to the Commission by cables of Sir Alexander Cadogan and the Secretary-General of the United Nations, Mr. Trygve Lie, rejecting the Commission's telegraphic complaint of 6 September 1949, are not only inadequate, but both cables are actually drafted so as to constitute a reproach to the Commission—they were dealt with in the statement of the Czechoslovak delegation of 16 September 1949—document S/AC.12/267.

The Commission conducted a series of strenuous negotiations and did a considerable amount of paper work without a positive result. Besides the shortcomings springing from its own faulty judgment of the two fundamental problems, the "Azad Forces" and the "Northern Area", the Commission was handicapped by the fact that it judged its task for the greater part only from the technical angle, without a capacity for seeing and drawing its conclusions from the whole political background of the Kashmir problem.

On the other hand the offer of arbitration that exceeds the scope of the Commission's terms of reference was in no way an accidental one. The USA delegation strove—as already mentioned—for arbitration from as early date as June of the current year with the quite frankly avowed intention to bring Admiral Nimitz at the earliest possible moment to the sub-continent in the capacity of arbiter. The Commission on its part was favourably inclined toward the arbitration proposal because it did itself not greatly believe in its mediating mission, mainly because it was clear on the whole how difficult would be the implementation of the resolution of 13 August 1948.

Even if both Governments had signed a Truce Agreement, it would have remained doubtful nevertheless whether the conditions of the carrying out of a free and unhampered plebiscite in the spirit of the said resolution would really be capable of realization. In any arrangement of a truce by means of arbitration there was a great probability that the truce arbiter could practically become the arbiter of the dispute as a whole.

The Kashmir dispute, however, is an affair of the whole forum of the United Nations, and in its solution all preliminary conditions and guarantees of its just settlement must be preserved. If every one of the member States of the United Nations Organization would take a similar course of action to that of the United States of America and the United Kingdom in their intervention under absolute disregard of the competence of the appropriate organs of United Nations Organization, each and every mediation action would be made impossible and the United Nations Organization would be seriously undermined.

If peaceful solution of the dispute is to be attained it has to be prevented that the Commission does not become an instrument of policy of certain Great Powers.

The mediation efforts aimed at the solution of the Kashmir problem and first of all the basic conditions for any further successful work of the mediation organ itself must be put on a new basis enjoying a unanimous support of the Security Council.

It cannot be, indeed, deduced from the failure of the Commission's mission that any further mediation in the Kashmir dispute is precluded. All it needs is a proper evaluation of the actual facts.

The resolution of 13 August 1948, due to its many serious shortcomings, cannot—in its present form—remain the basic legal instrument of new mediation efforts. All these shortcomings should be thoroughly analysed and exposed before a decision be reached upon new terms of reference. The interdependence of provisions of the said resolution with those of the resolution of 5 January 1949—especially with regard to the demilitarization of the State of Jammu and Kashmir—should be replaced by broader provisions of new terms of reference, since under the present situation not only the attainment of the Truce Agreement but its implementation likewise is impossible.

The conclusion presented in the majority report expressing doubts about the flexibility of the Commission composed of five members is unwarranted. It was not a lack of flexibility but rather too much flexibility—as demonstrated by so many and so important clarifications, elucidations etc.—which considerably contributed to undermine the Commission's position, as a result of a vain attempt to please both parties to the dispute at the same time.

After the experience of the past it is quite clear that the new mediation organ must be really independent and untrammelled by any outside interference.

A guarantee of full independence would be enjoyed by a Commission consisting of representatives of all the members of the Security Council.

The new Commission taking advantage of being in a possession of all the necessary facts, duly evaluated by the Security Council itself, would be in a position to carry out its mediation task without delay, at Lake Success, in an atmosphere much more suitable for reaching the Truce Agreement than when on the sub-continent.

Prior to this, however, it should be taken into consideration, that both the governments of India and Pakistan—as already stated—voiced strong and concurrent protests that the joint political meeting did not materialize. It should be, therefore, recommended to the Representatives of both Government to avail themselves of the opportunity of the Commission being

present here, to reach now, in a joint meeting at Lake Success, an understanding at least on the most outstanding differences emanating from the resolution of 13 August 1948 and 5 January 1949 respectively.

Such a procedure would constitute the best premise for the new mediation effort and would contribute in a simple and constructive way to its success, if not eventually settling the problem of the Truce Agreement.

Dr. OLDRICH CHYLE (Czechoslovakia).

Lake Success, 16 December 1949.