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9 December 1949

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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

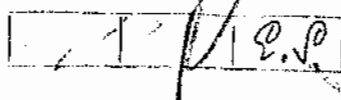
5 December 1949

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MASTER

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

12 DEC 1949



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.

/s/ Hernando Samper
Chairman

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UNITED NATIONS COMMISSION FOR INDIA AND PAKISTAN

THIRD INTERIM REPORT

(RAPORTEUR: Mr. Robert van de KEEGHOVE, Belgium)

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 Sampedo 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.

4. Secretarial Staff:

Mr. Edward Mike

Secretary-Stenographer for the United States Delegation

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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 Sampedo.
 3. Mr. Joseph Korbel, 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.

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 Louris (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

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7. Mr. Sergio Huneeus (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.

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 E. 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 Informati

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

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)

NOTE

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

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 West 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 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 1949.

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. Leguizamon (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 exposé 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 Sub-continent (115th meeting). At that meeting the Personal Representative of the Secretary-General reported to the Commission

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 preoccupation 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 A 3 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 Subcommittee appointed to conduct an enquiry and a study of the condition 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 as an aide-memoire 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 the Commission's aide-memoire. 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.

the Truce Sub-Committee for joint talks on the implementation of Part 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-memoire 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 10 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.

UNITED NATIONS

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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 1949. 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 145 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). 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 it had already forwarded to the Commission.

56. At its 155th meeting, 1 April, Dr. Lozano (Colombia) reported on 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. Macat (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 conversation 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. Guwani 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 remained in Rawalpindi.

67. At its following meetings, the 164th and 165th, the Commission considered objections raised by the two Governments to the Proposal: 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. Gurnani, 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 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. Gurnani 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. Gopalaswami 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 Nowalpindi with Mr. Mohammad 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 centered 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. Lazaro (Colombia) would proceed to New Delhi to address himself to the competent authority in order to determine the exact conditions on which India would agree to the Truce Terms of 28 April 1949. It was understood that Dr. Lazaro's mission would be one of enquiry.

83. On 11 June, Dr. Lazaro (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 retract 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 in 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-

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 209th 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 23 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 Srinagar 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 misunderstandings. It was further agreed that Mr. Macatee (United States), Chairman, accompanied by Mr. Leguizamon, (Argentina), 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 communiqué 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. Gurmiani, 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. Gurmiani's letter of 1 October, which had been forwarded to the Indian Government for information.

III. INTRODUCTIONA. 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 northwest, 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 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 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 defense 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 on 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 t

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, casts 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 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."

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 1948.

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 exploratory nature. The Commanders-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 E.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, the documents of ratification 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), proposals 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 discussion 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.

184. 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 joint 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 résumé 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 (Annexes 28 and 29) indicated their agreement to meet, but already at this stage made strong reservations on the provisional agenda which the Commission had suggested.

187. The Commission sent each Government the reply of the other to its invitation (Annex 30), and pointed out that the two Governments' 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 Azid 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 a 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 course 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 15 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 those 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 oversimplification, 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.

200. The Indian Position

(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). //

201. The Pakistan Position

(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 had no authority left to execute an instrument of accession on 26 October 1947, because his people had successfully revolted, had overthrown his Government 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 organization 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 officered 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 cooperation 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 organization 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 Commission

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 restrictive 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 Indian 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 11) 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 so 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 conditions 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 28 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 as 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 1948⁸ 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 Aide-memoire (Second Inter-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 a 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 chapters.

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 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 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 de-

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 standpoint 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 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."

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.1 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 State: 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 programme 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 times 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 areas 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, 3/1100, 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 fulfillment 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 incompatible 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 proposal 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 revving bands of hostiles, or in some places like Bhardu 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 bargaining 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 reaffirmed 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 points."

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 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 food 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 tract was 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-à-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 today 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 negotiations and which restricted both Governments 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 re-assured 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.

/S/ CARLOS A. LEGUIZAMON (Argentina)

/S/ ROBERT VAN DE KERCHOVE d'HALLEBAST (Belgium)

/S/ HERNANDO SAMPER (Colombia)

/S/ ROBERT B. MACATEE (United States of America)

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 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 28 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 trusts 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 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.