

No. 7339

**UNITED NATIONS
and
PAKISTAN**

Exchange of letters (with General Directive) constituting an agreement concerning the United Nations Security Force in West New Guinea (West Irian). New York, 6 December 1962 and 18 April 1963

Official text: English.

Registered ex officio on 20 July 1964.

**ORGANISATION DES NATIONS UNIES
et
PAKISTAN**

Échange de lettres (avec directive générale) constituant un accord relatif à la Force de sécurité des Nations Unies en Nouvelle-Guinée occidentale (Irian occidental). New York, 6 décembre 1962 et 18 avril 1963

Texte officiel anglais.

Enregistré d'office le 20 juillet 1964.

No. 7339. EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED NATIONS AND PAKISTAN CONCERNING THE UNITED NATIONS SECURITY FORCE IN WEST NEW GUINEA (WEST IRIAN). NEW YORK, 6 DECEMBER 1962 AND 18 APRIL 1963

I

PO 240 (WENGU) 1

6 December 1962

Sir,

I have the honour to refer to Article VII of the Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea² (West Irian) (A/5170) which states, *inter alia*, that the Secretary-General will provide the United Nations Temporary Executive Authority (UNTEA) in West New Guinea (West Irian) with such security forces as the United Nations Administrator in that territory deems necessary, to supplement existing Papuan (West Irianese) police, in the task of maintaining law and order during the period of administration of the territory by the UNTEA. I also have the honour to refer to General Assembly resolution 1752 (XVII)³ of 21 September 1962, which authorizes the Secretary-General to carry out the tasks entrusted to him in the foregoing Agreement.

As your Government has been kind enough to make available, at my request, a contingent of its armed forces to enable me to constitute the United Nations Security Force in West New Guinea (West Irian) by virtue of the authority vested in me by the foregoing Agreement and resolution, I have the honour to transmit herewith, a copy of a General Directive⁴ concerning the United Nations Security Force in West New Guinea (West Irian) which I have issued, and which is to be distributed to contingents of the Security Force. These contingents will serve under this Directive.

The Directive affirms, in sections 3 (a) and 4 (b), that the national contingents provided by Governments comprise part of a United Nations Security

¹ Came into force on 18 April 1963 by the exchange of the said letters.

² United Nations, *Treaty Series*, Vol. 437, p. 273.

³ United Nations, *Official Records of the General Assembly, Seventeenth Session, Supplement No. 17* (A/5217), p. 70.

⁴ See p. 32 of this volume.

Force, under the command authority at all times of the United Nations Commander designated by the Secretary-General. In the exercise of this authority the United Nations Commander is under the immediate direction of the United Nations Administrator, who in turn acts under the general direction of the Secretary-General. Section 5 (a) of the Directive provides that the United Nations Commander shall designate the chain of command within national contingents, making use of the officers of those contingents.

I should like to draw your attention to section 5 (b) of the Directive, which provides as follows :

“ The United Nations Commander has general responsibility for the good order of the contingents under his overall command. He may make investigations, conduct inquiries and require information, reports and consultations for the purpose of discharging his responsibility. Responsibility for disciplinary action in the contingents concerned rests with the commanders of those contingents. Reports concerning disciplinary action and incidents involving third parties shall be communicated to the United Nations Commander who may consult with the Commander of the contingent concerned. ”

The Directive, in section 7, lays down the rights and duties of the Security Force and provides its individual members with the privileges and immunities necessary for the exercise of their functions within West New Guinea (West Irian). Sub-paragraph (e) of section 7, in particular, provides that :

“ All members of the United Nations Security Force shall be granted immunity for official acts performed in the course of their duties. In all other respects they shall be subject to the exclusive criminal jurisdiction of their national authorities. They shall be subject to local civil jurisdiction for acts performed outside the course of their duties. They shall also be subject to the rules and regulations of the contingents of which they form a part without derogating from their responsibilities as part of the United Nations Security Force. ”

In view of the considerations set out in the two immediately preceding paragraphs, I should appreciate your assurance that the commander of the national contingent provided by your Government will be in a position to exercise the necessary disciplinary authority. I should also appreciate your assurance that, if it should become necessary, your Government will be prepared to exercise jurisdiction with respect to any crime or offence which might be committed by a member of such national contingent. Such assurance will assist me greatly in ensuring the proper discharge of my responsibilities in connexion with the Security Force.

Accept, Sir, the assurances of my highest consideration.

U THANT
Secretary-General

His Excellency Muhammad Zafrulla Khan
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Pakistan
to the United Nations
Pakistan House
New York 21, New York

II

PAKISTAN MISSION TO THE UNITED NATIONS
PAKISTAN HOUSE
NEW YORK 21, N.Y.

No. 267-S/63

April 18, 1963

Sir,

I have the honour to refer to last para. of your letter No. PO 240 (WENGU) 1 dated 6 December 1962 and to say that the Government of Pakistan have directed me to convey to you the assurance that the Commander of the Pakistan Contingent in West Irian will be in a position to exercise the necessary disciplinary authority, and should it become necessary, the Pakistan Government will be prepared to exercise jurisdiction with respect to any crime or offence which might be committed by a member of the Pakistan Contingent.

Accept, Sir, the assurance of my highest consideration.

ZAFRULLA KHAN
Permanent Representative of Pakistan
to the United Nations

His Excellency U Thant
Secretary-General to the United Nations
New York

GENERAL DIRECTIVE CONCERNING THE UNITED NATIONS SECURITY FORCE IN WEST NEW GUINEA (WEST IRIAN)

1. ESTABLISHMENT OF THE UNITED NATIONS SECURITY FORCE

By virtue of the authority vested in the Secretary-General by Article VII of the Agreement between the Republic of Indonesia and the Kingdom of the Netherlands concerning West New Guinea (West Irian) (hereinafter referred to as "the Agreement") and by virtue of General Assembly resolution 1752 (XVII) of 21 September 1962 authorizing the Secretary-General to carry out the tasks entrusted to him in that Agreement, there is hereby established a United Nations Security Force in West New Guinea (West Irian). The United Nations Security Force will come into existence, and will assume its functions on 1 October 1962 upon the transfer of authority over West New Guinea (West Irian) by the Kingdom of the Netherlands to the United Nations Temporary Executive Authority (hereinafter referred to as the "UNTEA").

2. TASK OF THE UNITED NATIONS SECURITY FORCE

The United Nations Security Force will primarily supplement the existing police force in maintaining law and order in West New Guinea (West Irian).

3. COMPOSITION OF THE UNITED NATIONS SECURITY FORCE

(a) The United Nations Security Force consists of the following contingents made available by the Secretary-General:

- (i) Force Headquarters
- (ii) The Pakistan Contingent
- (iii) Detachment of the USAF
- (iv) Detachment of the RCAF

(b) The United Nations Security Force may be supplemented by the Administrator, in the circumstances specified in section 4 (d) and (e) below, by the following contingents:

- (i) The Papuan (West Irianese) Volunteer Corps
- (ii) The Indonesian Armed Forces present in the territory in accordance with the cease-fire arrangements concluded between the Republic of Indonesia and the Kingdom of the Netherlands.

When the contingents specified in the present sub-section are made available by the Administrator to supplement the United Nations Security Force they shall be considered an integral part of that Force.

4. CHAIN OF COMMAND

(a) The overall responsibility for the maintenance of law and order throughout the territory rests with the Administrator, and, by his delegation, with the Divisional Commissioners within their respective divisions. The machinery available to the Administrator and the Divisional Commissioners for the maintenance of law and order consists

of the Papuan (West Irianese) Police Force, and, for the purpose of supplementing the latter when this is found necessary, the United Nations Security Force.

(b) The United Nations Commander, designated by the Secretary-General, exercises overall command authority at all times over the contingents specified in section 3 (a). In the circumstances specified in sub-sections (d) and (e) of the present section he exercises overall command authority over the contingents specified in section 3 (b). In the circumstances specified in section 6 (c) below, he also exercises overall command authority over the Papuan (West Irianese) Police Force. In the exercise of his authority the United Nations Commander is under the immediate direction of the Administrator, who in turn acts under the general direction of the Secretary-General.

(c) The Chief of Police is operationally responsible to the Administrator, through the Director of the Department of Internal Affairs, for the proper discharge by the Papuan (West Irianese) Police Force of their functions in accordance with such rules, regulations and directives as are consistent with the Agreement and are currently in force, save insofar as they may be amended or abrogated by the Administrator.

(d) The Papuan (West Irianese) Volunteer Corps is under the authority and at the disposal of the Administrator at all times. He shall designate the respective spheres of competence over the Corps of the United Nations Commander and of the commanding officer of the Corps. The Administrator may place the Corps, or certain of the elements comprising it, under the overall command authority of the United Nations Commander when, in the opinion of the Administrator, the active deployment of the Corps, or certain elements comprising it, is rendered necessary in the interests of the maintenance of law and order.

(e) The Indonesian Forces referred to in section 3 (b) (ii) above are under the authority and at the disposal of the Administrator at all times. He shall designate the respective spheres of competence over these Forces of the United Nations Commander and of the commanding officer of the Indonesian Forces. The Administrator may place the Indonesian Forces, or certain of the elements comprising them, under the overall command authority of the United Nations Commander when, in the opinion of the Administrator, the active deployment of these Forces, or certain elements comprising them, is rendered necessary in the interests of the maintenance of law and order.

(f) Pending their repatriation, Netherlands Armed Forces in West New Guinea (West Irian) are under the authority of the Administrator.

5. DUTIES OF THE UNITED NATIONS COMMANDER AND OF THE DIVISIONAL OR LOCAL MILITARY COMMANDERS

(a) The United Nations Commander is responsible to the Administrator for the proper performance of all functions assigned to the contingents under his overall command. He shall designate the chain of command within those contingents, making use of the officers thereof. The United Nations Commander has full authority, after consultation with the Administrator, with respect to the deployment and assignment of all contingents placed under his overall command.

(b) The United Nations Commander has general responsibility for the good order of the contingents under his overall command. He may make investigations, conduct

inquiries and require information, reports and consultations for the purpose of discharging his responsibility. Responsibility for disciplinary action in the contingents concerned rests with the commanders of those contingents. Reports concerning disciplinary action and incidents involving third parties shall be communicated to the United Nations Commander who may consult with the commander of the contingent concerned.

(c) The United Nations Commander shall provide for military police for any camps, establishments or other premises occupied by the contingents under his overall command, for such areas where those contingents are deployed in the performance of their functions and such other areas as he deems necessary. The military police shall have the power of arrest over members of the contingents under the overall command of the United Nations Commander.

(d) The United Nations Commander is responsible for providing assistance in maintaining law and order in accordance with the procedures specified in section 6 below.

(e) In consultation with the Administrator, the United Nations Commander has general responsibility for all matters concerning the operation and maintenance of the contingents under his overall command. In this respect the Administrator with his civilian administrative staff and the United Nations Commander shall, in accordance with procedures prescribed by the Administrator, make arrangements for supplies and food; welfare; equipment; transportation; billeting; communications; maintenance services; medical, dental and sanitary services; accounting and such other matters as the Administrator may prescribe.

(f) The Administrator shall designate the extent to which the duties specified in the present section shall be discharged by the United Nations Commander, or by the commanding officers of the contingents referred to in section 3 (b) above, in relation to those contingents.

6. INTERVENTION BY THE UNITED NATIONS SECURITY FORCE

(a) Whenever the Administrator, a Divisional Commissioner or an authorized representative of the latter in a given locality, determines in his full discretion that the considerations of public order require the active employment of elements of the United Nations Security Force to maintain or restore law and order, he shall request such assistance in writing from the local group commander of the Security Force, giving the reasons therefor and the object to be achieved.

(b) Such requests shall be authorized in advance by the Administrator except only when circumstances or the time element involved preclude such prior authorization, in which case a report on the request made and action taken shall be transmitted as rapidly as possible by or through the Divisional Commissioner to the Administrator.

(c) Whenever a request for action by elements of the United Nations Security Force has been transmitted in accordance with the procedure set out in the preceding paragraphs of the present section, the local police shall thereupon come under the operational command of the local group commander of the Security Force until such time as the task entrusted to the Security Force shall have been completed.

(d) The Divisional Commissioner or his authorized local representative shall keep the local group commander of the Security Force constantly informed of developments pertaining to law and order in the area. Throughout the duration of any intervention by the Security Force under the provisions set out above, the local group commander of the Security Force shall remain in constant touch with the Divisional Commissioner or his authorized local representative.

(e) In the circumstances specified in section 4 (d) and (e) above, the contingents specified in section 3 (b) above shall be considered an integral part of the United Nations Security Force for the purposes of the present section.

7. RIGHTS AND DUTIES OF THE UNITED NATIONS SECURITY FORCE

(a) All members of the United Nations Security Force, irrespective of the contingent in which they serve, are under the authority of the Administrator and subject to his instructions through the chain of command as set out in section 4 above. The members of the Force shall discharge their functions and regulate their conduct with the interest of the UNTEA only in view. In the performance of their duties the members of the Force shall receive their instructions only from the chain of command as designated in section 4 above.

(b) All contingents making up the Force shall fly the United Nations flag in accordance with the United Nations Flag Code and Regulations, together with such other flag or flags as the Administrator may designate after consultation with the United Nations Commander.

(c) All members of the United Nations Security Force shall wear their own uniform and such distinctive UNTEA insignia as the Administrator shall prescribe.

(d) All members of the United Nations Security Force shall respect the laws and regulations in force in the territory and shall refrain from any activity of a political character or activity otherwise incompatible with their status. They shall conduct themselves at all times in a manner befitting their status.

(e) All members of the United Nations Security Force shall be granted immunity for official acts performed in the course of their duties. In all other respects they shall be subject to the exclusive criminal jurisdiction of their national authorities. They shall be subject to local civil jurisdiction for acts performed outside the course of their duties. They shall also be subject to the rules and regulations of the contingents of which they form a part without derogating from their responsibilities as part of the United Nations Security Force.

(f) The provisions of the present section shall also apply at all times to the contingents specified in section 3 (b) above.

8. GENERAL PROVISIONS

The Administrator may at any time issue detailed instructions implementing this general directive. He may amend the directive with the consent of the Secretary-General. This directive may be supplemented or replaced by general regulations issued by the Administrator with the consent of the Secretary-General.

U THANT
Secretary-General