

No. 5087

**UNITED STATES OF AMERICA
and
PAKISTAN**

Exchange of notes (with annexes and minute of understanding) constituting an agreement relating to the establishment of a communications unit in Pakistan. Karachi, 18 July 1959

Official text: English.

Registered by the United States of America on 14 April 1960.

**ÉTATS-UNIS D'AMÉRIQUE
et
PAKISTAN**

Échange de notes (avec annexes et procès-verbal d'accord) constituant un accord relatif à l'établissement d'une unité de transmissions au Pakistan. Karachi, 18 juillet 1959

Texte officiel anglais.

Enregistré par les États-Unis d'Amérique le 14 avril 1960.

No. 5087. EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND PAKISTAN RELATING TO THE ESTABLISHMENT OF A COMMUNICATIONS UNIT IN PAKISTAN. KARACHI, 18 JULY 1959

I

The Pakistani Minister of Foreign Affairs and Commonwealth Relations to the American Ambassador

MINISTRY OF FOREIGN AFFAIRS
AND COMMONWEALTH RELATIONS

No. 40-SSP/59.

Karachi, the 18th July, 1959

Your Excellency :

I refer to our recent discussions regarding the desire of the United States to station a Communications Unit in Pakistan. I have the honour to inform you that the Government of Pakistan agrees to the stationing of such a Unit on the following basis :

1. The Government of Pakistan will make available to the United States the land areas and rights-of-way required for the establishment and operation of the Communications Unit and will provide protection for such Unit. The agreed areas and rights-of-way are set forth in Annex A.²

2. The Communications Unit and personnel assigned to it may install and use communications equipment, including antennas; use continuously agreed radio frequencies and agreed wire communications facilities; purchase locally goods and services including construction materials, electrical power and transportation services; make arrangements for the internal security of those small areas, within the agreed areas, designated for the exclusive use of the Communications Unit (only authorized personnel may enter these latter areas); carry arms in connection with official duties within the areas designated for the exclusive use of the Communications Unit and in connection with the courier duties outside the agreed areas; move freely within, into and out of and between the agreed areas; and may engage in such other activities as may be necessary for the effective operation of the Unit and the health and welfare of its personnel.

3. The Communications Unit and personnel assigned to it shall respect the laws of Pakistan and shall abstain from any activity which would adversely affect the interests

¹ Came into force on 18 July 1959 by the exchange of the said notes.

² See p. 372 of this volume.

of the people or the Government of Pakistan. The Government of the United States will take necessary measures to prevent abuse of the privileges granted by the Government of Pakistan under the present Agreement.

4. The Government of Pakistan will, upon request, assist the Communications Unit in the local procurement of goods, materials, supplies and services required for the establishment, operation and support of the Unit. The Unit shall enjoy any preferential rates, charges, or priorities which are available to the Armed Forces of Pakistan for goods or services purchased locally in connection with the operation of the Unit.

5. (a) The personnel of the Communications Unit shall receive exemption from payment of all duties and taxes, including export duties, on their personal and household goods brought into the country for their own use within six months of their arrival.

Goods imported under this section will not ordinarily be sold or disposed of in Pakistan by the owner, except to other persons enjoying comparable privileges. In the event of their sale or disposal to a person who does not enjoy comparable privileges, the duty and taxes thereon will be paid.

The Pakistan Customs Department will issue appropriate regulations regarding the provisions of this section.

(b) The temporary presence in Pakistan of a member of the Unit shall constitute neither residence nor domicile therein and shall not of itself subject him to taxation in Pakistan, either on his income or on his property, the presence of which in Pakistan is due to his temporary presence there, nor, in the event of his death, shall it subject his estate to a levy of death duties.

6. No tax, duty or other charge will be levied or assessed on activities of the Unit or on material, equipment, supplies or goods brought into or procured in Pakistan by the United States authorities for the use of the Unit, its agencies or personnel assigned to the Unit.

7. The United States Government may construct within the agreed areas the facilities required for support of the Communications Unit under the terms and conditions set forth in Articles II through VII of the Military Defense Construction Agreement signed at Karachi on May 28, 1956.¹

8. Title to removable materials, equipment or property brought into or acquired in Pakistan by or on behalf of the Communications Unit will remain in the United States Government. Such material, equipment or property may be brought into or removed tax and duty free at any time from Pakistan by the United States Government.

The materials, equipment and property of the Unit and its official papers will be exempt from inspection, search and seizure and may be removed freely by the United States Government at any time.

9. Jurisdiction over personnel of the Unit shall be exercised in accordance with the provisions of Annex B², an integral part hereof.

¹ United Nations, *Treaty Series*, Vol. 269, p. 15.

² See p. 380 of this volume.

10. Arrangements required to give effect to this Agreement will be the subject of agreement between the Commanding Officer of the Communications Unit and Senior Military Officer of the Pakistan Forces in the area.

11. In this Agreement the expressions "personnel assigned to the Unit", "personnel of the Unit", and "member of the Unit" include persons who are in Pakistan in connection with the Agreement and who are (a) members of the United States armed forces; (b) civilian personnel employed by, serving with, or accompanying the United States armed forces (except persons who are nationals of Pakistan or ordinarily resident therein); or (c) dependents of the persons defined in (a) and (b) above.

12. This Agreement shall remain in force for a period of ten years and for a second period of ten years thereafter unless either party gives written notice to the other at least twelve months before the end of the first ten year period of its desire to terminate this Agreement.

If the foregoing arrangements are acceptable to Your Excellency's Government, I have the honour to propose that this note and Your Excellency's note in reply to that effect shall constitute an Agreement between our two Governments on this matter which shall enter into force on the date of your note in reply.

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

Manzur QADIR
Minister of Foreign Affairs
and Commonwealth Relations

Enclosures :

1. Annex A—Agreed Areas and Rights of Way.
2. Annex B—Jurisdiction.

His Excellency Mr. James M. Langley
The Ambassador of the United States of America in Pakistan
Karachi

ANNEX A
AGREED AREAS AND RIGHTS OF WAY

The United States may use the land areas and rights-of-way described herein in accordance with the provisions of this Annex and the Agreement on the United States Communications Unit of July 18, 1959, of which this Annex is a part.

SITE I

Site I is located on the Chumkani Road which runs eastward from the Peshawar-Kohat Road approximately three miles south of Peshawar.

1. *Parcel Number 1.* A parcel of land enclosed by boundaries established as follows: *Base Point*—a point 50.5 feet northward from the one-mile marker on the Chumkani Road on a line running perpendicular to the road. From this base point a line running in a westerly direction and parallel to the road with bearing South 89 degrees 30 minutes 00 seconds West, a distance of 2,500.00 feet to the southwest corner; thence North 0 degrees 30 minutes 00 seconds West, a distance of 5,000.00 feet to the northwest corner; thence North 89 degrees 30 minutes 00 seconds East, a distance of 5,000.00 feet to the northeast corner; thence South 0 degrees 30 minutes 00 seconds East, a distance of 5,086.69 feet to the southeast corner; thence a line running parallel to the road bearing North 83 degrees 07 minutes 40 seconds West, a distance of 675.58 feet to a point on the southern boundary line; thence South 89 degrees 30 minutes 00 seconds West, a distance of 1,830.00 feet to the point of beginning. All bearings magnetic.

2. *Parcel Number 2.* A parcel of land that lies within the boundaries of Parcel Number 1 described in paragraph 1, with boundaries established as follows: *Base Point*—the base point for Parcel Number 2 is the same as the base point for Parcel Number 1, described in paragraph 1. The southern boundary runs for 425.00 feet along the southern boundary of Parcel Number 1. The southeast corner of Parcel Number 2 is 225.00 feet to the east of the base point. The southwest corner is 200.00 feet to the west of the base point. The western boundary is a line running from the southwest corner on a bearing of North 0 degrees 30 minutes 00 seconds West, a distance of 600.00 feet to the northwest corner. The northern boundary is a line running from the northwest corner on a bearing North 89 degrees 30 minutes 00 seconds East, a distance of 425.00 feet to the northeast corner. The eastern boundary is a line running from the northeast corner on a bearing South 0 degrees 30 minutes 00 seconds East, a distance of 600.00 feet to the southeast corner. All bearings magnetic.

3. *Parcel Number 3.* A parcel of land enclosed by boundaries established as follows: *Base Point*—a point 14.5 feet southward on a line starting at the one-mile marker on the Chumkani road and running perpendicular to the road. From this base point a line running in an easterly direction parallel to the road, bearing North 89 degrees 30 minutes 00 seconds East, a distance of 1,070.00 feet to the northeast corner; thence South 51 degrees 12 minutes 35 seconds West, a distance of 2,420.74 feet to the southeast corner; thence South 89 degrees 30 minutes 00 seconds West, a distance of 200.00 feet to the southwest corner; thence North 0 degrees 30 minutes 00 seconds West, a distance of 1,500.00 feet to the northwest corner; thence North 89 degrees 30 minutes 00 seconds East, a distance of 1,030.00 feet to the point of beginning. All bearings magnetic.

4. *Parcel Number 4.* A parcel of land located west of and adjacent to Parcel Number 3 above, enclosed by boundaries established as follows: *Base Point*—a point on the northwest corner of Parcel Number 3 of Site I, said point being 14.5 feet south and 1,030.00 feet west of the one mile marker on the Chumkani Road; thence in a westerly direction with the bearing South 89 degrees 30 minutes 00 seconds West, and along the south line of said Chumkani Road, a distance of 1,742.4 feet; thence in a southerly direction with bearing South 0 degrees 30 minutes 00 seconds East, and parallel to the west boundary line of said Parcel No. 3, a distance of 1,500.00 feet; thence in an easterly direction with bearing North 89 degrees 30 minutes 00 seconds East, a distance of 1,742.4 feet to a point on the southwest corner of said Parcel Number 3; thence in a northerly direction with bearing North 0 degrees 30 minutes 00 seconds West, and along the west

boundary line of said Parcel Number 3, a distance of 1,500.00 feet to the point of beginning; said tract containing 60 acres, more or less. All bearings magnetic.

Parcels Number 2, Number 3 and Number 4 are for the exclusive use of the Communications Unit.

In order to provide utility services in Parcels Number 2, Number 3 and Number 4, the Communications Unit may install, use, operate and maintain utility systems, to include water, power, communications, and sewage, over, across and under the Chumkani Road adjoining these parcels.

In that part of Parcel Number 1 which is outside Parcel Number 2, the Communications Unit may lay cables and erect antennas, poles, connecting lines, power lines, and support wires; and personnel assigned to the Unit may enter and move within the area freely at any time for purposes related to the operation of the Communications Unit.

It is understood that the land in Parcel Number 1 which is outside Parcel Number 2 may be used by the land owners for agricultural purposes under conditions which will not interfere with the operations of the Communications Unit. Authorities of the Government of Pakistan will, upon request, make arrangements necessary to insure that the landowners are informed of such conditions and comply with them.

SITE II

Site II is located south of Peshawar approximately seven miles, and east of the Peshawar-Kohat road approximately 4.3 miles.

1. *Parcel Number 5.* A parcel of land enclosed by boundaries established as follows: *Base Point*—a point on the south edge of the road running eastward from the seven-mile marker on the Peshawar-Kohat road, at a distance approximately 4 miles east of the Peshawar-Kohat road, and approximately 2,200.00 feet west of the intersection at which the east-west road intersects a road that loops to the south around a high earth mound and also branches to the north. The base point is 20.00 feet south of the center line of the east-west road and is marked by concrete monument with a nail embedded on the top. From this base point a line running parallel to the road in an easterly direction, bearing South 72 degrees 50 minutes 00 seconds East, a distance of 1,200.00 feet to the northeast corner; thence South 17 degrees 10 minutes 00 seconds West, a distance of 2,400.00 feet to the southeast corner; thence North 72 degrees 50 minutes 00 seconds West, a distance of 2,400.00 feet to the southwest corner; thence North 17 degrees 10 minutes 00 seconds East, a distance of 2,400.00 feet to the northwest corner; thence South 72 degrees 50 minutes 00 seconds East, a distance of 1,200.00 feet to the point of beginning. All bearings magnetic.

2. *Parcel Number 6.* A square parcel of land each side of which is 660.00 feet long, located approximately at the center of Parcel Number 5.

3. *Access Road.* A strip of land thirty feet wide connecting the northern boundary of parcel Number 6 with the east-west road for use by the Communications Unit as an access road.

Parcel Number 6 is for the exclusive use of the Communications Unit.

In that part of Parcel Number 5 which is outside Parcel Number 6, the Communications Unit may lay cables and erect antennas, poles, connecting lines, power lines, and

support wires; and personnel assigned to the Unit may enter and move within the area freely at any time for purposes related to the operation of the Communications Unit.

It is understood that the land in Parcel Number 5 which is outside Parcel Number 6 and the road may be used by the landowners for agricultural purposes under conditions which will not interfere with the operations of the Communications Unit. Authorities of the Government of Pakistan will, upon request, make arrangements necessary to insure that the landowners are informed of such conditions and comply with them.

SITE III

Site III is located approximately 13 miles south of Peshawar on the east side of the Peshawar-Kohat road.

1. *Parcel Number 7.* A parcel of land enclosed by boundaries established as follows: *Base Point*—a point marked by a brick monument buried 40.00 feet east of the center line of the Peshawar-Kohat road opposite the 13 mile marker. From this base point a line running on a northerly direction, parallel to the road, on a bearing North 02 degrees 30 minutes 00 seconds East, a distance of 494.45 feet; thence a distance of 652.3 feet on a bearing North 08 degrees 02 minutes 00 seconds East; and thence a distance of 59.10 feet on a bearing North 20 degrees 15 minutes 00 seconds East to the northwest corner; thence South 87 degrees 30 minutes 00 seconds East, a distance of 2,319.09 feet to the northeast corner; thence South 02 degrees 30 minutes 00 seconds West, a distance of 2,400.00 feet to the southeast corner; thence North 87 degrees 30 minutes 00 seconds West, a distance of 2,400.00 feet to the southwest corner; thence North 02 degrees 30 minutes 00 seconds East, a distance of 1,200.00 feet to the point of beginning. All bearings magnetic.

2. *Parcel Number 8.* A square parcel of land each side of which is 660.00 feet long, located approximately at the center of Parcel Number 7.

3. *Access Road.* A strip of land thirty feet wide connecting the center of the western boundary of Parcel Number 8 with the Peshawar-Kohat road for use by the Communications Unit as an access road. Parcel Number 8 is for the exclusive use of the Communications Unit.

In that part of Parcel Number 7 which is outside Parcel Number 8, the Communications Unit may lay cables and erect antennas, poles, connecting lines, power lines, and support wires; and personnel assigned to the Unit may enter and move within the area freely at any time for purposes related to the operations of the Communications Unit.

It is understood that the land in Parcel Number 7 which is outside Parcel Number 8 and the road may be used by the landowners for agricultural purposes under conditions which will not interfere with the operations of the Communications Unit. Authorities of the Government of Pakistan will, upon request, make arrangements necessary to insure that the landowners are informed of such conditions and comply with them.

ANNEX B
JURISDICTION

Recognizing the responsibility of the courts of Pakistan for the administration of justice in Pakistan, and also the responsibility of the United States military authorities for maintaining good order and discipline among personnel of the Unit, it is agreed that jurisdiction over such personnel shall be exercised in accordance with the provisions of this Annex.

1. Subject to the provisions of this Annex,

(a) the civil authorities of Pakistan shall have jurisdiction over the personnel of the Unit with respect to offences committed within the territory of Pakistan and punishable by the law of Pakistan;

(b) the military authorities of the United States shall have the right to exercise within Pakistan all criminal and disciplinary jurisdiction conferred on them by the laws of the United States over the personnel of the Unit.

2. (a) The authorities of Pakistan shall have the right to exercise exclusive jurisdiction over the personnel of the Unit with respect to offences, including offences relating to the security of Pakistan, punishable by the law of Pakistan, but not by the law of the United States.

(b) The military authorities of the United States shall have the right to exercise exclusive jurisdiction over the personnel of the Unit with respect to offences, including offences relating to the security of the United States, punishable by the law of the United States, but not by the law of Pakistan.

(c) For the purposes of this paragraph and the paragraph next following, a security offence against the State shall include

- (i) treason against the State;
- (ii) sabotage, espionage or violation of any law relating to the official secrets of that State, or secrets relating to the national defence of that State.

3. In cases where the right to exercise jurisdiction is concurrent the following rules shall apply :

(a) The military authorities of the United States shall have the primary right to exercise jurisdiction over the personnel of the Unit in relation to

- (i) offences solely against the property or security of the United States, or offences solely against the person or property of another member of the Unit;
- (ii) offences arising out of any act or omission done in the performance of official duty; and
- (iii) subject to the provision of paragraph 1 (b), offences committed solely within those parts of the agreed areas which are designated for the exclusive use of the Communications Unit.

(b) In the case of any other offence the authorities of Pakistan shall have the primary right to exercise jurisdiction.

(c) If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other State as soon as practicable. The authorities of Pakistan,

recognizing that it is the primary responsibility of the United States authorities to maintain good order and discipline where persons subject to United States military law are concerned, will, upon the request of the United States authorities, waive their primary right to exercise jurisdiction pursuant to this Annex, except where the Government of Pakistan determines that it is of particular importance that jurisdiction be exercised by the Pakistan authorities.

4. The foregoing provisions of this Annex shall not imply any right for the military authorities of the United States to exercise jurisdiction over persons who are nationals of or ordinarily resident in Pakistan, unless they are members of the Unit.

5. (a) The authorities of Pakistan and the United States shall assist each other in the arrest of members of the Unit and in handing them over to the authority which is to exercise jurisdiction in accordance with the above provisions.

(b) The authorities of Pakistan shall notify promptly the military authorities of the United States of the arrest of any member of the Unit.

(c) The custody of an accused member of the Unit, over whom Pakistan is to exercise jurisdiction, shall remain with the United States. The United States assumes the responsibility for custody pending conclusion of judicial proceedings. The United States authorities will make any member of the Unit immediately available to Pakistan authorities upon their request for purposes of investigation and trial.

6. (a) The authorities of Pakistan and the United States shall assist each other in the carrying out of all necessary investigations into offences and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with the offence. The handing over of such objects may, however, be made subject to their return within the time specified by the authority delivering them.

(b) The authorities of Pakistan and the United States shall notify each other of the disposition of all cases in which there are concurrent rights to exercise jurisdiction.

7. The authorities of Pakistan shall give sympathetic consideration to a request by the United States for assistance in carrying out a sentence of imprisonment pronounced by the authorities of the United States under the provisions of this Annex within the territory of Pakistan.

8. If a case against a member of the Unit has been tried or disposed of in accordance with the provisions of this Annex by the authorities of one State, he shall not be prosecuted in Pakistan for the same offence by the authorities of the other State.

9. Whenever a member of the Unit is prosecuted in Pakistan Courts, he shall be entitled

(a) to a prompt and speedy trial;

(b) to be informed in advance of trial of the specific charge or charges made against him;

(c) to be confronted with the witnesses against him;

(d) to have compulsory process for obtaining witnesses in his favor, if they are within the jurisdiction of Pakistan;

(e) to have legal representation of his own choice for his defence at all stages of the proceedings;

- (f) if he considers necessary, to have the services of an interpreter; and
(g) to communicate with a representative of the United States and to have such a representative present at all stages of the proceedings.

10. If a member of the Unit is acquitted after trial by a court in Pakistan, no appeal against his acquittal shall be presented by the prosecution. In cases other than acquittal, no appeal shall be taken by the prosecution except on grounds of legal error.

11. The authorities of Pakistan will have jurisdiction with respect to civil suits or claims involving injury or death or loss or damage to property arising out of acts or omissions of members of the Unit provided that if the act or omission is in the performance of official duty, the authorities in Pakistan shall not exercise their jurisdiction.

12. The determination whether an act or omission is or is not in the performance of official duty for the purposes of paragraph 3 (a) (ii) or paragraph 11 shall, in the first instance, be made by the United States military authorities after appropriate consultation with the Pakistan authorities. If the authorities of Pakistan and the United States hold divergent views on this point, the matter shall be decided between the diplomatic authorities of the United States and the appropriate authorities of the Government of Pakistan.

II

The American Ambassador to the Pakistani Minister of Foreign Affairs and Commonwealth Relations

EMBASSY OF THE UNITED STATES OF AMERICA

No. 32

Karachi, July 18, 1959

Excellency :

I have the honor to acknowledge the receipt of your note of today's date, together with Annex A and Annex B attached thereto, the texts of which read as follows :

[*See note I*]

I have the honor to inform Your Excellency that the Government of the United States of America accepts the arrangements contained in your note, together with Annex A and Annex B attached thereto, and regards your note and this reply as constituting an Agreement between our two Governments, the Agreement to enter into force on this day.

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

James M. LANGLEY

His Excellency Manzur Qadir
Minister of Foreign Affairs
and Commonwealth Relations
Karachi

MINUTE OF UNDERSTANDING

It is agreed that the following conditions shall apply to the privileges extended to personnel of the Communications Unit in paragraph 5 (a) of the Agreement on the United States Communications Unit of July 18, 1959 :¹

1. The exemption applies to direct imports only and not to local purchase or clearances from bond.
2. No Pakistan foreign exchange is involved in such imports.
3. The number of motor cars imported under this section by each person assigned to the Unit shall not exceed one.

James M. LANGLEY
United States Ambassador

Manzur QADIR
Minister of Foreign Affairs and Commonwealth Relations

Karachi, July 18, 1959
In Duplicate Originals

III

*The American Ambassador to the Pakistani Minister of Foreign Affairs and
Commonwealth Relations*

EMBASSY OF THE UNITED STATES OF AMERICA

Karachi, July 18, 1959

Dear Mr. Minister :

Today the Governments of the United States of America and Pakistan exchanged notes formalizing our Agreement on the United States Communications Unit and the status of the members of the Unit who enter Pakistan in connection therewith.

Annex B² of that Agreement provides for the exercise of jurisdiction over such members. In this regard, I would be grateful for your confirmation of the following understandings :

¹ See p. 368 of this volume.

² See p. 380 of this volume.

1. That no cruel or unusual punishment would be inflicted upon any person over whom the Pakistani authorities might exercise jurisdiction pursuant to Annex B;
2. That should any person over whom the Pakistani authorities exercise such jurisdiction subsequently be confined by those authorities, the United States military authorities would be permitted to visit such person periodically at the place of confinement;
3. That in implementation of the provisions of paragraph 3 (c) of Annex B, it shall not be necessary for the United States to make a request for waiver in each particular case, and it shall be taken for granted that Pakistan has waived its primary right to exercise jurisdiction thereunder except where the Government of Pakistan determines in a specific case that it is of particular importance that jurisdiction be exercised therein by the authorities of Pakistan;
4. That with reference to paragraph 5 (c) of Annex B, concerning custody of an accused member of the Unit, the United States authorities will give full consideration to the special wishes of the appropriate Pakistan authorities as to the manner in which the custody of an accused member of the Unit shall be carried into effect;
5. That with respect to paragraph 11 of Annex B, concerning civil suits or claims arising out of any act or omission done in the performance of official duty over which the authorities of Pakistan shall not exercise their jurisdiction, meritorious claims thereunder will be settled by the United States Military authorities in accordance with procedures which enable them to make expeditious settlement of such claims.

Sincerely yours,

James M. LANGLEY
Ambassador

Mr. Manzur Qadir
Minister of Foreign Affairs
and Commonwealth Relations
Karachi

IV

*The Pakistani Minister of Foreign Affairs and Commonwealth Relations to the
American Ambassador*

MINISTER FOR FOREIGN AFFAIRS
AND COMMONWEALTH RELATIONS
KARACHI

July 18th, 1959

Dear Mr. Ambassador :

As requested in your letter of July 18th, 1959, I am pleased to confirm our understandings :

[*See note III*]

Sincerely yours,

Manzur QADIR
Minister of Foreign Affairs
and Commonwealth Relations

His Excellency Mr. James M. Langley
The Ambassador of the United States of America in Pakistan
Karachi
