

ITEM II
TRADITIONAL AND CUSTOMARY BASIS OF THE SINO-INDIAN
BOUNDARY IN THE WESTERN SECTOR

PART ONE: Tradition

The Indian alignment in the area west of the Karakoram Pass is in accordance with geographical principles, tradition and custom; and the area has always been under Indian jurisdiction. Both the upper valley of the Ghunjerab river and the upper valley of the Shaksgam river, lying south of the Aghil mountains, have always been a part of Hunza in India. The people of Hunza have exercised various rights including agricultural cultivation and pasturage and grazing rights in this area. The Shimshalis in particular used the entire area upto the Shaksgam for grazing and extracted salt at various places in the valley. On the other hand, no one from China ever used this area.

The Mirs of Hunza exercised authority in this region, maintained posts and collected revenue, The official maps of the Government of India, including the one attached to the 1907 edition of the Imperial Gazetteer of India and the political maps published by the Survey of India, showed this area in Indian territory. Official Chinese maps published in 1917, 1919 and 1933 also showed this area as a part of India.

In the Western Sector east of the Karakoram Pass, the first document presented by the Indian side was an extract from an old Ladakhi chronicle, as proof that the Indian alignment in the Western 'Sector was a tradition at one. The Indian side had already dealt with the location and natural features of the Sino-Indian boundary and shown, among other things, that it had come to coincide with a geographical principle. This natural boundary of India in the Western Sector, as in other sectors, was also a traditional and customary, boundary which had been well recognised for centuries by

both sides. According to international usage and practice, a traditional and customary boundary which followed well-known and unchanging natural features required no further or formal definition. But, in fact, this traditional and customary boundary had secured the additional confirmation of treaties and agreements. The Indian side dealt, in detail, with the historical evidence showing that throughout the ages the boundary of Ladakh with Sinkiang and Tibet had been where India was now showing it and was, therefore, a traditional one.

At first Ladakh was an independent state comprising a large part of western Tibet, but later, towards the end of the tenth century A.D., it was divested of most of its Tibetan possessions by a family partition. Even then, in the tenth century, the traditional boundary of Ladakh with Tibet was well-known and recognised by tradition. There was manifold proof of this. A chronicle of Ladakh compiled in the 17th century called *La dvaqs rgyal rabs*, meaning the Royal Chronicle of the Kings of Ladakh, recorded that this boundary was traditional and well-known. The first part of the chronicle was written in the years 1610-1640; and the second half towards the end of the 17th century. The Indian side tabled extracts from this chronicle.

References to pages were from the English translation by A.H. Francke and forming part of volume 2 of *Antiquities of Indian Tibet* published in Calcutta in 1926. The Ladakhi chronicle described the partition by King Skyid-Ida-ngeema-gon of his kingdom between his three sons, and then the chronicle described the extent of territory secured by that Son who was given Ladakh.

The following quotation was from page 94 of this book:

"He gave to each of these three sons a separate kingdom, viz., to the eldest, *ppal-gyi-ngon*, Maryul of *Mnah-ris*, the inhabitants using black bows; *Ru-thogs* of the east and the Gold-mine of *Hgog*; nearer this

way Lde-mchog-dkar-po; at the frontier Ra-ba-dmar-po; Wam-le to the top of the pass of the Yi-mig rock..."

Maryul, meaning lowlands, was the name given to Ladakh. Even at that time, i.e. in the 10th century, the boundary of Ladakh was, therefore, known to lie-apart from Rudok which at that time belonged to Ladakh-at Lde-mchog-dkar-po, i.e. Demchok; and at the top of the pass of the Yimig rock, i.e. at the Imis pass, and Wamle, i.e. Hanle, was known to be within Ladakh. The present Indian alignment ran past Demchok and through the Imis pass to include Hanle in India. So, even in the tenth century the boundary alignment of Ladakh was, in this sector, where it was now. In the latter part, i.e. the second half of the same Ladakhi chronicle, there was a reference to the war that took place at the time (from 1681 to 1683) when this part of the chronicle was being written when a mixed force of Mongols and Tibetans invaded Ladakh. This force was driven out by the Ladakhis with the assistance of the Mogul Governor of Kashmir, Ladakh in 1664 having become a part of the Mogul empire. The Ladakhi chronicle stated on page 11& that after the war Ladakh and Tibet again decided that "the boundary shall be fixed at the Lha-ri stream of Bde-mchok." Bde-mchog was clearly Demchok, and this quotation showed that in the 17th century, as in the 10th century 700 years earlier, the traditional boundary of Ladakh continued to lie east of Demchok.

Further evidence of the traditional Indian alignment in this sector was provided by the travellers who visited this area and recorded¹ their experience. Ippolito Desideri, a Jesuit priest, travelled from Leh to Lhasa in the years 1715-16. In his diary (translated into English as An Account of Tibet) Desideri wrote:

"On the seventh of September we arrived at Trescij-Khang, or "Abode of Mirth", a town on the frontier between Second and Third Tibet,

defended by strong walls and a deep ditch with drawbridges" (page 81).

Second Tibet was Ladakh and Third Tibet was Tibet proper; and the town on the frontier was Trescij-Khang, i.e. Tashigong. If, therefore, the frontier lay at Tashigong, that meant that the traditional boundary between Ladakh and Tibet in 1715, when Desideri went there, was in accordance with the present Indian alignment, and Demchok was a part of Ladakh.

Another traveller who visited this area in the early 19th century, James Baille Fraser, published his account in 1820. His book was called *Journal of a Tour through part of the Snowy range of the Himala Mountains and to the sources of the Rivers Jamna and Ganges*. Describing his route from Leh, Fraser stated (page 309) that on the 11th day after setting out from Oopshée, a town of Ladakh, he arrived at "Donzog, thus far in Ladakh", and that on the 12th day he reached "Tuzhzeegong (Chinese fort)". In other words according to Fraser, Donzog, i.e. Demchok, was on the frontier of Ladakh while Tashigong was in China.

About thirty years later, in 1846, Alexander Cunningham, an official of the East Indian Company, visited the area and in 1854 published a book on Ladakh. This book called *Ladakh* had been referred to with approval by Premier Chou En-lai himself in his letter of 8 September 1959. Cunningham wrote of the boundary between Ladakh and Tibet...

"With Rudok on the east there has been a long peace. The boundary is well defined by piles of stones, which were set-up after the last expulsion of the Sokpo, or Mongol hordes, in A.D. 1687, when the Ladakhis received considerable assistance from Kashmir." (page 261).

Cunningham also specifically mentioned the Demchok region and stated:

"A large stone was then (after the expulsion of the Mongols) set up as a permanent boundary between the two countries the line of

demarcation being drawn from the village of Dechhog to the hill of Karbonas." (pages 328-329).

Dechhog is Demchok.

That this boundary between Ladakh and Tibet was a traditional boundary, well-known for centuries, was proved not only by evidence from the Indian side, but also by Chinese evidence. For instance, when in 1846 the British authorities in their correspondence with the Chinese Government referred to the boundary between Ladakh and Tibet, the Chinese Imperial Commissioner at Canton replied on 20 January 1847:

"In regard to your question whether this matter has been reported to the Emperor, I beg to remark that you the Honourable Envoy in your former correspondence referred to the distinct settlement of the boundaries and the wish of English merchants to trade with Tibet. Since however that territory had its ancient frontier, it was needless to establish any other."

In other words, even the Chinese Government agreed that the frontier between Ladakh and Tibet was an "ancient frontier", well known for centuries, that it was a traditional frontier beyond dispute and this traditional frontier, as the Indian side had already brought forward evidence to show and would bring forward further evidence, was in accordance with the present Indian alignment.

Some other travellers apart from the ones already mentioned, also crossed the boundary between Ladakh and Tibet and their accounts and evidence also substantiated the present Indian alignment. Nain Singh, an Indian traveller, went on a journey from Leh to Lhasa in 1873. His account was published in the Journal of the Royal Geographical Society in 1877:

"At Niagzu Rawang is the boundary between Tibet and Ladakh; the right bank of the stream belongs to the latter and the left bank to the former." (page 89).

This description by Nain Singh corroborated the Indian alignment in the Chumesang-Changlung area. Niagzu was a camping ground which was within the Indian frontier-co-ordinates $78^{\circ} 56' E, 34^{\circ} 2' N$ and when Nain Singh in 1873 said the boundary lay along Niagzu stream, he was giving a description in accordance with the Indian alignment. This statement of Nain Singh that Niagzu lay on the boundary was confirmed by Well by another traveller, who visited the area towards the end of the 19th century and published in 1898 a record of this journey. The book was called Through Unknown Tibet, and confirmation of the alignment at Niagzu was to be found on page 57 of the book. Though Wellby's book was a well-known published one, the Indian side produced a photostat of a diagram in the book showing that Niagzu was located on the border.

There was also such evidence of the traditional alignment further north. That the boundary lay along the Lanak Pass at the top of the Chang Chenmo Valley was testified to by several travellers. Carey who travelled through this region during the years 1885-87 and published an account in the Proceedings of the Royal Geographical Society for 1887, stated (Page 732 of the Proceedings) that he had engaged yaks from the Pangong villages to carry his baggage "as far as the frontier between Ladakh and Rudokh, at the head of the Chang Chenmo Valley". Later, in another detailed account-a day to day account-published by him in the Supplementary Papers of the Royal Geographical Society for 1890, he referred to the crossing by him of the Lanak Pass on page 13:

"August 21, 1885. Gentle ascent to head of Lanak-la pass. From top of pass slight descent into valley with wood, water, and a little grass. At 5th mile a grassy swamp crossed. Good camping ground, grass, wood, and water rather scanty. Route now lies in independent Tibet."

This was detailed evidence that the frontier lay at Lanak Pass, in fact, at the top of Lanak pass.

Bower, who also travelled through the Chang Chenmo area in 1391, stated in his (account published in the Geographical Journal of May 1393 (page 386) that he "crossed the frontier" at Lanak La.

Wellby, whose book *Through Unknown Tibet* had already been referred to, describing his travels in the Chang Chenmo region, referred on page 73 to "the frontier pass called Lanak La". Later, Deasy, who travelled extensively in the Aksai Chin area, in his account of his *Journeys in Central Asia*, published in the *Journal of the Geographical Society* (issue of July to December, 1900) referred to Lanak Pass and said on page 142: "It was decided to halt for a day at Lanak Pass before entering the unknown land of Tibet." He repeated the statement that the frontier was crossed at Lanak La in his book published in 1901 and called *In Tibet and Chinese Turkestan Being the Record of Three Years Exploration*.

This massive and varied evidence showed that the traditional boundary between Ladakh and Tibet lay at least for over a thousand years where the Indian alignment was now shown. Even in the 10th century, this boundary had been recognised and for the next 900 years, there was, as the Indian side had shown, considerable proof that the boundary lay along Lanak La, along the Niagzu stream, between Demchok and Tashigong and through the Imis Pass.

Evidence for the traditional basis of the Indian alignment in the Western Sector was also provided by unofficial maps published by private agencies. The Indian side were not at this stage dealing with official Chinese and Indian maps as these would come later under the item "Administration and Jurisdiction". These unofficial maps published in China, in India and in other countries showed the boundaries of Ladakh with Sinkiang and Tibet in accordance with the present Indian alignment. The first map the Indian side submitted-and provided a Photostat copy for the Use of the Chinese side-was the oldest Chinese map available of this

region. This map, which was drawn towards the end of the sixth century A.D., showed clearly that the Kuen Lun mountains formed the southern limits of Sinkiang. (Photostat 1).

The second map was one drawn in 1607 by a Buddhist priest, Jen Chao. These early maps were of course not very precise in topographical details, but even so, it was remarkable that it was known that what are called the Tsungling mountains, that is, the Pamir and the Kuen Lun mountains, lay between India on the one hand and Sinkiang and Tibet on the other. On this map, the Tsungling mountains, as well as Khotan and Kashgar, had been shown. (Photostat 2).

The third map was from the Chinese work, *Chin ting huang yu hsi yu t'u chih*, which might be translated as *Annals and Maps of the Western Territories of the Empire*. This was published in 1762 and had a number of maps of this area, all of which showed that Sinkiang did not extend even up to where the Indian alignment was now being shown, that is, along the Kuen Lun mountains. The Indian side cited and submitted one photostat out of the various maps in this book. The photostat was a copy of the map in this book on page 42 (b). This map stated clearly where the boundary of what it called Hindustan lay. The boundary of Hindustan, according to this map of 1762, lay at Sanjutagh. Sanju Pass was nearly sixty miles north of the Qara Tagh Pass and the Kuen Lun mountains. (Photostat 3).

The next map was from the *Chin ting hsin Chiang chih lu eh*-an account of Sinkiang-published by a Commission set up by the scholars and officials of Peking in 1321. Book 3 of this work contained a number of maps of Sinkiang. The Indian side thought it sufficient to cite only one map, that on page 4 (b) of Book 3 of this Chinese work. This map showed clearly that by the Tsungling mountains, which formed the boundary of Sinkiang, were meant the Kuen Lun mountain system. It was written twice on the map showing that all along the south, the boundary lay along the Kuen Lun

ranges. The Yurung Kash and the Qara Qash rivers were shown as cutting through the Kuen Lun mountains. In fact, as all knew, the Yurung Kash had its source in the Kuen Lun mountains. But at that time (1821) even the source of the Yurung Kash was not in Sinkiang. So the boundary presumably lay north of the present Indian alignment, which lies along the main Kuen Lun range south of the source of the Yurung Kash river. (Photostat 4).

The next map was from the Hsi yu Shui tao chi, which might be translated as Remarks on the Rivers of the Western Countries. This book was written by Hsu Hsing-po, a geographer of Ili, and this book was published in 1824. In this book there was a map in eight sheets of this area. The Indian side referred to and supplied a photostat of only sheet 7, which showed the southern limits of the YarkandKhotan region. This limit was said to be the "southern mountains", Nanshan. These "southern mountains" seemed, in fact, to be one of the northern ranges of the Kuen Lun mountains, for both the Yurung Kash and the Qara Qash rivers were shown as cutting through the mountains. (Photostat 5).

The next unofficial Chinese map brought forward by the Indian side was the map published by the Peking University in November 1925 and showing the maximum extent of China under the Ching dynasty, that is before 1911.. It would be seen from this map that even in the days of its maximum expansion before 1911, China did not include the Aksai Chin area. (Photostat 6).

The Indian side then submitted three maps published by well informed private agencies in China in the twentieth century:

(a) The map of Tibet in the Atlas of the Chinese Empire published in 1908. It showed the Indian boundary in the Western Sector more or less in consonance with the traditional Indian alignment. (Photostat 7).

(b) Map from the Chinese Atlas, Ta Ching ti kuo chuan tu the Atlas of the Chinese Empire published on 15th June 1908 by the Commercial Press Limited, Shanghai. Map 25 in this Atlas showed the Sino-Indian boundary. The alignment was shown by a thick line, but even so it was sufficiently precise to make clear, for example, that like the present Indian alignment it cut the Pangong Lake at the western extremity of the eastern half, and also that the Chang Chenmo Valley was included in India. (Photostat 8).

(c) Map of Western Tibet in The New Atlas and Commercial Gazetteer of China published in Shanghai sometime after 1917 by the North China Daily News and Herald on the basis of authoritative official surveys. The introduction to the Atlas stated that it had been produced by the Far Eastern Geographical Establishment with the purpose of giving "maps as nearly perfect as is admitted" by the data available. This Atlas, therefore, could not be brushed aside as the publication of a British-owned paper and representing the British view rather than the Chinese view. The Atlas was based on generally accepted views, which had been carefully ascertained, and reflected the traditional nature of the boundary alignment. This was further proved by the fact that though the Atlas was nominally an unofficial one, it had been generally utilised for over forty years as the standard Atlas of China and was as scientific and objective as was possible in 1917. In this Atlas, in the map of Tibet, the northern and eastern boundaries of Ladakh were shown more or less similar to the present Indian alignment.

(Photostat 9).

Apart from Chinese maps, there was evidence also in maps published in other countries that the traditional boundary in the Western Sector lay where the Indian maps were at present showing it. In 1876, John Arrowsmith drew a map of Central Asia which he said he had constructed from the latest information, with additions and corrections to 1876. In other words, he had taken the trouble to study the problem carefully and to

incorporate up-to-date information as well as the historic position. In this map of Arrowsmith, the boundary from the Muztagh Pass in the north-west right down to the Hanle region in the south-east was shown more or less in accordance with the present Indian alignment. (Photostat 10).

The next map was a German map of Central Asien (Central Asia) compiled from the latest sources by Dr. Joseph Cha'1anne and published in Leipzig in 1880. This map showed an alignment, which approximated very closely to the traditional boundary in this sector. (Photostat 11).

The next map was one published in the March 1912 issue of the Geographical Journal, which was the official publication of the Royal Geographical Society. This map was, designed to show what were called the "Chinese Frontiers of India". It showed a boundary which approximated close1y to the traditional alignment. This was a map published by a leading scientific society with an established reputation for cartographic accuracy; and it was a map meant specially to show the northern frontiers of India. (Photostat 12).

The same Society, four years later, in September 1916, published another map showing the traditional northern boundary of India. (As this map was on a small scale, the Indian side supplied an enlarged photostat) (Photostat 13).

This varied evidence-contemporary chronicles, Chinese references, reports of men who had visited the area, unofficial maps published in China as well as in other countries-all showed that the Indian alignment in the Western Sector was a tradition al boundary well-known and recognised for thousands of years.

PART Two: Custom

There was also proof that the inhabitants of these areas had been utilising the territories upto the boundary, and that there had been practical recognition of the alignment.

There were salt lakes in the Lingzi Tang and Aksai Chin areas .and the inhabitants from neighbouring villages in Ladakh had been regularly collecting salt from these lakes. People from Phobrang and Man, including the hamlets of Kakstek, Marak and Spangmik, had been collecting salt from the salt lakes in these areas. The route to Amtogor lake, a large salt lake in this area, normally was along the Chang Chenmo valley, Thragdat Barma, Sarigh Jilganang valley, Tobok Marpo, Skydpo Lungpa valley and Lungpa Gunpo. The route to the Tsoyang lake in the Lingzi Tang area by along Kyam (Hot Spring), Shamal Lungpa, Changlung Barma Pass, Nischu and Lingzi Tang.

The people of Ladakh had also been for centuries exercising pasture rights right up to the traditional frontier in this area. The inhabitants of Phobrang, Lukung, Muglib, Man and other villages in the Tanktse Ilaqa of Ladiakh have been visiting Kyam (Hot spring), Kongka Pass and the Chang Chenmo valley right up to the Lanak Pass, for grazing their goats and sheep. Further south the graziers visited during winter Suriah, Khurnak, Omalung, Dambuguru, Niagzu, Chumesang, Migpal Yogma, Migpal Kongma, Damjor, Sachuk Kongma, and Dokpo Koxpo. The pastures in the Spanggur area have been the close preserve of the inhabitants of Chushul; and the pastures of Keegunaru valley were utilised by the Koyul people. Similarly, the inhabitants of Ranle and Rupshu Ilaqas have always been using the pastures lying south of Chumar up to the Chepzelung and Kumsanglung streams on either side of the Pare River. This customary and unbroken use of pasture lands right up to the alignment by the inhabitants of Ladakh was so striking that in 1875 Frederic Drew, in his book *The Jummoo and Kashmir Territories, A Geographical Account*, wrote that the boundary line

"divides pasture lands frequented in summer by the Maharaja's subjects from those occupied by the subjects of Lhasa." (Chapter 22, page 496). It might be added that Drew had been employed in Kashmir and had visited these areas as in 1870-71.

The Gazetteer of Kashmir and Ladakh, published in Calcutta in 1890, also made this point. It stated on page 256: "The Chang Chenmo valley is the great autumn grazing grounds for the flocks from Lukung, Phobrang and Tanktse districts; occasionally great loss is sustained by an unusually early fall of snow, for the grass, which though nourishing, is at all times scanty, becomes quickly covered up and the animals die of starvation before they can be brought over the Marsemik into milder regions".

Another form of evidence showing that the Indian alignment in this area was the customary one was provided by the hunting expeditions that went to these areas in search of game. In 1872, for example, W. H. Johnson, the Wazir Wazarat of Ladakh—that is, the Governor of Ladakh appointed by the Maharaja of Kashmir—reported to the Dewan (the Chief Minister) that a certain Captain Fennay Fower from Meerut had come to Ladakh and gone to the Chang Chenmo for shikar (hunting), leaving one of his servants with the dogs in Ladakh. (Photostat 1).

Twenty years later, in 1892, there was another report from the Wazir Wazara: "at of Ladakh that Lt. James and Lt. Senbeek had returned from the Chang Chenmo after hunting expeditions. (Photostat 2). In fact, in 1905, there was a complaint from the Wazir Wazarat that so many hunting expeditions were going into Chang Chenmo and so many able-bodied Ladakhis were accompanying them that as a consequence the work of the administration was suffering. It was stated that in 1905, 17 men had gone to Chang Chenmo on shooting expeditions and taken away about 50 villagers for four to six weeks. The Settlement Officer suggested that not more than six men should be allowed to go on shooting expeditions in the

Chang Chenmo, they should go in two batches, and their expeditions should not last for more than a month. (Photostat 3). (The Indian side cited these extracts from official records not at this stage as proof of Administration and Jurisdiction, but as evidence of the customary basis of the alignment). There were also references in published works to hunting expeditions in this area. Alexander Kinloch in his book *Large Game Shooting in Tibet, the Himalayas, Northern and Central India* (Third edition published in Calcutta in 1872), stated that he had visited the Chang Chenmo valley in 1861, in 1862, in 1864 and in 1870 (pages 119 to 120).

C. S. Cumberland, in his book *Sport on the Pamirs and Turkistan Steppes*, published in London in 1905, stated on page 6, that he had hunted antelopes in the Chang Chenmo valley, and on page 18 that he had gone on a yak-hunting expedition further north. He said that he crossed the Shyok River, went across the Depsang plains and right up to the Qara Tagh Pass. Lady Jenkins, in her book *Sport and Travel in both Tibets*, published in London in 1909, described her hunting expedition in the Chang Chenmo valley and said she refrained from hunting yaks west of Lanak La because the Maharaja of Kashmir was a good Hindu, and had prohibited the shooting of yaks, which were a sort of cattle (page 58).

R. L. Kennion, in his book *Sport and Life in the Further Himalaya*, published in London in 1910, stated that the antelopes had practically - been hunted out of existence "in the Chang Chenmo and adjacent valleys of Ladakh on the northern Kashmir frontier". (page 227). He added on page 271 that the yaks also had almost disappeared from the Chang Chenmo district in Ladakh. He himself hunted in the Khurnak area and he mentioned that the boundary lay between the two halves of the Pangong Lake. "Of its 80 or 100 miles in length half is in Tibet Draper and the remaining westerly half in Ladak. There are really two lakes, but these are connected in the middle

by a winding canal like waterway, opening here and there into lagoons, in most parts not more than thirty feet across". (page 298).

The Indian side then quoted a passage from *The Game Animals of India, Burma, Malaya and Tibet* by R. Lydekkex (the second revised edition by J.G. Dollman) published in London in 1924. He stated that in Ladakh the great district fox yak was the Chang Chenmo valley, but these animals were yearly becoming scarcer within the territory of the Maharaja of Kashmir (page 81). He also stated on page 187 that the Chang Chenmo valley "in north eastern Ladak" was the favourite hunting ground, for the chiru, the name for the local antelope.

The Indian side finally tabled a quotation from the book by G. Burrard published in London in 1925: *Big Game Hunting in the Himalayas and Tibet*. He stated on page 239 that the only spot in Indian territory in which the chiru antelopes were ever found was the Chang Chenmo valley, "They do not come into Chang Chenmo in any numbers until July, when considerable herds cross over from Tibet by the Lanak La." This statement was evidence that the Chang Chenmo valley was in India, that the alignment was, apart from other things, a customary one, that the area referred to was utilised for shooting and that the boundary lay at Lanak La.

Another form of evidence which substantiated the customary basis of the Indian boundary was the fact that the area right up to the boundary was traversed by traders. In fact, the roads in this area were partially constructed by Indian traders.

The Chang Chenmo valley, the Lingzi Tang plains and the Aksai Chin area were crossed by two well-known caravan routes which had, for decades, been used by the people of Ladakh for purposes of trade with the Sinkiang region. The routes lay from Leh to Tanktse and to Pamzal on the Chang Chenmo river. There were also other routes from Phobrang, Lukung and other places in the Pangong region to Pamzal. From Pamzal there were two

main caravan routes; one called the Eastern Chang Chenmo route along Nischu, Lingzi Tang, Lak Tsung, Thaldat, Khitai pais, Haji Langaa and along the Qara Qash valley to Shahidullah; the other main route called the Western Chang Chenmo route, from Pamzalalong Shamal Lungpa and Samzung Ling to Dehra Gompa and thereafter along the upper valley of the Qara Qash river to Qizil Jilgaand Chungtash and then through the Qara Tagh Pass and the Chibra valley to Malikshah (Ak Tagh) and Shahidulla. The Kashmir State authorities looked after the maintenance of these routes right up to the traditional boundary and even built rest houses and store houses for the benefit of the traders using these routes. Evidence of this would be brought forward later under Item 3. At this stage, the Indian side submitted old documents written by trading parties giving a detailed description of the various stages on these routes and their general condition to show that customary Indian trade routes lay through this area. The first document was a photostat of an original report drafted by one of these trading parties in 1868 A.D. and describing the eastern Chang Chenmo route. Item 9, for example, in this report said:

"Nomads from Pangong (Phobrang) visit this place (Gulni south of the Cliang Chenmo river) with their flocks of sheep and goats and camp at Pamzal. Fuel and grass are plentiful at this place. After crossing Chang Chemno river and after traversing a distance of six miles one reaches Gogra which is also on the bank of the river Pamzal. Fuel, wood and grass are in plenty. Kiam is situated at a distance of 8 miles from Gogra. Big personalities visit this area for hunting wild horses." (Photostat 4).

The second document was again a detailed statement dated 1868 A.D., by Syed Akbar Ali Shah, the Wazir Wazarat of Ladakh, giving information about the various stages and the condition of the road along the route from Gogra to Nischu, Lak Tsung and Thaldat to the Qara Qash river(photostat 5).

TREATY BASIS OF THE INDIAN ALIGNMENT IN THE WESTERN SECTOR

The Indian side had already shown that the boundary of Ladakh with Sinkiang and Tibet, like the rest of the northern boundary of India, was a natural, traditional and customary boundary which has been well-recognised for centuries by both sides. In addition to this delimitation by historic process, the Ladakh-Tibet boundary received at least twice, in 1684 and 1842, the further sanction of confirmation by treaty.

At first an independent state, in 1664 Ladakh became a part of the Mogul Empire. During 1681-83 a mixed force of Mongols and Tibetans invaded Ladakh, but it was driven out by the Ladakhis with the aid of the Mogul Governor of Kashmir. In 1684 a treaty of peace was concluded. The Prime Minister of India cited this treaty in his letter of 26 September 1959; He pointed out that this treaty between Ladakh and Tibet stated that:

"the boundaries fixed in the beginning, when Skyid-Ida-ngeema gon gave a kingdom to each of his three sons, shall still be maintained.

The Chinese Government did not question the authenticity of this treaty in their note of 26 December 1959, which was a reply to our Prime Minister's letter of 26 September 1959; nor indeed did they question it at any time in the correspondence between the two Governments. It was only at the 17th meeting of the officials at Peking, on 22 July, 1960, that for the first time the Chinese side cast doubt on this treaty and said that its very existence was still in question.

However, the authenticity of the 1684 treaty was beyond doubt.

The Chinese side had said that this treaty was not mentioned in contemporary Tibetan books or in Francke's edition of the Antiquities of Indian Tibet. This, however, was not correct. The biography of bsod-nams-stobs-rgyas of Polha, written in 1733, referred, although in its own involved

way, to the peace that had been concluded in 1684. It said that Galdan, "thinking of the true weal of religion and looking for the future upon the sphere of compassion towards the enemy Chieftains", gave back to the King seven fortified towns in Ladakh, among which Leh, Spituband Krigtse were mentioned by name. In other words, an agreement regarding the territories to be held by the two parties was arrived at. Full details of the treaty were

given in the Ladakhi chronicle *La dvags rgyal rabs* translated by Francke - on pages 115-116 of Volume II. The Indian side had already, in their statement at the last meeting held in Peking on 25 July 1960, shown that this part of the chronicle as edited by Francke was authentic in that the text was based on B manuscript; and they did not, therefore, repeat the argument. The full English translation of this treaty of 1684 was published as far back as 1890 and had been accepted by scholars throughout the world. The Indian side handed over the text of this treaty in English translation. The relevant article which, as had already been said, was cited by the Prime Minister of India on 26 September 1959, stated that "the boundaries fixed in the beginning. ...shall still be maintained." So, even at that time, in the 17th century, the boundaries of Ladakh were obviously well known; and the treaty of 1684 did not find it necessary to define them, but spoke only of maintaining what had been fixed in the beginning.

That the treaty of 1684, far from being a document whose existence was in doubt, was still valid agreement and binding on Tibet was shown by the fact that the other provisions of the treaty were still in operation. The treaty provided for the return to Tibet of Ngari Khorsum which had been annexed by the ruler of Ladakh in 1640. "But the King of Ladakh reserved to himself the village of Monthser in Ngarees-khorsum that he may be independent there and he sets aside its revenue for the purpose of meeting the expense involved in keeping up the sacrificial lights at Kang-ree and the holy lakes

of Manasarwar and Rakas Tal." Minsar, the sovereignty of which Ladakh thus retained, was administered since the 1684 treaty, at first by the Ladakh authorities and after 1841, when Gulab Singh annexed Ladakh, by the Kashmir Government. It was administered by the Kashmir Government right up to our own time. Evidence of this administration would be brought forward under Item 3 of the agenda. At this stage it would suffice to show that it was evidence of the validity and binding nature of the 1684 treaty, a proof of the old treaty being honoured. Prime Minister Nehru mentioned this to Premier Chou En-lai on 22 April 1960, and Premier Chou En-lai agreed on 23 April that the Kashmir Government had been collecting taxes at Minsar.

Furthermore, the other articles of the treaty such as those relating to trade and the exchange of Lapchak and Chaba Missions were in continuous operation from 1684 through the 18th and 19th centuries right up to our own times. This was further proof not only of the authenticity of the original agreement, but also of its recognition by the Chinese and Tibetan Governments.

The second confirmation by treaty of the traditional Ladakh-Tibet boundary was in 1842. Between 1834 and 1841 Ladakh was conquered by Gulab Singh of Jammu, then a feudatory of the Sikhs, and annexed to his kingdom. In 1841, one of Gulab Singh's generals, Zorawar Singh, invaded western Tibet. He was defeated and killed, but when the Tibetans, with the aid of the Chinese troops despatched by the Chinese Emperor, advanced to Leh, they were in their turn driven back. A peace treaty was signed in 1842 by Kashmir and Ladakh on the one hand, and Tibet and China on the other. The treaty of 1842 was in the form of an exchange of documents embodying the undertakings given by each side to the other. So the Kashmir Government were in possession of the undertaking given by the Tibetan and Chinese authorities, and the Tibetan Government were

doubtless in possession of the undertaking given by the Kashmir Government. The treaty in the possession of the Kashmir Government had been published in Aitchison's *Collection of Treaties, Engagements and Sanads* (1909 Editions). The Tibetan Government supplied to the Indian Government in November 1921 a copy of the text in their possession. The substance of both versions was the same restoration of peace, non-interference in each other's territory and facilities for trade. The Chinese side, at the meeting on 22 July 1960, read out certain passages from the two notes exchanged and said that this was an agreement of mutual non-aggression, and the Chinese side could not see how from this exchange of notes the Indian Government could arrive at the conclusion that the boundary between Ladakh and Tibet had been confirmed. Even in this were an agreement of mutual non-aggression, it assumed the specific location of boundaries. Ladakh and Tibet could not have agreed to "each administer its own territory within its own compound" (to quote the version as given by the Chinese side) if they did not know how far exactly their territory extended or what were the limits of their compounds. Had the Chinese side, however, read out the full texts of these two documents, it would have been clear that the notes exchanged not merely dealt with mutual non-aggression, but also stated explicitly that the boundary between Ladakh and Tibet was well known and that this boundary was being confirmed. Indeed, it was in connection with the boundary that the Tibetan Government cited this treaty in their letter of 22 November 1921. The Tibetan and Chinese representatives assured the authorities of Ladakh and Kashmir:

"We shall neither at present nor in future have anything to do or interfere at all with the boundaries of Ladakh and its surroundings as fixed from ancient times and will allow the annual export of wool,

shawls and tea by way of Ladakh according to the old established custom."

So Tibet and China agreed that the boundaries of "fixed from ancient times" and would be maintained. The Kashmir and Ladakh authorities on their part promised the Tibetan and Chinese authorities:

"We shall remain in possession of the limits of the boundaries of Ladakh and surrounding dependencies, in accordance with the old custom, and there shall be no transgression and no interference beyond the old, established frontiers. We shall remain within our own limits and boundaries."

This was a true translation from the Persian text of the treaty, a copy of which the Tibetan authorities had supplied in 1921. This was again a solemn assurance by the Kashmir and Ladakh authorities that the boundaries of Ladakh were well-known and "old established" and they were once more being formally confirmed. The Indian side supplied the texts of the two notes exchanged in 1842.

These two treaties of 1684 and 1842, therefore, confirmed the traditional boundary of Ladakh. Tibet was a party to the 1684 treaty, and both Tibet and China were parties to the 1842 treaty.

At the 16th meeting at Peking on 20 July, the Indian side quoted a passage from the reply of the Chinese Imperial Commissioner at Canton to the British Government on 20 January 1847 stating that there was an 'ancient frontier between Ladakh and Tibet, and it was needless to establish any other. A week earlier, on 13 January 1847, the same Chinese official had written to the British Government regarding the boundaries between Ladakh and Tibet:

"Respecting the frontiers, I beg to remark that the borders of these territories have been sufficiently and distinctly fixed so that it will be

best to adhere to this ancient arrangement and it will prove far more convenient to abstain from any additional measures for fixing them." In other words, the Chinese official said that not merely was the boundary known, but that it was distinctly and sufficiently fixed and there was no divergence of opinion as to where it lay. Therefore, nothing more was needed to be done in this respect. The Chinese Government have accepted the authenticity of these statements by their official in 1847. They have, however, argued that this ancient frontier which was sufficiently and distinctly fixed was the alignment as claimed by the Chinese side. But the point that the Government of India wish to make by citing these statements of the Chinese Imperial Commissioner is that even in 1847 the customary and traditional boundary between Ladakh and Tibet was well-recognised and did not require, even according to the Chinese Government, any further confirmation. As to the exact location of this alignment, other evidence had been produced to show that it lay where Indian maps were now showing it.

The Chinese side sought to explain away these statements of the Imperial Commissioner on the ground that they were made shortly after the Opium War when the intentions of Britain were highly suspect. But this could not explain why the Chinese Government should have accepted both that the boundary between Ladakh and Tibet was an ancient one and that it was sufficiently and distinctly fixed and nothing further was required to be done. Again in 1852, an agreement was reached between the local Ladakhi and Tibetan officials of the area, Thanedar Bastiram of Ladakh and Kalon Rinzin of Rudok, confirming the existing boundaries, as there had been a local dispute. "The boundary between Ladakh and Tibet will remain the same as before". The text of this agreement also was supplied by the Indian side. The Chinese side mentioned in this connection that the area in the Western Sector claimed by China for the most part belonged to Sinkiang and,

therefore, these treaties between Tibet and Ladakh, to one of which China 'was jointly a party, were not of relevance. The Indian side had already produced sufficient evidence, especially Chinese maps from the 6th to the 19th century, to show that Sinkiang had never extended south of the Kuen Lun mountains. They had also brought forward a number of accounts by travellers and other independent authorities to show that the boundary between Ladakh and Tibet lay at Lanak La. Further evidence would be produced under Item 3 to show that Indian administration and jurisdiction were exercised in these areas and Chinese authority had never extended to it.

The Chinese side asserted that in 1899 the Indian Government had again proposed "to delimit" the boundary between Sinkiang and Tibet but none of these proposals had been accepted by the Chinese Government. The submitting of these proposals was in itself said to show that the boundary had not been delimited; and it was argued that the fact that these proposals were resultless showed that the boundary question had not been settled. This was not a correct statement of facts. As the Indian side had already shown the Chinese response to the British proposals of 1847 was, that the boundary was well-known and did not require any further confirmation. It was not that the boundary question was unsettled but that there was no boundary question to settle. Between 1847 and 1899 there were no proposals for any further formal definition.

In 1899 the British did not propose to delimit the boundary between Ladakh and Kashmir on the one hand and Tibet on the other. As there had been some discussion regarding the status and rights of the ruler of Hunza, the British Government gave a description of the northern boundary of Kashmir with Sinkiang. It was stated explicitly in that context that the northern boundary ran along the Kuen Lun range to a point east of 80° Longitude, where it met the eastern boundary of Ladakh. This made it clear beyond

doubt that the whole of the Aksai Chin area lay in Indian territory. The Government of China did not object to this definition of this boundary. If nothing came of the 1899 proposals, it was not because the Chinese Government declined to recognise the boundary according to the traditional alignment shown on Indian maps, but because even then they did not seem to consider necessary any formal definition of what was a well-known and well-recognised boundary in this area.

The Chinese side then referred to the negotiations held between the Indian Government and the Tibetan authorities during the years 1919 to 1927. These proposals as had already been pointed out by the Government of India in their note of 12 February 1960 were merely for the determination of the ownership of a few pasture grounds in one particular area north of the Pangong Lake. There was no dispute about the main alignment, let alone a demand for its determination. In the statement signed jointly by Reghci Pa Garpon and Motabir of Garpon on the Tibetan side and Major Robson and Wazir Feroze Chand on the Indian side on 9 August 1924, it was stated:

"The Garpon of Gartok relying upon the statement of Zamindars of Ujang states that the boundary should be fixed along the hills, i.e. from Kie Gang La along the crest of the hills right upto Niagzu. From Niagzu the boundary runs to Thole Konka from which it proceeds along the crest of the ridge which ends at the point named Gaponaga thus including the whole of the grazing plot of Ote and Khurnak Fort, also Dokpo Karpo, together with the three minor Nala viz., Mipal Gama, Mipal Yagma, Rong Goma in Tibetan territory."

This made it clear both that the point of dispute at the time was only the alignment in one short particular sector and that even in this sector the Tibetan claim was not as extreme as the present Chinese claim.

COMMENTS ON THE WESTERN SECTOR UNDER ITEM 2

Under this item, the Chinese side cited a number of official maps and statements by Government spokesmen, which they apparently felt would support their claim. However, according to the agenda pattern which; both sides have agreed; upon, the material to be furnished under the Second Item should be of a historical and legal nature and! not official maps or statements. The Indian side had at the start urged strongly that the unit y of evidence would be best maintained if discussion of all evidence, whether official or unofficial, in relation to a particular sector was completed before proceeding to the next sector. It was the Chinese side which insisted that this should not be so, and in face of their emphatic persistence the Indian side reluctantly accepted the Chinese proposals.

Once this broad agenda had been accepted, the Indian side wished to adhere to it instead of seeking to change it at a later stage; and they therefore did not bring forward under Item 2 any evidence of an official nature. It was. pointed out that such evidence was available in great volume and would be brought forward under Item 3. At that time the Indian side would also prove how the evidence of an official nature brought forward by the Chinese side under Item did not in fact support the Chinese case.

Jammu and Kashmir.-The Chinese side said that it was not appropriate for the officials of the two countries to discuss the boundary alignment west of the Karakoram pass. The Indian side replied that as already stated, the entire State of Jammu and Kashmir was a part of India. It was, therefore, right and relevant to bring forward evidence in respect of the area between the correct alignment shown on Indian maps, and that to the south of it claimed by the Chinese side. The Indian si de had therefore made a short statement summarising the evidence in tradition and custom supporting

this alignment, and were) willing to bring forward detailed evidence if required.

Evidence in Tradition supporting the northern and eastern boundaries of Ladakh as shown on Indian maps.

The Chinese side sought to refute the evidence brought forward by the Indian side regarding the traditional and customary basis of the Indian boundary alignment in the Western Sector rather than to provide any positive evidence of tradition and custom in support of the alignment claimed by them. However, the Indian side showed that the Chinese side had not succeeded in their efforts.

The Indian side stressed that the evidence regarding the traditional and customary basis of the Indian alignment had, apart from the specific significance of each item, totality of strength. Various items, each substantiating the Indian alignment in particular sectors, also when taken together, provided an overall foundation for the alignment. This was particularly because these items of evidence had not expressly the alignment in view. In fact they were primarily concerned with other matters and only indirectly substantiated the alignment; but the fact that the evidence was indirect made it all the more important and stronger. It was evidence which could not be construed as having a deliberate or official purpose in mind.

The Chinese side asserted that till the 19th century Ladakh had been a part of Tibet. But the Indian side had no difficulty in showing that Ladakh was an independent State till the 17th century when it became a part of the Mogul Empire. During the years 1834-1941 it was conquered by Gulab Singh of Jammu and in 1846 it came under the suzerainty of the British Government in India.

The Ladakhi chronicle, *La dvags rgyal rabs*, made it very clear that King Ngeema-gon by his partition of his territories between his three sons gave to each of them a separate kingdom. Four out of five Ladakhi manuscripts state this clearly; and even the Chinese side did not question the authenticity of this passage, However, they contended that this partition was a division into manorial estates. But the word used in this sentence in the Ladakhi chronicle *Ngairi* means area under dominion or rule, that is, equivalent to a kingdom and not a vassal estate. This meaning of *Ngairi* is confirmed by the following sentences in the chronicle which list the areas given to the three sons and! say that they have been *Ngaitse*. This word, *Ngaitse*, has only one meaning-sovereign authority, absolute rule or control. So it is clear that the three sons were given independent kingdoms in the 10th century, and after the partition they were not under any .central authority.

The Chinese side asserted that while this partition had been dealt with in certain Tibetan works,-the *History of Buddhism* written in the 14th century, the *Blue Annals* of the 15th century and the *History of the Kings and Ministers of Tibet* of the 17th century-they did not mention the boundaries of the three States. But these works were religious histories of a general nature which dealt very briefly with political history, and they could not be expected to give details of boundaries. The *Biography of the Fifth Dalai Lama* is a secondhand authority as far as the early political history of Tibet is concerned, and merely gives a little information drawn from the other books. The fact, therefore, that these works did not mention the boundaries is no proof of their non-existence. In fact a passage in the *Blue Annals*, cited by the Chinese side themselves states clearly that the elder son who secured *Maryul* became an independent sovereign. This translation of the text has been declared to be the correct one by the well-known Soviet scholar, the late Professor George Roerich.

The Chinese side also quoted another Tibetan work –The Biography of Atisha - to suggest that the three sons were given only estates which were parts of a unified domain; but the passage clearly stated that the region was called Ngari not after the division among the three brothers, but even before that. Far from this passage making clear that these three sons were only given estates, it stated clearly that the territories were handed over to them with full powers.

The efforts made by the Chinese side to show that Ladakh remained a part of Tibet after the tenth century and right upto the 19th century were also effectively shown by the Indian side to be" unconvincing and based on no evidence. The Chinese side quoted a passage from the Dynastic History of the Yuan period which refers to the posting of Chinese officials to Wu Ssu Tsang and Na Li Su Ku Lu Sun. But this quotation could not show that Ladakh was a part of China, for Wu Ssu Tsang was not Ladakh; and the reference to Na Li Su Ku Lu Sun, while it might show that Ngari was a part of China in the 13th and 14th centuries, did not prove that Ladakh was a part of China, for it 'had not been shown that Ladakh had been a part of either Ngari or Tibet. It was their which required to be proved if the Chinese case was to have any weight at all.

The passage from the Biography of Polha (1733), also quoted by the Chinese side, was clearly unconvincing. This was a religious work which showed that there was recognition only of Tibetan spiritual primacy and not any form of political submission to Tibet.

The political frontiers of Tibet and the limits of Lamaist Buddhism could not be assumed to coincide automatically. It could not follow, merely because a theocratic system existed in Tibet, that all areas where Lamaist spiritual influences were found were parts of Tibet.

This obvious position was enunciated at the Simla Conference of 1914 by the Chinese delegate himself, and reiterated later by the Chinese Minister for Foreign Affairs.

The Indian side found it astonishing that the Chinese side persisted in their untenable contention that Ladakh was a part of Tibet upto the middle of the 19th century and that till then the Ladakh-Tibet boundary merely denoted the limits of a feudal estate. It was not such an estate that Ladakhi chronicle described when it narrated holy King Tsetang Namgyal conquered Guge and Purang in the 16th century, and how later one of his successors, Senge Namgyal conquered Rudok. A detailed contemporary description of this has also been given by an independent observer, Andrade, who was there at the time. The Alamgir Nama, the official history of the reign of Aurangzeb, has also recorded the circumstances in which Ladakh became a part of the Mogal Empire in the 17th century. The French traveler, Bernier, confirmed this; so too did Desideri, who was in Ladakh in 1715, and stated explicitly that Tibet had no control at all over Ladakh.

The Chinese side stated that references in these, historical works to Kings of Ladakh in the years after the 10th century need not mean that these Kings ruled over independent Kingdoms; and the Chinese side sought to draw a parallel between the Rajas of Ladakh and the Indian Princes in the period of British rule. The Indian side, however, had no difficulty in showing that this was a totally incorrect analogy. To mention but one major, difference between the position of the rulers of Ladakh and the Indian Princes under British paramountcy, the latter had no right to make peace or war or to conduct foreign relations.

The Chinese side quoted another passage from the Ladakhi chronicle, that "if at the frontier the King of La-dvags does not prosper, Bad (Tibet) also cannot enjoy prosperity", and suggested that this showed the subservient status of Ladakh to Tibet. But the passage, with its distinct reference to the

King of Ladakh, showed correctly the independent status of Ladakh. When it spoke of the Tibetan: Government feeling that if Ladakh did not prosper Tibet could not prosper, it obviously meant that Ladakh and Tibet were two separate independent states and the Tibetan Government were interested in the fortunes of a fellow-Buddhist ruler.

The Chinese side also cited a passage in the *Ta Ch'ing yi ting chih*, (1820) to support their contention that Ladakh was a part of Tibet. But it was pointed out by the Indian side that Ch'ing works of this period are of little use regarding the position of Ladakh and other areas south of the Kuen Lun mountains, as their authors had little knowledge of them. For instance, the *Ta Ch'ing* map of 1863 showed Rudok and Ari as parts of Ladakh and marked the boundary between this whole area on the one hand and Tibet on the other. But the Indian side were not, on this basis, laying claim to Rudok and western Tibet.

The Chinese side argued that *Lapchak* formed a tribute paid by Ladakh to Tibet and that this subservient was confirmed by the provision of *Ula* to the Tibetans travelling in Ladakh. It was clear that if the Chinese side regarded this as evidence of the political subordination of Ladakh to Tibet, they had misunderstood the import of these arrangements. *Lapchak* denoted the annual exchange of presents between Ladakh and Tibet, and its significance became clear when it was remembered that the presents were sent by both sides. It was not a one-sided arrangement. *Chaba* missions came from Lhasa to Ladakh. Similarly, *Ula* or the right of *begar* or free labour was enjoyed not merely by Tibetan traders in Ladakh but also by Ladakhi traders in Tibet. *Lapchak* and *Ula* have, therefore, no political significance. The Chinese side quoted with approval a statement by Burrard and Hayden, in *A Sketch of the Geography and Geology of the Himalayan Mountains and Tibet*, that Ladakh was a Buddhist province subject to Lhasa. The reference was obviously to the religious supremacy of the Dalai Lama. In any case,

this, book had always been known to be full of errors and it had not been accepted by scholars as a work of accuracy. In a review of this book, Professor Kenneth Mason, as far back as 1935, pointed out many "controversial" and "inaccurate" statements in it and refused to regard it as a serious contribution to this subject.

A brief reference in this book to the effect that Moorcroft regarded Ladakh as a part of Tibet was also quoted by the Chinese side. This was obviously one of the glaring errors in this work, for Moorcroft himself described at length how Ladakh became part of the Mogul Empire. This detailed account of Moorcroft tallied fully with that in the Alamgir Nama.

If the Chinese side claimed that Ladakh was a part of Tibet till 1846, then the boundary between Ladakh and Tibet claimed by China ceased to be the traditional customary boundary between the two countries. It would be the boundary between Ladakh and the rest of Kashmir on the west that would, in fact, be the international boundary. The alignment along the Karakoram mountains, even if it were the boundary between Ladakh and Tibet, instead of being ancient and traditional as claimed by China, would be only a hundred years old. There was a glaring inconsistency between the Chinese claim to the alignment now being shown by them as the traditional and customary line, and their argument that Ladakh had till about a hundred years ago been a part of Tibet. The very success of any argument that Ladakh had been a part of Tibet till the 19th century would destroy every claim to a traditional and customary basis for the alignment now being shown by China. For if the boundary, between Ladakh and Tibet had only a short history of a hundred years as an international boundary, then by very definition it could not be a traditional and customary alignment. Again, all the evidence of the Chinese side brought forward concerning the years before 1846, including the alleged viewpoint of Moorcroft, would have no validity.

Nor again would the Viceroy of Canton have been speaking in 1847 of "ancient frontiers" if they had been barely 12 months old.

However, the Chinese side could not be serious about this claim which was contradicted by the evidence they themselves had brought forward. For example, a document of 1753 as quoted by the Chinese side, referred to "the boundary of the King of Tibet with the King of Ladakh". This passage proved that Tibet and Ladakh were both separate independent kingdoms.

Treaty Basis of the Indian Alignment

The Indian side could not accept the Chinese contention that a boundary could be considered as delimited only if it had been defined through diplomatic exchanges and jointly demarcated on the ground. Under international law, a traditional and customary alignment which followed well-known natural features and had been recognised by both sides for centuries, was validly delimited and required no further or formal definition. However, the Indian side showed that this traditional alignment had been confirmed by treaties and diplomatic exchanges. The Chinese side sought to refute this evidence, but here again they were unsuccessful.

The Chinese side stated that the translation of the treaty of 1684 as quoted by the Indian side was different from that of Francke, thereby suggesting that both these translations were unreliable and that the existence of the treaty itself was doubtful. It was pointed out that there was no difference whatsoever in substance between Francke's account of the treaty of 1684 and the English translation given by the Indian side. As the Chinese side wanted further information of the circumstances when the treaty was signed, it was stated that the King of Ladakh at that time was Delegs Namgyal and the Plenipotentiary from Tibet was Mepham Wangpo. The Chinese side cast doubts on the reliability of manuscripts Band C used in Francke's edition of the Ladakhi chronicle but failed to state on what

grounds they questioned the reliability of the particular passage taken from that manuscript. The text was based on B manuscript which was an authentic account of the history of Ladakh. Manuscript C, which was also reliable, had been used for purposes of comparison. A full translation of the treaty of 1684 was published as early as 1890 and had been accepted by scholars.

The Chinese side stated that some of the places mentioned in the Ladakhi chronicle could not be identified while in the case of others, the identification given by the Indian side was open to doubt.

The Indian side replied that a sufficient number of places on the border had been identified correctly to show that it conformed to the traditional alignment of the boundary as shown on present Indian maps. The identification, as given by the Indian side, of place names in the Ladakhi chronicle was the one generally accepted and the Chinese side were asked to indicate specifically which of these they questioned, and to state what their identification of these places would be. No answer was forthcoming to either of these questions.

The Chinese side quoted the account of the Ladakh-Tibet war of the 17th century in the Biography of Polha (1733) and concluded from this that no such treaty as that of 1684 had been concluded. The extract as translated by the Chinese side, however, made it clear that there was a war between Ladakh and Tibet in the 17th century and that it was ended by a peace settlement which was favourable to Ladakh. The reference to the conclusion of an agreement regarding the territories to be held by the two parties, and the surrender of seven forts to Ladakh, was obviously a reference to the treaty of 1684.

The Chinese side contended that Sinkiang had not been a party to this treaty of 1684. This, however, was not relevant, for sufficient evidence had

been provided by the Indian side to show that Sinkiang had never extended south of the Kuen Lun mountains.

The Indian side pointed out that the doubting of the authenticity of the treaty of 1684 - by the Chinese side was a new development. The treaty of 1684 had been quoted by the Prime Minister of India in his letter of 26 September 1959 and the Chinese Government had not questioned its authenticity in any of their subsequent communications. It was only during the present discussions, on 22 July 1960, that this was done for the first time.

Far from being a document whose existence was in doubt, this treaty was still valid and binding on Tibet. The Chinese side themselves had referred to the Lapchak missions, which had their origin in this treaty. Again, it was on the basis of this treaty that Minsar had been administered by the Kashmir Government right upto our times, as mentioned by Prime Minister Nehru to Premier Chou En-lai and accepted by the later at their meeting on 23 April 1960. The Chinese side stated that Premier Chou En-lai's statement on Minsar had been wrongly interpreted; but when asked to state what in that case was the correct Interpretation of the Chinese Prime Minister's statement, they gave no answer.

The Chinese side claimed that the treaty of 1842 was an agreement of non-aggression. The Indian side pointed out that in fact the notes exchanged not only dealt with non-aggression but also stated explicitly that the boundary between Ladakh and Tibet was well-known, and confirmed that boundary. But even if it were only an agreement of non-aggression, Ladakh and Tibet could not have agreed to maintain their existing boundaries if they did not know how far exactly their territory extended and what its limits were. As the Chinese side had correctly stated, the 1842 treaty did not determine the boundary; this was because there was no need for

further determination of a boundary that was even then well-known and recognized by both sides.

The Chinese side raised the issue of Sinkiang not being a party to the treaty of 1842 (though in another context they claimed that China herself had been a party). As the Indian side had already produced sufficient evidence to show that Sinkiang had never extended south of the Kuen Lun mountains, here again whether Sinkiang had been a party to this treaty or not was irrelevant.

The Chinese side sought to argue that the 1847 correspondence between the Viceroy of Canton and Kwangsi and the Governor of Hong Kong and the Indian Government showed that the boundary in this sector had not been delimited. The facts were that in 1847, when the British Indian Government sought to discuss a small sector of this traditionally delimited boundary, the Chinese Government affirmed, through a very senior official, that the "ancient frontiers" between Ladakh and Tibet had been distinctly and sufficiently fixed and that there was no necessity to determine them further. The Chinese side did not explain how this could be construed as anything but an acceptance of the validity and certainty of traditional boundaries.

The Chinese side then argued that the "ancient frontiers" referred to by the Viceroy in 1847 formed the alignment now claimed by the Chinese side. The Indian side explained that the point they wished to make was that in 1847 the boundary between Ladakh and Tibet was well recognised and did not, according to the Chinese Government themselves, require further confirmation. As to the exact location of this alignment, other evidence had been produced by the Indian side to show that the traditional and customary alignment lay where the Indian maps were now showing it, and not where the Chinese side claimed it to be.

The Chinese side stated that the 1847 correspondence took place immediately after the Opium War and quoted a memorial from the Chinese Viceroy to the Peking Government wherein he had stated that the intentions of the British were suspect. The Indian side pointed out that this could have no bearing on the categorical affirmation by the Government of China that the boundary was ancient, and sufficiently and distinctly fixed and that nothing further was required. to be done about determining them. The only comment of the Chinese side on the treaty of 1852 was to state that only a translation of the document had been made available to them and that they could not say anything till they had seen the original. The Indian side pointed out that the genuineness of the 1852 Agreement could not be questioned merely because a copy of the Tibetan text of this agreement had not been made available to China last year in the course of the correspondence between the two Governments. The decision to study documents in support of the two stands had only been taken much later. In any case, a copy of the Tibetan version of this treaty, as preserved in the archives of the Government of Tibet and handed over by them to the Government of India on 27 August 1920, was now given to the Chinese side. No attempt was made to dispute the significance of this document. The Chinese contention that in 1899 the Indian Government had proposed to delimit the boundary between Ladakh and Tibet was shown to have no basis. The communication of the Government of India explicitly stated .that the northern boundary ran along the Kuen Lun range, and the Government of China did not object to this definition of the boundary. Consequent on a discussion regarding the status and rights of the Tuler of Hunza, the British Indian Government, in return for certain concessions, offered to transfer a part of the Qara Qash basin to China; but the then Chinese Government preferred to abide by the traditional customary alignment, thus proving the Indian case that the boundary lay where the Indian Governm.ent were now

showing it. The Chinese Government did not wish to sign any boundary agreement such as would, have been necessary if the traditional alignment had been altered. They preferred to adhere to the traditional alignment rather than sign a boundary agreement to their advantage.

It was, therefore, surprising that the Chinese side should view as absurd the explanation that the then Government of China wished to maintain the traditional alignment and not throw the whole question open by signing a fresh treaty altering it. In fact, the Chinese side themselves offered precisely such an explanation as to why the Chinese Government in 1847 had refused to discuss even one particular sector of the alignment. It was curious that the Chinese side should regard as absurd a statement that the Chinese Government acted in a rational manner in 1889.

The Chinese side referred to the negotiations between the Governments of India and Tibet during the nineteen twenties for the determination of the ownership of a few pastures in the vicinity of Pangong Lake as proof that the boundary was undelimited. In fact, there was no dispute about the alignment in general in this area, let alone a demand for its determination. The joint statement issued in 1924 by the Kashmiri and Tibetan representatives stated that the Tibetan side wanted the boundary to be fixed along the Kieu Gang La, Niagzu, Tholo-Konka and Gopa naga. This showed that even in this one particular small stretch under dispute the Tibetan claim was very far from the line at present claimed by China as the ancient and traditional frontier.

The Indian side also pointed out that no Chinese Government had ever disputed the validity of this traditional alignment till 1959, and in the circumstances this could only be regarded as acquiescence in and recognition of a delimited boundary.

Unofficial Chinese Maps

The Chinese side dismissed the many unofficial Chinese maps brought forward by the Indian side and showing the correct traditional alignment, as 'old' and 'crude', This was clearly no argument ,of any weight; but the Chinese side did not even maintain this : position consistently, for they themselves produced Chinese maps of the old style which were much cruder than those brought forward by the Indian side. These old Chinese maps were in fact valuable evidence of traditional boundary alignments, if not of geographical accuracy. They represented the views prevailing in the best informed circles of the period regarding the location of territorial limits. The Indian side showed that even the maps brought forward by the Chinese side in fact confirmed the traditional Indian alignment.

The Chinese side made a general observation that where the boundary was shown as long the Tsungling mountains in Chinese maps, these mountains should be identified as the Karakoram mountains. It was pointed out that this identification of the Tsungling mountains with the Karakoram mountains was incorrect, and sufficient evidence had been brought forward in the Indian statement (In the evidence substantiating the Indian alignment to show this. When the Chinese traveller Fa Hien stated that he crossed the Tsungling mountains, he was describing the Pamir section of the Kuen Lun line of mountains much to the west of the Karakoran Pass. The fact that a few British maps of the early 19th century mistakenly applied the term Tsungling to the Karakoram mountains could not invalidate Chinese maps drawn by men who knew the Kuen Lun region accurately, gave the name Tsungling to the Kuen Lun range, and correctly showed the traditional alignment as lying along these mountains. The Indian side promised to deal with official maps under Item 3. Here they contented themselves with pointing out that till 1865 British cartographers had no precise idea of northern Ladakh just as Chinese cartographers had known nothing of the areas south of the Kuen Lun mountains.

The Chinese side stated that they were not aware of the existence of any 6th century map and that the map brought forward by the Indian side did not appear to be as old as it was claimed to be. The Indian side explained that this 6th century Chinese map was from the Sui hsi yu tu chi of Pei Chu. The Indian side were prepared to give further details of this map if required.

The Chinese side gave an extract from the Hsu wen hsien t'ung k'ao stating that the Karakoram mountains touched Sinkiang and claimed that this supported their case. The Indian side felt this general statement was of no relevance to the Chinese claim. Even according to the traditional Indian alignment, at the Karakoram Pass Sinkiang reached upto the Karakoram mountains.

A Nei fu yu t'u map of 1760 was brought forward by the Chinese side as proof that the boundary lay along the Karakoram range.

The Indian side pointed out that actually this map showed the boundary as lying along a range of mountains immediately south of Khotan, from which the Yurung Kash and the Qara Qash were said to have their origin; and the mountain range immediately south of Khotan (Ho tien) was the Kuen Lun range and not any range of the Karakorams. Furthermore, the Yurung Kash had its origin in the Kuen Lun and not the Karakoram range. As regards the origin of the Qara Q-ash, it was well-known that till the beginning of the 20th century Chinese cartographers were unaware of the exact source of that river and regarded it as rising in one of the Kuen Lun ranges, Such ignorance of the real source of the Qara Qash river was reflected in even detailed maps such as the Ta Ch'ing map of 1899 which showed the sources of the Qara Qash east of Shahidulla and north of the Karakoram Pass.

The Chinese side dismissed as of no account the Hsi yu t'u chih, a map from which the Indian side had brought forward as evidence. This disclosed

a striking inconsistency, for the Chinese side themselves had elsewhere described the same work as "authoritative and comprehensive" and "covering all important material"; and they had cited a passage from the 1782 edition of the work which vaguely referred to the sources of rivers being in Ho-t'ien. The Indian side pointed out that no specific conclusions about the boundary alignment could be drawn from this general statement. On the other hand, the 1762 edition of this work clearly stated that the "Ho-t'ien river rises from the Nan Shan" mountains, which were the same as the Kuen Lun mountains. Another map in the same work categorically affirmed that Sinkiang did not extend any further south than the Sanjutagh, which was nearly 60 miles north of the Kuen Lun mountains. The Chinese side quoted a passage from the 1820 edition of the Ta Ch'ing yi t'ung chih to identify the Nimangyi mountains as the Karakoram range. The Indian side pointed out that this work proved exactly the opposite; for it showed the Nimangyi mountains are lying immediately, south of Khotan and it was the Kuen Lun and not the Karakoram ranges which were immediately south of Khatan. It also said that these mountains were the same as the Ho lang kwei and Ho shi mo tissu mountains. Ho lang kwei range was the Kurangu range of the Kuen Lun mountains. The Chinese side brought forward a map from the Ta Ch'ing hui tien tu of 1818 which showed the boundary along the Nimangyi mountains and claimed that this proved that the boundary lay along the Karakoram mountains. The Nimangyi mountains had already been shown to be one of the Kuen Lun ranges. The Indian side, In addition, pointed out that actually the map showed the Nimangyi mountains as immediately north of a desert, which confirmed that it was not the Karakoram but the Kuen Lun mountains. A map from the Chin ting hsin Chiang chih lueh of 1821 was also brought forward by the Chinese side to support their claim. The Indian side pointed

out that the legend on the map stated that one range of the Tsungling rises from the Seng-ge-ka-bab mountains, making clear that there was more than one range of the Tsungling; this interpretation was confirmed by the Chinese side, who translated the legend as stating that the Tsungling bifurcated. The branch that was thought to rise from the Seng-ge-ka-bab mountains was not marked on the map and only the Kuen Lun range was shown. Another map in this work clearly showed the boundary as along one of the northern ranges of the Kuen Lun mountains with both the Qara Qash and the Yurung Kash rivers cutting through that range. That the Tsungling mountains were one of the Kuen Lun ranges was further confirmed by the fact that the maps showed no other mountain range between it and the city of Khotan.

The Chinese side brushed aside the map in the Hsi yu shui tao chi of 1824 as of no account. The Indian side pointed out that this compilation was the work of Hsu Hsing Po of Ili, a noted cartographer with a thorough first-hand knowledge of the region. The Indian side had quoted only one of the many maps in this work. If, as the Chinese side affirmed, the map dealt with the Lop-nor area, the delineation of the boundary by a trained geographer with a first-hand knowledge of the area was of the highest value and relevance, particularly as he was not interested in the boundary alignment and was only showing what he knew to be factually correct. The fact that it was incidental evidence made it all the weightier.

The Chinese side also cited a passage from the Hsin chiang t'u chih of 1911, stating that the boundary beyond Kanjut turned in an east-west direction as supporting their claim. The Indian side pointed out that it was the Indian line and not the Chinese line which ran in this manner, and so this passage in effect confirmed the Indian alignment. This work also referred in another passage to Shahidulla being a part of Kashmir; and as Shahidulla was much to the north of the Kuen Lun mountains, Sinkiang did

not extend at that time even upto the Kuen Lun mountains, let alone south of it. The work referred also to the boundary along the Nimangyi mountains, and regarded the Ha ssu mo ti mountains as the source of the Qara Qash. This again showed the ignorance of the Chinese concerning the area south of the Kuen Lun even as late as the beginning of the 20th century, and confirmed the traditional alignment by showing that the Chinese had never come south of it. It also confirmed that the boundary lay along the Kuen Lun (Kurangu or Nimangyi) range.

Unofficial modern maps

The Chinese side summarily dismissed unofficial modern maps of Chinese and foreign cartographic organizations. The Indian side regarded this attitude as unacceptable. Such maps were the result of scientific research and the objective efforts of reputable cartographers and reflected the generally accepted understanding of the boundary alignment at the time that they were drawn. They therefore constituted powerful evidence of the traditional location of the boundary, especially when drawn by scholars of disinterested third countries or Chinese cartographers of distinction. Indeed, the Chinese authorities had themselves utilised these maps for various official purposes for centuries.

The Chinese side set aside the Atlas of the Chinese Empire (1908) brought out by the China Inland Mission and the New Atlas ,and Commercial Gazetteer published by the Far Eastern Geographic Establishment in Shanghai in 1917 as inspired by "imperialists". This was un tenable position. These publications were the work of persons who had first-hand knowledge of China and had based themselves on authoritative information. The Chinese Government had not at any time before objected to these detailed maps showing precise alignments and claiming to be based on 'authoritative official surveys. If the Chinese Government had

ever had any reservations or objections, it was impossible that they could have remained silent.

Regarding the map in the Atlas of the Chinese Empire brought out by the Commercial Press, Shanghai, one of the foremost publishing houses of China, in 1908, it was contended by the Chinese side that the map was unofficial and therefore inaccurate, and that the boundary had not been clearly marked. The value of scientific unofficial maps as evidence of traditional boundaries had been stated in such great detail earlier by the Indian side, and was in fact so well-recognised, that it did not require repetition. As for the contention that the boundary had not been clearly marked, it was sufficiently precise to indicate that in the Chang Chenmo and Pangong areas the boundary had been correctly shown. Besides, such maps in this atlas as showed both the Kuen Lun and the Karakoram mountains made clear that the boundary lay along the former.

The Chinese side stated that certain maps in the Peking University Atlas of 1925, cited by the Indian side, showed that after 1911 Aksai Chin was a part of China. However, this Atlas clearly showed in the map referred to 'by the Indian side .that China, when at its maximum extent before 1911, under the Ching Empire, had not included the Aksai Chin area. If the area was shown as part of China after 1911, it could only be on the basis of an arbitrary claim with no support in history, for nothing had happened, in 1911 or after 1911, to give support to such a claim.

Accounts of Foreign Travellers

The Chinese side brushed aside the precise and detailed accounts of the location of the boundary alignment by foreign travellers as unofficial and hence worth little consideration. The Indian side could not agree with the Chinese views on the value of the accounts of travelers as evidence. The Joint Communique of the Prime Ministers had regarded the examination of

these accounts as an important part of the work of the officials. There should be a scientific and factual appraisal of the documents furnished and no kind of evidence should be dismissed out of hand or set aside because of its origin.

The Chinese side pointed out that the statements by travellers and explorers represented their personal views. In fact, this enhanced the validity of their evidence. It was based on first-hand experience and gave precisely the location of the traditional boundary in various sectors. The fact that they were not just official views ensured their impartiality and lent them greater strength in substantiating the traditional and customary boundary alignment.

The Chinese side contended that as some books by foreign travellers referred in their titles to 'Tibet' or 'Turkistan', it showed that the entire area travelled by them lay in Tibet or Turkistan. The Indian side pointed out that the detailed data in these works should not be dismissed on such grounds, for authors gave general and epigrammatic names to books and no conclusion could be drawn from such names.

However, the Chinese side, regardless of the inconsistency of their position, quoted some accounts of travellers to support their own stand. They cited some vague statements from the works of Moorcroft and Cunningham. The Indian side pointed out that these statements were too vague and general to prove anything, though the works themselves were of value and the detailed quotations from them given by the Indian side, substantiating the Indian position, represented the opinions of Moorcroft and Cunningham more correctly. A passage from Hayward's article in the Journal of the Royal Geographical Society (1870) was also cited. But Hayward had surveyed only the western extremity of the Aksai Chin area and could not speak with authority for the eastern areas. In any case, he had only recommended the fixation of a boundary along the Karakoram and had not described the

actual location of the traditional boundary. He had not said that the line he suggested was the traditional customary line but had only advocated that it be fixed there for geographical and political reasons.

The Chinese side also quoted a passage from Drew's book, *Jummoo and Kashmir*, and said that it showed that the boundary was not delimited. But this quotation from Drew's book only showed that the boundary had not been demarcated on the ground. Drew further made it clear, both in his book and in the map attached to it, that the northern boundary of Kashmir stretched eastward upto a point east of 80° Longitude, and that Aksai Chin and Lingzitan were within India.

The next reference by the Chinese side was to a passage in Col. Schomberg's book *Unknown Karakoram*. But his reference to the Karakoram mountains being the northern boundary of Kashmir was only in the Mustagh and Raskam areas. He specifically stated that the Karakoram mountains ran "through" Ladakh. So Schomberg could not mean that the boundary in the area we were considering lay along the Karakoram mountains, for in that case it could not run "through" Ladakh.

Evidence in Custom supporting the traditional Indian alignment

The Chinese side argued that their claim to Indian territory was supported by the fact that certain places in this area had Turki names for example, Karakoram meant "heaps of black stones". The Indian side felt that it was not necessary to deal with this argument in detail, and only drew attention to the fact that centuries ago Indian influence had swept deep into China and there were place names in Tibet of Sanskrit and Prakrit origin. The name Khotan itself was derived from the Sanskrit word Kustana. And in Aksai Chin and the major place names were Ladakhi; for example, Shing Lung Donglung meant a place where fire-wood and wild yaks were found; Panglong was a nulla (valley) with grassy ground; Kongka La meant a low

pass; Amtogar meant an encounter with a round object, the Lake being circular in shape; Lanak La meant a black pass, Chang Chenmo meant the Great North and Lingzi Tang meant plains extending in all four directions. The Chinese side considered the evidence brought forward by the Indian side on pasturage and salt mining in north-eastern Ladakh as inconclusive. They alleged that Indian herdsmen did not use pastures north of the Chang Chenmo valley, that Ladakhis utilized pastures and salt mines in the Aksai Chin and Chang Chenmo areas with the express consent of the local Chinese authorities and that their presence in these areas was similar to that of Indian pilgrims visiting Tibet. The Indian side pointed out the value of such evidence of customary usage in border areas to support the traditional alignment. It was incorrect to state that Indian herdsmen had not visited the areas north of Chang Chenmo valley. They had always used the Gunto Lumpa and Skydpo Lungpa pastures in the Aksai Chin area and collected salt in the Aksai Chin and Lingzi Tang areas. In the Chang Chenmo valley Indian grazers had been sending their flocks upto Lanak La without coming across any Tibetans or Chinese right upto 1959. The Pangong, Niagzu and Dokpo Karpo pastures had been utilised for centuries by the inhabitants of villages in the Tangtse Ilaqa. Similarly "the Spanggur pastures had been the jealously cherished preserve of the inhabitants of Chushul. The Ladakhis had gone to these areas as of right and without securing the permission of either the Chinese or the Tibetan Government. Under Item 3 it would be shown conclusively that there had never been any Tibetan or Chinese administration in these areas. There could, therefore, be no comparison with Indian pilgrims in Tibet. According to the Chinese side; the evidence of Indian hunting parties visiting the areas upto the traditional alignment only showed that "imperialist" elements used to commit aggression there, and whenever Chinese border guards had come across such hunting expeditions they had turned them back. It was stated that in

any case visits of hunting expeditions formed inconclusive evidence. The Indian side pointed out that the documentary evidence they had produced showed that these local and British shikaris used to hunt regularly in the Chang Chenmo valley upto Lanak La and in the north upto the Kuen Lun ranges. It was not true that only Europeans had gone on these expeditions. There was no evidence at all of these expeditions having ever come across Chinese or Tibetan personnel within the traditional Indian alignment, let alone of their having been stopped by the Chinese authorities. In fact, evidence would be brought forward to show that it was the Kashmir Government which had regulated the activities of these expeditions. The Indian side also pointed out that general charges of "imperialism" were irrelevant, and repudiated any suggestion that the Indian side were justifying British policies and interests. Unless it could be definitely established that any particular document was biased at its source or that its author had ulterior motives, it should be considered on its merits. The Chinese side themselves had quoted not only from British travellers when it suited them, but also from a publication of the British Foreign Office. Regarding the trade routes lying across the Chang Chenmo valley and the Aksai Chin area upto the Kuen Lun range, the Chinese side regarded this evidence as inconclusive. But they were regularly used by Indian traders, and no one had ever come across any permanent enclosure or structure built by the Chinese or Tibetans along these routes. Evidence would be brought forward under Item 3 to show that these various routes in the border areas were under Kashmiri jurisdiction.

Evidence brought forward by the Chinese side

The Chinese side brought forward remarkably little evidence to substantiate their own claim that the alignment shown by them was a traditional and customary one. In the Demchok area they cited material specifying that the

traditional alignment lay along Lhari Karpo. This was very near the traditional Indian alignment, and very far from the line now claimed by China. The Indian side, therefore, welcomed this statement and saw no reason to discuss this further. There was only one Lhari in the area, and that was the stream joining the Indus near Demchok at Longitude 79° 28' E and Latitude 32° 42' N.

The only positive Evidence brought forward by the Chinese side' to support the claim to Aksai Chin and Ungzi Tang was a reference to Turki place names in those areas. The Indian side had already shown the irrelevancy and weakness of this Evidence. In the Spanggur arert, the Chinese side brought forward only one document, stating that Chushul was close to Rudok. The Indian side could not see how this could be regarded as proving anything or supporting the Chinese claim.

TRADITIONAL AND CUSTOMARY BASIS OF THE INDIA ALIGNMENT IN THE MIDDLE SECTOR

The Middle Sector of the boundary between India and China lies from the junction of the Indian States of Jammu and Kashmir and the Punjab and the Tibet Region of China, to the tri-junction of the boundaries of India, Nepal and China. The boundary throughout lies along the main watershed in the region between the Spiti Rive and the Pare Chu, between the tributaries of the Sutlej and between the Ganges and the Sutlej basins. In this sector the Chinese alignment a180 conformed for the most part to the traditional Indian alignment. Only in four areas did it diverge from the watershed to include certain pockets of Indian territory in China-the Spiti are (Chuva and Chuje), Shipki pass, the Nilang-Jadhang area (Sang an Tsungsha) and Barahoti (Wu-je) Sangchamalla and Laphthal. In this sector, therefore, it would be sufficient to prove the traditional and customary basis of the Indian alignment in these four areas.

(a) The Spiti area.

The traditional and customary alignment of the boundary in the Spiti are a followed the watershed between the Spiti and Pare rivers. It crossed the Pare river a mile south of the Indian village of Kaurik" half a mile west of the Rock Bridge across the Pare river, four miles north-East of the Indian camping ground at Changrizang, five miles north-East of the junction of the Spiti and Pare rivers and five miles south-west of the Tibetan 'village of Shaktot.

In early times Spiti was ruled by a Hindu dynasty, whose rajas bore the suffix of Senas. A copper-plate deed, probably of the 7th century A.D., granted by Raja Samudra Sena, was to be found in, the Parasuram temple at Nirmand; the text of it was published by Fleet, Corpus Inscriptionum

Indicarum, Volume III, pages 288-9. The Vamsavali of Kulu states that Raja Rajendar Sena conquered Kulu, but Raja Chet Sena lost it. Later Spiti was annexed to Ladakh.. Ladakhi records of the 10th century show that not only the Spiti valley, but even the Pare valley, to the east of Spiti valley, was a part of Ladakh. Thus an order issued on behalf of the rulers of Remi Gumpa of Ladakh in 948 A.D. and of which document the Indian side supplied a photostat, stated:

"Order issued by Head Lama Dechon Namgial ruler of Remi Gumpa of Ladakh in concurrence with 200 Lamas delegating administrative powers to Nono Sonam Lotan of Churup: Following are the boundary limits of villages of Karak, Bargaiok, Sumkhel, Goondi, Churup, Tunmur and Geu which fall within the jurisdiction of Remi Gumpa and include forests, pasture lands, woods and water for irrigation."(Photostat 1).

Karak, Bargaiok, Sumkhel and Churup were in the Pare valley and east of the present Indian alignment and in Tibet.

By another document issued twelve years later, in 960 AD and of this document also the Indian side supplied a photostat-the King of Ladakh told the Nono of Churup that the people of Spiti area should not hesitate to pay the revenue due from them. (Photostat 2).

In the 10th century Spiti ceased to be a part of Ladakh. This was proved by a statement in the Ladakh Chronicle *La dvags rgyal rabs*, part of which had already been quoted by the Indian side when dealing with the Western Sector. Describing the partition by King Skyid-Ida-ngeema-gon of his kingdom in the 10th century, the chronicle stated that the second son 'he made ruler over Gu-ge with Pu-hrans, Rtse, etc. Lde-gssug mgon, the youngest, he made ruler over Zans-dhkar-sgo-gsum, with Spiti, Spi-lcogs, etc." (A.H. Francke, *Antiquities of Indian Tibet*, Volume II, page 94).

Zans-dhkar-sgo-gsum, the 'three doors' of Zanskar, was a reference presumably to the three valleys that join at the central part of Zanskar, Spi-Icogs has been identified as Lahul, which lies between Zanskar and Spiti.

Later, however, Spiti became a part of Ladakh. In the 17th century when the Tibetans defeated King Delegs Namgyal, they seized Spiti but promptly returned it as part of the dowry when King Delegs married the Tibetan Commander's daughter.

A document of the early 19th century was an order of Shri Nema Namgial the Maharaja of Ladakh. It stated:

"Rangpa (tillers of the land) of Nako, Haagrung, Chatgo, Lehoo cheuling, Sialkhar and Sumra... Tocho (inhabitants of Gue, Chhurup, Sumkhil, Kharak and Berchok). None of the above mentioned areas can dare to disobey this my order dated Shingduk Dawa Nawa Ye Chhepe 15, (15th day of the fifth Tibetan month of Shing duk year)." (Photostat 3).

Another order of about the same period issued by Rajah Morub Tanzin of Ladakh for the information of village Gumpas and Kharpoon (chief) of Spiti stated:

"It is an admitted fact that people of the villages of Gue, Churup, Kaurik, Shaktot, Karak, Bargaiok and Sumkhel areas are undoubtedly natives of Spiti." (Photostat 4).

The enumeration of villages showed that not merely the Spiti "valley but even the Pare valley was then a part of Ladakh.

In 1846 after the first Sikh War, the British acquired Spiti district. Article IV of the Treaty of Lahore stated that the Maharaja ceded to the East India Company:

"In perpetual sovereignty, as equivalent for one crore of rupees, all his forts, territories, rights and interests in the hill countries, which

are situated between the rivers Beas and Indus, including the province of Cashmere and Hazarah."

By the treaty of Amritsar signed soon after, the British authorities banded over all this territory to the Maharaja of Kashmir, retaining only Lahul and Spiti. Cunningham and Vans Agnew went to the area to confirm the boundary between Spiti and Ladakh.

The boundary between this Indian territory of Spiti and Tibet had always been a traditional and customary one regarding which there had never in history been any dispute. It had been described by travellers and explorers as lying where the present Indian alignment showed it and including the whole of Spiti valley in India. George Trebeck, who visited the area in 1821, found that the authority of the Raja of Ladakh was absolute in theory, while in practice Spiti enjoyed considerable autonomy. (Travels, Volume II, page 69).

The map of The Himalayan Provinces of Hindustan, the Punjab, Ladakh, Kashmir, Kabul, Kundus and Bokhara, constructed from the original field-books and notes of Trebeck and his companion William Moorcroft by John Arrowsmith in 1841, showed the Pare, Spiti and Li rivers with considerable accuracy, and showed the entire Spiti valley upto the watershed between Spiti and Pare as part of India. The map was in Volume 1 of Travels by Moorcroft and Trebeck, (London 1841). The Indian side supplied a photostat of this sector of the map, enlarged for convenience. (Photostat 5).

Alexander Gerard who visited Spiti in 1821 wrote: "August 11, 1821. Marched to Changrezhing... Changrezhing is a small piece of cultivation belonging to Chango; one or two people repair hither in summer with their flocks, and look after the few fields of barley; but there are no permanent residents. .Here I met four Koonawurees returning from Choomoortee with wool, who informed me that the Chinese were waiting my arrival at the

boundary, three miles further on." (Account of an attempt to penetrate by Bekhur to Garoo and the Lake Manasarowara for the purpose of determining the line of Perpetual Snow on the southern face of the Himalaya etc. etc. London 1846, pages 174-5)

As the road from the Spiti valley to Tibet lies along the Pare valley, 3 miles from Changrizang would be near the Kaurik village; and this is where the boundary lay and where the Chinese were awaiting him.)

In 1838 Thomas Hutton went on a trip through Kunawar, Hungrung and Spiti under the patronage of the Asiatic Society of Bengal, and published his account in Volume VIII of the Society's Journal (1839'). On page 945 he stated: "This spot was called by the Tartars Chungreezing (Changrizang) and here I pitched my blanket-tent at the height of 12,040 ft. above the sea... On the 14th we descended by a very rugged and precipitous path to the bed of the Paratee (Para) river, a branch of the Lee (the name given to the river after the junction of the Para and the Spiti), which comes down from lake Chumorrareel, through Chinese Tartary, and joins the latter river above Shialkur. This we crossed by the "stone sangho", as it is called, which is formed by enormous masses of granite which have fallen from above, and become so firmly wedged into the bed of the river, as to form a safer and more durable bridge than any that could be constructed by the natives, and which from its great weight the waters are unable to remove. A small stream which runs down into the Paratee, a little distance below this bridge, is said to be the boundary line of Bussaher and Chinese Tartary."

This natural bridge described by Hutton was the Rock Bridge across the Pare river half a mile to the east of the Indian alignment; and Hutton's location of the boundary conformed to the tradition alignment shown on present Indian maps.

W. C. Hay visited the Spiti valley during December 1849-January 1850, and published his Report on the Valley of Spiti in the Journal of the Asiatic Society Volume XIX 1850 No. 6 in the list of villages comprising the Spiti district given by him on page 450 Chuje was entitled as one of the five kotis (circles). The 17 villages of which it consisted were listed (Photostat 6). Kurik (Kauririk) was one of them. The Chinese side stated that Chuje was to the east of Chuva. Therefore, Chuva also formed part of India.

The map attached by Hay to his article-and of which a Photostat was being supplied (Photostat 7) -showed as in the Spiti valley which was part of India, territory upto a point four miles east of the junction of the Pare and Spiti rivers., This corresponded to the traditional Indian alignment in this sector.

Further evidence of this traditional boundary in the Spiti area was provided by unofficial maps:

(i) In *Asie Meridionale* published by Andriveau Coujon (Paris 1876), the Spiti district was shown as extending as far east as the Pare river and 4 miles east of the junction of Pare with Spiti. (Photostat 8).

(ii) The map of *Central Asien* compiled from the latest sources by Dr. Joseph Chavanne (Leipzig 1880) showed the entire Pare valley in Spiti. (Photostat 9).

(iii) The Map of British India in the Russian Atlas of Marks (1905) showed the boundary as cutting the Pare river a few miles east of its junction with Spiti thus conforming to the Indian alignment. (Photostat 10).

Unofficial Chinese maps right down to our own times also showed the traditional Indian alignment in this sector. The Indian side gave two latest examples:

(i) The Wall Map of Modern China published by Ya Kuang Map Publishing Society 1947 showed the boundary in the Spiti areas as

crossing the Pare river a few miles above Its junction with the Spiti river. (Photostat 11).

(ii) Map 46 in the Educational Atlas of China published by the Ya Kuang Map Publishing Society in 1947 also showed the same alignment. (Photostat 12).

(b) Shipki pass.

Shipki pass is on the Zanskar range, which forms a well-defined watershed frontier.

Shipki pass had been the traditional and customary boundary between the States of Bashahr (now part of the Himachal Pradesh State of India) and Guge which was incorporated in Tibet in 1720.

This fact that Shipki Pass was always a part of Bashahr has been attested by travellers. In un8 Alexander Gerard visited the area. He states in this Account of Koonawar in the Himalaya, London 1841:

"October 12, Marched to Shipki, nine miles. The road ascended a little, and then there was a steep descent into the bed of the Oopsung. Here the rocks were more rugged than any we had yet seen: they were rent in every direction, piled upon one another in wild disorder, in a most extraordinary manner not to be described, overhanging the path and threatening destruction to the traveller. From the Oopsung the road was a tiresome and rocky ascent, to the pass which separates Koonawur from the Chinese dominions, 13,518 feet above the level of the sea." (pages 281-282)

Oopsung is Hupsang Khud, and Gerard stated that the boundary lay at Shipki Pass, at the top of Hupsang Khud.

Gerard again visited the area in August 1821 and reported:

"On the 5th August I made a march to Shipki, distant nine miles; the nature of the road as far as the Pass to Tartary may be summed up in a few words. On the left hand, at a great depth below, is the Sutluj,

tearing its way amongst masses of fallen rock and appearing a white line of cataracts. The pathway is the bare surface of the shattered rocks which are constantly changing their place. Before, is the abyss of the Oopung; ...At the Peeming (Shipke) Pass, from which the road descends to Shipki, the barometer was 18.467, the temperature of the Mercury 74, and that of the air 63°...

This is the line of separation between Busahir and Chine se Tartary, and there could scarcely be a better-defined natural boundary. ...From hence to Shipki was two and a quarter miles, by an excellent road upon the hill slope at an angle of 15°, on gravel and frangible red granite, like a good turnpike-road." (Account of an attempt to penetrate by Bekhur to Garoo and the Lake Manasarowara for the purpose of determining the line of Perpetual Snow on the southern face of the Himalaya etc. London, 1846 pages 148-151).

Over twenty years later Dr. Ch. Gutzlaff, a corresponding member of the Royal Geographical Society, visited Shipki area, and gave a report of his journey to the Royal Geographical Society, in February 1849. He stated:

"Proceeding about 20 geographical miles further (from Deba) to the N.W., we arrive at Shipki, in Lat. 31° 49', Long. 78° 44' E on the banks of the Satadra (Sutlej), and the first place after crossing Kanawar over high passes exceeding over 15,000 ft. on the frontier of Hindostan." (Journal of the Royal Geographical Society, Vol. XX, 1851, Part II, page 205).

The reference here was clearly to the Shipki pass and not other passes west of it.

In 1904, C. D. H. Ryder visited the place and stated:

"On the 23rd we marched to Shipki, crossing the river on the ice, elevation 9,300 feet. On Christmas Eve we surmounted our last obstacle, the Shipki La on the frontier-a climb of 5,000 feet, mostly in

snow, and a drop of 6,000 feet on the other side, camping at Khab, in British territory." (The Geographical Journal, Vol. XXVI No. 4, October 1905 page 390).

E. B. Wakefield visited the area in 1929. In the report of his journey published in the Himalayan Journal, Vol. II, April 1930, it was stated (page 103):

"Having crossed the Shipke Pass into British territory on the 11th October he halted for a week at Pooh (1115) whence he reached Simla (1305) on 2nd November."

The Indian side then brought forward, and supplied photostats of, some unofficial maps published in various countries to show that the traditional boundary in this sector lay along Shipki pass:

(i) Berghaus' map in Stieler's Hand-Atlas 1861. The alignment in this sector was shown immediately west of Shipki village and corresponded precisely to the traditional Indian alignment. (Photostat 13).

(ii) A. Petermann's map of Indien and Inner Asien Nordliches Blatt published in Stieler's Rand-Atlas 1875. The boundary in this sector was shown as following the water-parting and corresponded to the traditional Indian alignment (Photostat 14).

(iii) The Map of Inner Asien und Indies in Stieler's Hand-Atlas, 1901. The boundary alignment in this sector was shown as lying along the water-parting and corresponded to the traditional Indian alignment. This map also showed what is more or less the traditional Indian alignment in the Western Sector. (Photostat 15).

(iv) The map of Vorder-Indien und Inner-Asien Nordliches Blatt in Stieler's Rand-Atlas 1904. This map also showed the traditional Indian Alignment in this sector. (Photostat 16).

(v) The map illustrating Ryder's explorations and published by the Royal Geographical Society in *The Geographical Journal*, Vol. XXVI No. 4. October 1905, facing page 480. On this map Shipki La was shown and the boundary was marked as lying across this pass. (Photostat 17).

(vi) Map of *Vorder-Indien und Inner-Asien* published in Stieler's *Hand-Atlas* 1911. The boundary in this sector, and indeed for the whole Middle Sector, corresponded to the traditional Indian boundary alignment. (Photostat 18).

All this evidence showed that the traditional and customary alignment in this area lay where Indian maps were now showing it.

The maps published in the various editions of Stieler's *Hand-Atlas*, which incorporated fresh evidence in each edition, proved that through the years the alignment remained constant, and gained strength from tradition and custom. Indeed, even Chinese maps showed this alignment right down to 1957, as was shown by the map on page 72 of the *Chung hwa jen min kung he kuo*, printed by the *Chung hwa shu chu* of Shanghai, and published by *Ti T'u C'hu pan she* at Peking. On this map Shipki pass was clearly marked and the boundary alignment was shown as running through this Pass. (Photostat 19)

(iii) The Nilang-Jadhang and Barahoti areas

Although these were separate areas, the Indian side, for convenience, dealt with them together. The Chinese alignment and description as given under Item I departed here also from the watershed, which was the natural, traditional and customary boundary in this area, to include the Nilang-Jadhang area and Barahoti, Sangchamalla and Lapthal in Tibet. In fact, at the 15th meeting at Peking on 18 July 1960, in answer to the question of the Indian side, it was stated by the Chinese side that Barahoti (Wu-je),

Sangchamalla and Lapthal formed one composite area on the Chinese side of the alignment claimed by them, and there was no Indian territory wedged between these three pockets. This was a new claim to Indian territory, which had been put forward for the first time, and which contradicted even the position, for example, of Premier Chou En-lai in his letter of 8 September 1959, wherein he had treated Wu-je, Sangchamalla and Lapthal as three separate areas. Now, however, according to the description given by the Chinese side, an area of Indian territory of at least 300 square miles was included in Tibet. Even at the Barahoti Conference held in Delhi in 19'58, at the third meeting on 24 April, the Chinese representative, Counselor Fu Hao had stated that the area the Chinese called Wu-je was "from the south to the north about 15 kilometres approximately and from the east to the west may be a few kilometres less"- that is, an area of about 200 square kilometres at most. So this area could not include Sangchamalla and Lapthal in fact, these two localities were not mentioned at all by the Chinese side at the Barahoti Conference, and Wu-je was regarded as a wedge of territory claimed by China and flanked on both sides by Indian territory. Sangchamalla and Lapthal had in fact never been claimed by either the Chinese or the Tibetan Government till then, and the Indian Government had been maintaining check-posts at these two places. In the winter of 1958, when according to usual practice, the Indian border check-posts retired south, Chinese patrols for the first time intruded into these two places; in 1959 the Chinese Government put forward a claim to these places; and now for the first time it was stated that Wu-je, Sangchamalla and Lapthal formed one composite area and the Chinese side claimed not merely these three places but also the territory lying between them, even though in the description given at an early stage of the meetings, Wu-je, Sangchamalla and Lapthal were specified as three separate places.

However, the Indian side showed that the traditional and customary boundary in this sector lay along the watershed range, on which were the passes of Tsangchok La, Mana, Niti, Tunjun La, Balcha Dhura, Kungri Bingri, Darma and Lipulekh. Nilang, Jadhang and Pulamsumda were in Uttarkashi district (formerly Tehri-Garhwal State), Barahoti in Garhwal district and Sangchamalla and Lapthal in Almora district, in Uttar Pradesh State.

Tehri-Garhwal, Garhwal and Almora were celebrated in ancient Indian literature as Kedar Kshetra (sacred regions); and the Hindu kingdoms of Brahmapura, Kumaon and Garhwal flourished here. In Kedara Khanda of the Skanda Purana (LX) it was said "This Kedar Kshetra is as ancient as God Himself; it surpasses all the tirthas (places of pilgrimage) and it is a land where Nature stands personified. It is the sum total of all the tirthas on earth. There is no place on this fair earth which can compare to this holy land." The boundaries of this kshetra were defined as follows: "the Himalayan mountains to the north, Gangadwar (Haridwar) .to the south, Kalindi (Sarda) to the east and the Jumna to the west." Twenty chapters were devoted to stories in praise of the tirthas in the region as also of the Bhagirathi Mandakni, Bhilang, Alaknanda and the Jadh ganga rivers, which were all tributaries of the Ganges. The Ganges was said to have been held in the hair of Siva until set free by King Bhagirath. The Jadhganga, the river on whose banks lie Nilang, Jadhang and Pulamsumda, derived its name according to the Puranas from Jahnu, who "was a descendant of Soma and fifth in descent from the Pururavas, the son of Buddha and Ila; while performing sacrifice he saw, the whole place overflowing with the waters of the Ganges and getting angry drank up the river, which by the intercession of the gods was restored as his daughter; hence the river is called Jahnavi". These references showed that the sources and tributaries of the Ganges lay in India, proving that the watershed was the boundary.

The first historical notice of the Hindu Kingdom of Garhwal was to be found in the account of the Chinese traveller Hieun Tsang. In 634 A.D. he journeyed from Madawar to Mayurapura close to Hardwar and thence to Pollo-ki-mo-pou-lo or Brahmapura. The Memoirs described the kingdom of Brahmapura as being 4000 li, "in circuit surrounded on all sides by mountains. The capital is small hut the inhabitants are numerous and prosperous. The soil is fertile, and seed-time and harvest occur at regular seasons. Copper and rock crystal are produced here... To the north of this kingdom in the midst of the great snowy mountains is the kingdom of Soufa-la-na kiu-ta-lo or Suvarnagotra where gold of a superior quality is produced and hence its name. From east to west the Kingdom has its greatest extension, but from north to south it is narrow. For many centuries the ruler has been a woman and hence it is called the Kingdom of the Queens". Brahmapura is Barahat in the Bhagirathi valley in Tehri-Garhwal. An ancient inscribed rock trident, symbol of its being the capital, still stands there (Protostat 20). And the circuit of 4,000 li for the kingdom would place its northern limits along the Sutlej-Ganges watershed. Suvarnagotra would then be the Ali District of Tibet. This identification is confirmed by Hieun Tsang description of the kingdom as the Kingdom of the Queens; for the Ali district of Tibet is also known as Ngari Khorsum, from the Sanskrit nari, meaning woman.

Local evidence showed that Garhwal and Kumaon were under the Katyuri dynasty from the eighth to the tenth century. Kumaon was derived from Kurmachala, the place where Vishnu in one of his incarnations was said to have resided for three years. According to local tradition the Katyuri kingdom extended from the Satadru (Sutlej) to the Sarda (Kali) and from the watershed to the plains. The capital was originally at Joshimath in Garhwal and later in the Katyuri valley in Kumaon where the city of Kartikeyapura was built. Three copper-plate inscriptions preserved in the

temple of Pandukeswar near Badrinath record grants of land by 3 Katyuri kings. One of them recorded grants to be monks at Tapoban, on the right bank of the Dhauli above Joshimath; another was addressed to the officials of Taganapura district which has been identified with the tract above the confluence of the Alaknanda with the Bhagirathi; and the third was addressed to the officials of the Antaranga district which has been identified with the country further north. All of them mentioned the Hunas as being subject to the Katyuri Kings. These Hunas were the Bhotiyas who live just south of the Sutlej-Ganges Watershed.

The Katyuri dynasty was succeeded by the Chand dynasty of Kumaon and the Pala dynasty of Garhwal, each with a long line of kings. Towards the close of the 12th century, Aneka of the Halla dynasty of Nepal conquered this area (Kedara bhumi). This was recorded on a trident at Gopeswara in Garhwal. "This is the prosperous Aneka Malla, the tilaka of the rulers of the earth who with his encompassing forces has subdued Kedara bhumi and having made his conquered territories as his own province, free of warfare, the lord of the earth has erected thereupon his royal edifice of Shri Padmapada ...in the year of the Saka king past 1113 (1191 A.D.). . "He was, however, immediately expelled by the local rulers.

Writing about the State of Garhwal in the 16th century the historian Ferishta stated that the Raja "possesses an extensive dominion and a considerable quantity of gold is procured by washing the earth mounds in his country which also contains copper mines. His territory stretches to the north as far as Tibet and on the south reaches to the Sambhai which is included in India. He retains in pay an army of 80,000 men both in cavalry and infantry and commands great respect from the emperors of Delhi... the sources of the Jumna and the Ganges are both to be found within this territory." Tarikh-i-Ferishta edited by Bridges IV, pages 547-549.

Baz Bahadur Chand reigned over Kumaon from 1640-1678, and of his grant-deeds sixteen were still extant. From these it was clear that he had invaded Tibet, captured the fort of Taklakhar (Taklakot) and controlled all the passes leading from India to Tibet, that is, the passes lying on the Sutlej-Ganges watershed. He further set apart the revenues of five villages near the passes for the purpose of providing the pilgrims to Lake Manasarowar and Mount Kailas with food, clothing and lodging.

A copper plate inscription issued from Siri Nagar dated the 28th of Phagun, Samvat 1723 (1667 A.D.) and bearing the seal of Raja Prithi Patti Shah of Garhwal and attested by Garhwal witnesses, recited "the cession to him by Raja Uday Singh of Bashahr, out of love so long as good relations existed, the territory upto the Gartang nala and the retention by Uday Singh, for himself, the territories above the Gartang nala on both sides of the Jadhganga and above Gangotri from Nilang Peak to Jallokhaga". Jallokhaga was Jelukhaga or Tsangchok La pass which was on the Sutlej-Ganges watershed. This was proof that the Nilang-Jadhang area south of the Sutlej-Ganges watershed was Indian territory.

In the early years of the eighteenth century two lamas who had studied arithmetic and geometry in a Chinese College were ordered by Emperor Kang-hi to prepare a map of the country from Sining to the source of the Ganges and bring some of the water of that river. The Lamas "reached the chain of mountains which forms the southwestern boundary of Tibet; and halting" at the foot of the range learned from the enquiries which they there made, that the Ganges took its rise on the opposite side of that chain of mountains." (H. T. Colebrooke, *On the Sources of the Ganges in the Himadri or Emodus, Asiatick Researches*, Volume XI, Calcutta 1810, page 432).

Nepali troops over-ran Kumaon in 1790 and Garhwal in 1803 but were expelled. At the close of the Anglo-Nepalese War of 1814-15, the Nepalese

commander signed a Convention on 15 May 1815 by which he agreed to withdraw all Nepalese troops east of the Kali river and gave to the British all Nepalese territories from Kumaon to the Sutlej. Kumaon and Garhwal were annexed as British Districts. G. W. Traill, Assistant to the newly appointed Commissioner for the Affairs of Kumaon and Garhwal, reported in 1815: "The northern boundary (of Garhwal and Kumaon) as recognised by the Tibet Government extends to the commencement of the table-land". Garhwal to the west of the Alaknanda, excepting the Dun and the pargana of Rawain lying between the Alaknanda and the Bhagirathi, was handed over to the Raja of Garhwal and came to be known as Tehri-Garhwal State. James Baillie Fraser, who explored the Ganges valley in 1815 stated: "The boundaries of Garhwal have been adverted to with sufficient accuracy in the prefatory observations to this narrative. It is a country of very great extent, though of small comparative value. Many of the larger rivers of Upper India, and all those which form the origin of the Ganges, have their rise in its mountains and hold their course through its territory." (Journal of a Tour Through Part of the Snowy Range of the Himala Mountains and to the Sources of the Rivers Jumna and Ganges, London 1820, page 367). In 1819 Moorcroft visited this area. He stated in his account of his Travels (pages 3-4):

"It had been my. purpose to have crossed the Himalaya by the Niti Pass before it was closed by the snows of winter. ...It was no doubt difficult to assemble the means of transport, and it was much to be regretted that we were not at least a fortnight earlier at Joshimath. Still, more alacrity, and a less grasping spirit in the persons employed, would probably have secured our passage, as several parties of Bhotiyas came down the pass whilst we were waiting for conveyance' and even as late as the 21st December a body of Huiniyas returned by it to their own country."

This makes it clear that the Niti Pass was a border pass. About Niland Moorcroft said:

"The country ceded to the Raja of Tiri is bounded on the east by the Mandakini, a river which falls into the Alaknanda near Rudraprayag, on the west by the Pargana of Negwa, on the south by the Tapoban mountain, and on the north by Nailang, extending about one hundred miles from east to west, and fifty or sixty from north to south." (Page 14).

On page 20 Moorcroft said: "There is a road from Tiri to Hundes by way of the Nailang Pass which is said to be practicable for loaded yaks". The pass leading from Nilang to Tibet was the Tsangchok La which lies on the Sutlej-Ganges watershed, and this was the pass which Moorcroft referred to as the Nailang Pass.

J. H. Batten, who visited the Niti Pass in 1837, wrote: "After leaving the source of the Dhauli, the ascent was very steep through crumbling crags of blue limestone which now succeeded to the round clay-slate hills; but the top of the pass was round and open, the limestone lying about in stones as far as the eye could reach, interspersed with arenaceous quartz rocks. There was not a cloud in the sky and I obtained a full and undimmed view into Tibet". (Note of a Visit to the Niti Pass of the Grand Himalayan Chain Journal of the Asiatic Society of Bengal, Volume VII, 1838, page 314).

Manson who visited Milam and the Unta Dhura Pass in 1842 reported that it "is two days' journey from Melum to the Pass (Unta Dhura) and from thence four days to Neetee; two alternate days no village to encamp at; the whole road within our own boundary". Journal of the Asiatic Society of Bengal, Volume XI Part II, 1842, page 1161. The road from Milam passes through Sangchamalla; and Laphthal is south of Sangchamalla.

R. Strachey, who explored the whole area, provided evidence of the traditional alignment along the whole sector. In his Narrative of a journey

to the Lakes Rakas-Tal and Manasarowar in western Tibet undertaken in September 1848, he said, "He (Boru the pradhan of Tala a village near Milam) was a shrewd fellow and had been over a good deal of Hundes (i.e. country of the Huns) as the part of Tibet bordering on the watershed is commonly called by the Hindu inhabitants of this part of the Himalaya".

Journal of the Royal Geographical Society, Vol. XV, 1900, page 158.

About the Niti Pass which he visited in 1849, he wrote that he and his brother "started (from Niti village) together for the Niti Pass with the intention of undertaking a series of meteorological observations in the plain of the Hundes... The day after we crossed the Niti Pass, we were met by people sent to look after us by the Zung pun of Daba. ..."Journal of the Asiatic Society of Bengal, Volume XIX, 1850, pages 79-80.

In 1849 Strachey visited the Tunjun La. He wrote in the same article: "I went via Marshak Pass 18,500 ft. to Raj-hote (Barahoti), there visited the Pass into Tibet called Tunjun-La 16,500, and went down the river from Raj-hote as far as it was practicable, returning to Niti by Chor-Hoti Pass 17,500. You will see that this valley of the Raj-hote river exactly corresponds to those crossed on the road, from Milam into Hundes, the Marshak and Chor-Hoti passes being the parallel of Unta Dhura..."

About his visit to Milam in 1848-49' Strachey wrote: "Girthi is a deserted village on the stream which is named from it, about halfway between Topidhunga and Malari, on the Dhaoli in Garhwal; near it are said to be lead and copper mines but they are only occasionally worked, and then on the most insignificant scale. The Government, which possesses the proprietary right in all the mines of these mountains, has, I understand, not often made a larger sum than five rupees per annum from the Girthi workings." Journal of the Royal Geographical Society, Volume XV, 1900, page 165. This showed that the Girthi valley lying south of the Tunjun La Pass was part of India.

Sangchamalla and Lapthallie south of Balcha Dhura. Strachey who visited the Rakas-Tal and Mansarowar Lakes in 1848, stated in the same article (page 168) that he set out from Sangcha on 7 September 1848 and ascended the summit of the Balcha ridge.

"From Balch Pass, 17,490 feet, we looked down over the part of Tibet we were about to enter."

J.O.B. Beckett, who was Settlement Commissioner of Kumaon and Garhwal during 1863-1873, described the boundaries: "The Kumaon District is separated in the north from Hoondes or Thibet by the watershed of the snowy range." Report on the Revision of Settlement in the Kumaon District, Part I, Allahabad, page 11, 1874.

E. K. Pauw, who was Settlement Commissioner for Garhwal in 1896, stated that the District of Garhwal "is bounded on the north east by that portion of Tibet known as Hundes, from which it is separated by the watershed; ... Report on the Tenth Settlement of the Garhwal District (page 1, Allahabad, 1896).

All these references showed that the traditional boundary in this area was known to be the watershed, on which lay the Niti, Tunjun-la and Balcha Dhura passes.

Unofficial maps published in China and other countries also substantiated that the boundary in this sector lay along the SutlejGanges watershed and that the Nillang-Jadhang and Barahoti areas, which are south of the watershed, have always been part of India.

1. A map from the Shui ching chu t'u (third century AD.) as reconstructed by Wang Mei-tsun in 1840 AD showed the entire Ganges basin as lying within India (Photostat 21).

2. The map of Central Asia published in Hugh Murray's Historical Account of Travels and Discoveries in Asia, Volume I (Edinburgh 1820). It showed the

watershed as the boundary between Garhwal and Almora on the one hand and Tibet on the other. (Photostat 22).

3. Nouvelle Carte de l'Asie prepared by A R. Fremies and published by L. H. Berthe (Paris 1829) showed the entire Ganges valley within India, and conformed to the traditional Indian alignment in this sector: (Photostat 23).

4. The famous map of Central Asia published by Jules Klaproth in Paris 1836. As this was a large map in four sheets, the Indian side supplied a Photostat only of the relevant sector. The watershed was marked clearly, and so were the Niti Pass on the watershed, and Nilang south of it. The captions made clear that Garhwal extended upto the watershed, and Ngari lay north of the watershed. (Photostat 24).

5. Heinrich Kiepert's Karte der Britischen Besitzungen in Ost Indian published in Berlin in 1857, showed the boundary clearly in this sector as lying along the watershed. (Photostat 25).

6. Berghaus' Map of 1861, referred to earlier in this note, showed the boundary in this area also along the watershed; and Nilang and Barahoti are south of the watershed. (See Photostat 13).

7. Petermann's Map of 1875, also referred to earlier, showed the boundary along the watershed. (See Photostat 14).

8. The map of Central Asien compiled from latest sources by Joseph Chavanne (Leipzig 1880) showed clearly an alignment approximating very closely to the traditional Indian alignment. Both Nilang and Milam were marked as lying well south of the boundary. (See Photostat 9).

9. The map in Stieler's Hand-Atlas 1901, referred to earlier, showed the boundary in this sector along the watershed. Nilang was shown in India and Milam was shown well south of the boundary, making clear that Sangchamalla and Lapthal were also in India. (See Photostat 15).

10. The map in Stieler's Hand-Atlas 1904 also showed the boundary in this sector along the watershed, and Niti Pass was marked on it. (See Photostat 16).

11. Map 26 in the New Atlas of China published by the Commercial Press, Shanghai (Edition 1917) showed the Sutlej-Ganges watershed as the boundary in this sector. The Niti and Balcha Dhura passes were shown as border passes. (Photostat 26).

TREATY BASIS OF THE INDIAN BOUNDARY ALIGNMENT IN THE MIDDLE SECTOR

The Indian side then dealt with the agreements, treaties and diplomatic exchanges which confirmed the traditional and customary boundary between India and Tibet in the Middle Sector.

The traditional and customary boundary between India and Tibet in the Spiti area was confirmed by the Treaties of 1684 and 1842 referred to by the Indian side in connection with the Western Sector; or in those years Spiti, along with the adjoining area of Lahul, was part of Ladakh.

The boundary in the Barahoti area was also the subject of diplomatic correspondence and exchanges in 1889-1890 and in 1914, which resulted in effect in a confirmation of the traditional and customary Indian alignment in this area. Barahoti lies in the pargana of Malla Painkhanda in the District of Garhwal. When some Tibetans intruded into this area, in September 1889, Durga Dutt the Patwari of Malla Painkhanda handed over to two Tibetan officials, Jampal and Panda, a letter signed by the Commissioner of the Kumaon Division for transmission to the Garpon at Gartok saying that persons from the Tibet Region of China were straying into Barahoti in Indian territory. The Tibetan officials promised to explain to the Garpon at Gartok the contents of the letter.

A year later Pandit Paramanand Joshi, Deputy Collector, Garhwal, was sent to Barahoti to explain the case personally to Tibetan officials. While he was at Barahoti from 5, to 7 September 1890, Joshi showed an official Indian map of the area to a Tibetan official and

"explained to him that the British Government boundary extended along the water: -parting from Tun-Jungla, Marhe la, Shalshal pass, went on to Balch Dhura, etc. as shown in the map and that Barahoti was therefore within British territories."

On 10 July 1914, Sir Charles Bell, Political Officer, Sikkim, told the Tibetan Premier, Lonchen Shatra, that:

"the boundary between India and Tibet near Barahoti runs through the Tung Jung and Shal Shal passes."

He also supplied Lonchen Shatra with a sketch map of the area showing the watershed boundary in the region. (Photostat 1).

On none of these occasions did the Tibetan Government object to the alignment as described, and shown on maps, by the Indian Government. So they all constituted formal acceptances of the Indian alignment.

On 21 August 1950, the Foreign Minister of China handed a note to the Indian Ambassador in which it was stated, among other things that the Chinese Government "is' happy to hear the desire of the' Government of India to stabilise the Chinese Indian border". This assumed that the boundary was well-known and recognised by both sides, because only such a fixed boundary can be stabilised. The Government of India made this even clearer in their reply, handed to the Foreign Minister of China by the Indian Ambassador on 24 August 1950. For there the Government of India stated clearly "that the recognised boundary between India and Tibet should remain inviolate."

The traditional boundary from Shipki pass to the tri-junction of India, Nepal and Tibet was also confirmed in the Agreement on Trade and Intercourse between India and the Tibet Region of China signed in April 1954 Article IV of the Agreement stated:

"Traders and pilgrims of both countries may travel by the following passes. (1) Shipki La Pass, (2) Mana Pass, (3) Niti Pass, (4) Kungribingri Pass, (5) Darma Pass and (6) Lipu Lekh Pass."

Shipki Pass lies on the Zaskar Range which forms the watershed between the eastern and western tributaries of the Sutlej; and the other five passes

lie on the watershed dividing the Sutlej and Ganges basins. In the original Chinese draft presented on 1 March 1954, Article IV read:

"The Chinese Government agrees to open the following mountain passes in the Ari District of the Tibet Region of China for entry by traders and pilgrims of both parties:

(1) Shipki, (2) Mana, (3) Niti, (4) Kungribingri (5) Darma and (6) Lipu Lekh."

The Indian delegate, Mr. T.N. Kaul, contended that these were Indian passes. At the plenary meeting held on 22 April, 1954, the leader of the Chinese delegation described these discussions and the results which followed:

"With regard to Article IV of the original Chinese Draft Agreement, it was stated that "the Chinese Government agrees to open the following passes". Mr. Kaul expressed the difference of opinion with regard to this point. Now we have changed it to read that 'Traders and pilgrims of both countries may travel by the following passes.'

This was the fifth concession on our part."

This was an acceptance by the leader of the Chinese Delegation that the Chinese Government had agreed to re-draft this article in such a manner as to make clear that they were border passes. The use of these six passes did not involve ownership because they were border passes.

At the 17th meeting at Peking, the Chinese side stated that the negotiations and Agreement of 1954 did not involve at all the Question of delimiting the boundary between the two countries. This was a correct statement of the facts. Certainly the Indian side had no intention of seeking fresh definition of a boundary which had already been delimited by historic process, and was a natural, traditional and customary boundary, well-recognized for centuries; by both sides. But this did not mean that the negotiations and Agreement had no bearing on the boundary question. If

the Chinese Government were at all serious about their claims to what have always been parts of Indian territory, and shown as parts of India on Indian maps, they would have, during the negotiations, at least made references to these claims, if not discussed them. When at the first meeting of the delegations Premier Chou En-lai said that the relations between China and India were becoming closer every day and that from among the outstanding questions, the two sides could settle questions which were ripe for settlement, the Indian Ambassador immediately pointed out that there were only small questions pending between India and China, and he wished to see nothing big or small remaining outstanding between the two countries. Premier Chou En-lai replied that two large countries like India and China with a long common frontier were bound to have some questions, but all questions could be settled smoothly. In the context in which Premier Chou En-lai made this last statement it could not be inferred that he had in mind Chinese claims to large areas of Indian territory which had been shown as parts of India in official Indian maps and had been administered for centuries by the Government of India. Throughout the negotiations the Indian delegation took the line that all questions at issue between the two countries were being considered and that once this settlement had been concluded, no question remained. In his speech of April 29, 1954, after the signing of the Agreement, the leader of the Indian delegation stated:

"We have gone through fully the questions that existed between our two countries in this Tibetan Region", thus indicating that according to India no dispute or question was left over.

At the meeting of 8 January 1954, the Vice-Foreign Minister of China, who was the leader of the Chinese delegation, stated:

"I recall that Premier Chou En-lai when he received the Indian Delegation on 31st December 1953, stated that the principles

governing the relations between India and China should be to seek a peaceful co-existence under the principles of mutual respect for each other's territorial integrity and sovereignty, mutual non-aggression, mutual non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence."

The leader of the Indian Delegation, after securing a repetition of the Five Principles by the leader of the Chinese Delegation, replied:

"These were the principles which our Prime Minister had also advocated. As far as I can see these are common ground."

These Five Principles were incorporated in the Preamble of the Agreement. Mutual respect for each other's territorial integrity assumed clear and precise knowledge of the extent of each other's territory. Two states with a common boundary could promise such respect for territorial integrity and mutual non-aggression only if they had a well-recognized boundary. The Government of India had been showing the traditional alignment on their official maps, and stated authoritatively on many occasions that that was their boundary. The Chinese Government had also been informed that this boundary should remain inviolate. In these circumstances; the Government of China could not have affirmed their respect for the territorial integrity of India if they did not recognize the Indian alignment and had in mind claims to large areas of Indian territory.

It was, therefore, clear that the Agreement of 1954 recognised that the six passes were border passes, that during the negotiations the Chinese made no reservations regarding this point, and that by accepting the Five Principles without any' qualifications the Chinese Government had accepted that there was no dispute regarding the traditional and well-recognised Indian boundary alignment. It might be added that as the Chinese Government did not raise this issue when they had a clear opportunity and

occasion to do so, under international law they were now estopped from raising such claims.

When Prime Minister Nehru visited China in October 1954, he drew the attention of Premier Chou En-lai to the wrong boundary alignment shown on Chinese maps published just then, and presumed that this was by some error because the boundaries of India were quite clear and were not a matter of argument. Premier Chou En-lai replied that these maps were really reproductions of old maps and there had been no time to revise them. This could by no stretch be interpreted to mean that the alignment shown on Chinese maps could possibly be the correct alignment, for one did not contemplate revision of what was correct. Premier Chou En-lai added that there were such errors even in the depiction on these Chinese maps of the frontier of China with the Soviet Union and Outer Mongolia.

At the 17th meeting at Peking the Chinese side stated that Prime Minister Nehru in his letter of 22 March 1959 to Premier Chou En-lai had admitted that the Middle Sector of the boundary as claimed by India had no basis in treaty or agreement. The Indian side had read this letter many times and had once more gone through it; and they could find nowhere in it any statement to this effect. Perhaps what the Chinese side had in mind was the fact that in this letter the 1954 Agreement had not been mentioned. But Prime Minister Nehru made it clear that he was not referring to all international agreements which gave added sanction to the traditional boundary. The passage might be quoted:

"It may perhaps be useful if I draw your attention to some of these agreements."

The Chinese side had also referred to Nilang and Jadhong. This area, as the Indian side had already shown, had always been a part of India; and the discussions between the Indian and Tibetan Governments in 1926 and after concerned only, ratifications of the alignment in one particular area.

COMMENTS ON THE MIDDLE SECTOR UNDER ITEM 2

The Indian side brought forward clear and conclusive evidence to show that the alignment as shown by them in the Middle Sector had, throughout its length, a traditional and customary basis reaching back through many centuries, and that, in addition, this boundary had been recognised by Chinese Government and been confirmed through diplomatic exchanges, treaties and agreements. The Chinese side had now claimed certain areas south of the watershed boundary - the Spiti "area, Shipki Pass, the Nilang-Jadhang area and Barahoti, Sangchamalla and Lapthal. They were, however, unable either to bring forward any real documentary evidence to substantiate these claims, or to refute the evidence brought forward by the Indian side.

The Spiti area

Regarding the evidence brought forward by the Indian side showing the traditional and customary basis of the Indian alignment in this area, the Chinese side stated that they failed to see the significance of the documents of the 10th and the 19th centuries. The Indian side pointed out that these documents had been cited in order to show that throughout these many years Ladakh had extended even beyond; the traditional boundary of the Spiti area to include parts of the Pare valley. This showed that Tibet did not extend, during those years, even upto the traditional Indian alignment, let alone upto the line now claimed by the Chinese Government. The Chinese side -- asserted that in the document of the 10th century supplied by the Indian side, the actual word Ladakh did not appear. But the Chinese side acknowledged that Hemi Gumpa was mentioned in the document; and that Hemi Gumpa was in Ladakh was not disputed even by the Chinese: Government. As regards the second document of the 19th

century, the Chinese side pointed out only that there was no mention of the Nono of Churup. They did not question the fact that the document was an order issued by the King of Ladakh to the officials and public of Spiti. It will be seen, therefore, that the Chinese objections had no bearing on the substance and significance of these documents, which showed clearly that from the 10th century onwards the area upto the traditional Indian alignment, if not even beyond it, had belonged to Ladakh.

The Chinese side pointed out correctly that at the time of the 10th century partition by King Ngeema-gon, Spiti was not a part of Ladakh. Nowhere, in fact, did the Indian side suggest that at that time Spiti was a part of Ladakh. The Indian side traced in outline the history of the Spiti area through the centuries to show that while at one time it was a part of Ladakh, then in the 10th century ceased to be a part of Ladakh, and again a few years later became a part of Ladakh, at no time had it been a part of Tibet. This showed conclusively, that the Chinese claim to this area had no basis in tradition and custom.

As further proof of this fact that the Spiti area was always a part of India and never a part of Tibet, the Indian side had referred to the confirmation of the boundary between Spiti and Ladakh by Cunningham. and Vans Agnew in the 19th century. The Chinese side asked for details of this boundary. Even though this was not relevant to the discussion, the Indian side supplied the details. The two Commissioners had determined that the snowy range forming the watershed between the Chapra basin and the rivers flowing into Ladakh should be the boundary between Ladakh and the British district of Spiti. As for the map in Cunningham's book on Ladakh cited by the Chinese side, the Indian side pointed out that this was only Walker's Map of 1854 which had been dealt with in detail in the earlier correspondence between the two Governments. The Indian side added that they would deal with it again under Item 3, as it was an official map. This

would be in consonance with the agenda pattern accepted by both sides. It was curious that while the Chinese side had insisted on completing the discussion for all sectors under each item before proceeding to the next item, they continued to bring up under Item 2 what really came under Item 3.

As regards the report and map of Hay, who visited this area in 1849-50, the Chinese side asserted that the Chuje referred to by Ha, in his report and shown on his map was different from the Chuje which the Chinese had in mind. But they brought forward no evidence to support this assertion. The conclusive, authoritative and detailed first-hand report of Hay made clear that the locality known as Chuje was Indian territory. Further proof of the Indian identification of Chuje was the fact that Taba (Tubo), Geoti (Gyu) and Kurik (Kaurik), mentioned by Rayas part of Chuje Koti, were all very near each other. So clearly Chuje was in India, and the Chinese side had themselves acknowledged that Chuva was to the west of Chuje. As for Hay's map, it showed only the area under Indian jurisdiction and, according to this map, Indian jurisdiction in the Spiti valley extended some miles to the east of the junction of the Pare and Spiti rivers.

The Indian side also quoted the evidence of Gerard and Hutton who had visited the area in 1821 and 1838 respectively and had give first-hand detailed accounts of the extent of Indian territory. The Chinese side stated, in fact of the obvious facts, that these reports were hearsay evidence. The documents themselves, cited by the Indian side, belied this contention. The Chinese side again missed the significance of the unofficial maps cited by the Indian side. These maps, especially when drawn by well-known cartographers on the basis of first-hand information supplied by geographers of repute, provided objective, scientific and disinterested proof of traditional boundary alignments. All that the Chinese side could say with regard to the unofficial Chinese maps produced by the Indian side which

showed the correct traditional alignment was that they "absolutely cannot represent the standpoint of the Chinese Government". The Indian side had never said that unofficial maps represented the standpoint of the governments of the countries of their origin; indeed, if they did, they would cease to be unofficial maps. The value of unofficial maps, as had already been pointed out by the Indian side, was that they depicted the traditional and customary boundary alignment as was known at the time.

It was, therefore, clear that the Chinese side could not dispute effectively the evidence brought forward by the Indian side confirming the traditional and customary alignment in this area, and such comments as they did make on a few of the documents were shown to be of no weight. To support their own claim, the Chinese side only brought forward two pieces of evidence. The first document of 1665 could not prove any territorial claim, for it stated explicitly that these areas formed "estates for raising funds for religious expenses" for the Tashigong monastery. In other words, the document dealt with religious endowments, which form no proof of political authority. The Indian side explained in great detail that throughout the world ecclesiastical jurisdictions spill over political boundaries and have no bearing on them. The collection of funds for religious purposes, therefore, was no proof of political sovereignty or territorial ownership. The document quoted by the Chinese side proving only Lamaist religious activity was in sharp contrast to the order issued on behalf of the rulers of Hemi Gumpa of Ladakh in 948 A.D., and cited by the Indian side. For this latter document referred specially to the "administrative orders" exercised over the Spiti area by the authorities of Ladakh.

The second item of evidence brought forward by the Chinese side was a reference from a recent publication of 1954 to Gerard's travels in this region in 1821. This second-hand account was obviously incorrect, and it was surprising that the Chinese side should have cited it; for it suggested

that the frontier lay not merely at the junction of the Pare and the Spiti rivers, but further south, at Shipki village itself. If the Chinese side wished to abide by the testimony of Gerard they had only to refer to the quotation from Gerard's own account written at that time and from that very area as field notes, and cited by the Indian side. Gerard stated specifically that the boundary was three miles from Changrizang. This confirmed the traditional Indian alignment. Gerard's account was corroborated by Hutton in 1838 and by Hay in 1850, two other well-informed observers who visited the area.

The Shipki Pass

Here again, the Chinese side failed to appreciate the significance of the contemporary accounts of travellers and the unofficial maps cited by the Indian side, even though they had not hesitated to quote such evidence when it suited them. Their allegations about the veracity of the reports of Gerard and Ryder were wholly untenable. Gerard visited these areas in his personal capacity and was inspired solely by disinterested curiosity. He was a man whose chief interests were geography and ethnology and his accounts had been recognised as standard authorities on this subject. And as the Indian side had pointed out earlier, the Chinese side, while discounting the first hand testimony of Gerard, had quoted a report of Gerard's findings written over 130 years later. Ryder also was a man whose primary interest had been to describe facts, as he found them.

Disinterested contemporary evidence could not be set aside unless a definite ulterior purpose, motivating the individuals concerned had been established. As for the account of Wakefield cited by the Indian side, it was incomprehensible on what basis the Chinese side concluded that Wakefield had not very clearly described the Shipki Pass as a border pass; for it had

been stated explicitly in the account cited by the Indian side that Wakefield, coming from Tibet, had crossed the Shipki Pass into British territory. Regarding the unofficial maps cited in this connection by the Indian side, the Chinese side merely asserted that they could not agree that these maps showed the traditional Indian alignment; but they brought forward no evidence to support their contention. Instead, they again drew a comparison between official and unofficial maps. The Indian side, therefore, were obliged once more to explain that official maps and unofficial maps each had an importance of their own and formed two different types of evidence. Unofficial maps were obviously the proper form of evidence to substantiate the traditional basis of a boundary alignment. The maps published in the various editions of Stieler's Hand Atlas and incorporating fresh evidence in each edition formed conclusive proof, supplied by a reputable, well informed and disinterested third party of the unchanging nature of the traditional customary alignment in this area. The map published in China as recently as 1957 and cited by the Indian side proved that even Chinese maps had been showing the correct alignment in this area till about three years ago. However small the scale of the map, it showed very precisely the boundary along the Shipki Pass. The pass was shown by a cross (X) and the alignment was shown as running through the cross. Ryder's map showed very clearly that the traditional and customary alignment lay along the Shipki Pass. In the article accompanying this map, Ryder stated without qualification that the Shipki Pass was "on the frontier". The legend "approximate boundary" written elsewhere on the map applied to other parts of the Tibetan frontier. The Chinese side dealt with none of these unofficial maps, which showed that the traditional boundary in this area had a continuity stretching over centuries, and had been accepted even in China till at least three years ago.

The Chinese claim to the Shipki Pass area was sought to be sustained by only one item of evidence; and even this solitary item of evidence was found to be irrelevant. It was claimed that the people of Shipki village had constantly used the pastures west of the Shipki Pass and that these areas belonged to them. But no proof of such ownership had been brought forward. Even proof of use of these pastures had not been provided, although mere use of pastures, even if the assertion be true, could prove nothing. For the route from India through Shipki La to Tibet was one of the main routes in this area, and as sheep were used in this part as pack animals, people of both countries used the pastures besides the route. In fact, Indian citizens used the pastures lying between Shipki La and Shipki village, and even beyond.

The only item of evidence brought forward by the Chinese side was a statement by the inhabitants of Shipki village of 1930, claiming this territory. A unilateral claim to Indian territory put forward as recently as 1930 by Tibetan villagers could not be regarded as scientific proof of the traditional and customary basis of the boundary.

Even if this unilateral assertion were of ancient date, it would be no proof of ownership; but the fact that it was of our own times deprived it of all weight. While recent evidence could legitimately be adduced to support what had already been established on the basis of older evidence, by itself recent evidence could not provide the basis for tradition. For tradition was, by definition, something of long and ancient standing. It could not be created in 1930. This was so obvious a conclusion that it required no elaboration.

The Chinese side also quoted a passage from Sven Hedin's *Trans-Himalaya*. In fact his statement proved the Indian contention, for it stated that the boundary between India and Tibet lay at Pashagong, which was on the saddle of Shipki Pass. Moreover, on the map in the book, of which the

Indian side supplied a photostat copy, the boundary was clearly shown along Shipki Pass. Indeed, the whole boundary alignment in this sector was shown along the watershed, and the border passes were clearly marked. The Indian side were most willing to accept the statement and map in Sven Hedin's *Tram-Himalaya* as conclusive evidence of the boundary alignment in this sector.

The Nilang-Jadhang area

'Regarding Nilang-Jadhang, the Indian side produced a large amount of evidence to establish conclusively that this area had always been a part of India. The boundary alignment between India and Tibet in this sector had always lain along the watershed range. The Chinese side, although they themselves had cited at great length Tibetan religious works, disregarded without any reason the evidence from the Puranas and other Indian religious literature, even though these works were regarded by historians throughout the world as of much greater authority and authenticity than the Tibetan works. In fact the Puranas provided a vast amount of data regarding the location of the boundary which was surprisingly precise for the age in which they were written. The passages quoted from the Skanda Purana dealt with sites and places, with geography rather than with history. As the places in Kedar Kshetra mentioned in the Skanda Purana lay north of the main Himalayan Range, the northern boundary referred to could only be the continuous Sutlej-Ganges watershed. The Indian side brought forward no evidence that was not supported by documentary authority; and the Chinese side gave no reasons for questioning the Indian evidence. It was strange that the Chinese side should have stated arbitrarily that the historical material quoted by the Indian side was not relevant. This material was distinguished by the diverse sources belonging to different periods from which it was drawn, and it an went to how the unbroken tradition

supporting the Indian alignment in this sector. The Chinese side made no effort to question this detailed evidence on its merits. They commented on only one item of such evidence and even here their efforts could not be sustained. Their contention that the passage from Hieun Tsang's account could not show that the boundary lay along the watershed, was effectively answered by the Indian side, who pointed out that given the location of the capital at Brahmaputra, i.e. Barahoti, at the centre and the length of the circumference as 4 thousand li, it was simple to calculate where the boundary of this kingdom lay. It was, therefore, clearly incorrect to state, as the Chinese side had done, that the Indian Government began to encroach upon this area only in 1919, and had acquired this territory by aggression. The Indian side had produced a vast mass of evidence from the third century onwards to show that tradition and custom had strengthened the natural boundary along the watershed in this area. The local inhabitants of this area had always regard themselves as Garhwalis.

The Chinese side then referred to the discussions regarding the boundary in this sector between India and Tibet during the years 1921 to 1928. This, however, could in no way substantiate the Chinese claim. During these discussions the Tehri state had produced a variety of records going back to the 17th century to prove its ownership of the area; and the Tibetan side could produce only one book in which the trade dues paid by the villages of Nilang and Jadhong to the Dzungpon of Tsaparang, when they visited the Tibetan trade marts of Poling and Toling, were entered as taxes. Again, while the Tehri representative gave a precise definition of the Tehri-Tibet boundary, the Tibetan representatives referred to only one point — Gum Gum or Gungoong bridge — on the alignment claimed by them and could not say how the line would run east and west of this point. The compromise proposed at the time by Colonel Bailey, and referred to by the Chinese side was offered not because Tehri's claim was weak but because the

Government of India were anxious to settle a minor dispute lest it impair the prevailing friendly relations between India and Tibet.

It was not, therefore, true to say that the then Indian Government coerced the local inhabitants in order to alter the existing boundary.

Rather, it was the other way round. The people of Nilang and Jadhong, who during winter moved deeper south, in the summer went to Tibet to trade.

While in Tibet they were subjected to various vexatious dues and intimidated into declaring that they were subjects of Tibet and that the trade dues paid by them were land taxes. It was significant that the only documentary evidence brought forward by the Chinese side for this area were two 'avowals' alleged to have been made by the inhabitants in 1921 and 1927-i.e. after the commencement of the boundary dispute. It was such repeated coercion by the Tibetan authorities of the traders of Nilang and Jadhong that forced these villagers to cease going into Tibet for trade.

The Chinese side also quoted an account by Herbert, who visited this area in 1818. But Herbert, in the extract quoted by the Chinese side, had not stated that the boundary lay where the Chinese side are now claiming it. He merely stated, "This the Tibetans affect to consider the boundary" This made it clear that Herbert himself regarded the claim as baseless; To say that certain people affect to consider" was one thing, to prove it as a factor to accept it as fully established was a wholly different matter. In the years immediately after 1815, when the Government of India reconquered Garhwal, some Tibetans seem to have taken advantage of the confused situation to coerce the people of Nilang and to intimidate travellers like Herbert. But this state of affairs obviously did not last long, for in 1819 Moorcroft visited Nilang and in his first-hand account, which we have already cited, he stated that Nilang was a part of Tehri-Garhwal.

The Chinese side also referred to two official maps of 1818 and 1889. The Indian side stated their intention of dealing with these under Item 3.

In spite of clear and repeated proofs furnished by the Indian Government in the 1954 negotiations and in the correspondence of recent years between the two Governments, the Chinese side once more brought forward their untenable claim! that Puling Sumdo, which is mentioned in the 1954 Agreement as one of the trade markets in the Ari District or Tibet is the locality in the Nilang-Jadhang area called Pulamsumda. In 1954, the Indian Delegation had even communicated in writing to the Chinese side that the co-ordinates of Puling Sumdo were 31° 19' North and 79° 27' East. The co-ordinates of Pulamsumda, however, are 31° 18' North and 79° 8' East. Pulamsumda is on the southern side of the Sutlej-Ganges watershed and over twenty miles distance from Puling Sumdo on the Northern side of the watershed. Moreover, Pulamsumda is a camping ground and Puling, Sumdo is a trademart. The reference in the 1954 Agreement was obviously to Puling Sumdo, because the Agreement formalized Indo Tibetan trade at customary trade marts. Clearly, therefore, there was no reason at all for confusing Puling Sumdo in Tibet and Pulamsamda in India. The Chinese side, however, persisted in doing so even though they were unable to bring forward any evidence that would even suggest that the two places were the same. They, for example, brought forward no evidence to show that Pulamsamda was a trade mart, which according to their argument it would have to be.

Barahoti, Sangchamalla and Laphthal

There was no doubt at all that it was only at the 15th meeting of the officials at Peking on 18th July 1960, that the Chinese side brought forward, for the first time, their new contention that Barahoti, Sanghamalla and Laphthal formed one composite area without any intervening wedges of Indian territory. That the Chinese Government and till then regarded Barahoti, Sangchamalla and Laphthal as separate areas, was shown very clearly by

the fact that they had always been listed separately and enumerated singly. Furthermore, the Barahoti Conference in 1958, the Chinese side made no claims of Sangchamalla and Lapthal, though one would have expected them to have done so if they had all formed part of one area. Even in the Chinese statement of 30 August 1960 at these meetings, Barahoti was referred to at one point as a place and not an area of considerable size, although the claim now was to a large area of about 300 square miles. It was also clear in the final statement of the Chinese side on 7 November 1960, that they were uncertain as to what exactly they were claiming, for in the same paragraph reference was made to both a composite area and a number of 'areas'.

However, the Chinese side, while they referred to evidence which they believed would support their claim to parts of these three pockets of Barahoti, Sangchamalla and Lapthal, brought forward no evidence that would cover the whole composite area. The Indian side, on the other hand, provided sufficient evidence to show that the whole area right up to the watershed had always been a part of India. It was surprising that the Chinese side failed to grasp the significance of the evidence regarding the history of Garhwal and Kumaon brought forward by the Indian side. All the three copper-plate inscriptions in Pandukeswar stated that the Hunas were subject to the Katyuri rulers; and these Hunas are the Bhotiyas living just south of the watershed. So this showed conclusively that the Katyuri kingdom extended right up to the watershed. The Chinese side questioned the significance of a statement by Traill, who visited this area in 1815, that the northern boundary of Garhwal and Kumaon, as recognised by the Tibetan Government, extended up to the commencement of the table-land. But this was only another way of stating that Garhwal and Kumaon extended up to the watershed, which in this region was the edge of the plateau. The statement by Batten, who visited the Niti pass in 1837, was

also conclusive, and it was incomprehensible that the Chinese side should have failed to realise this; for Batten's statement showed beyond doubt that the boundary lay along the Niti pass.

In fact the Chinese side, failing to refute the evidence brought forward by the Indian side on its merits, once more adopted the familiar recourse of doubting the bona fides of travellers and questioning the relevance of unofficial maps. The weakness of this position, however, had been repeatedly pointed out by the Indian side. It was not sufficient to make a general, sweeping statement condemning all travellers whose testimony did not suit the Chinese side; in order to refute their evidence, it was necessary to deal with each one of them specifically and point out in what way their accounts were vitiated. As for unofficial maps, they, especially unofficial Chinese maps, provided one of the best forms of evidence available for establishing the traditional basis of the boundary.

To prove their own claim, the Chinese side made a few unsubstantiated assertions and brought forward material which had no relevance to the issue. There was no trace of any Tibetans having come annually to guard the mountains at Barahoti. Tibetan sarijis used to come every year, according to the Chinese side, as far as Niti and Jonam. These Sarijis came to India, in fact, to declare the trading season open and to assure themselves that sheep and cattle going to Tibet were free from disease. These visits of Tibetan Sarijis to Indian villages could no more prove Tibetan ownership of these areas than the visits of Indian officials to trade marts in Tibet to inspect trade gave India a title to these places in Tibet. According to the Chinese side themselves, these Tibetan officials used to come to Jonam which the Chinese side recognized as being in India. This further proved the point of the Indian side that the visits of Tibetan officials to certain areas could not prove that these areas belonged to Tibet. Nor

could it follow, from the assertion that the Tibetan officials came down to Jonam, that Sangchamalla and Lapthal belonged to Tibet.

The Chinese side also cited two 'land deeds' of 1729 and 1737. But these documents stated clearly that dues would be collected from "the people of the southern regions who come" as in the past. These words placed beyond doubt that the reference was to transit dues paid by Indian traders proceeding from Niti and other places in India, to Tibet for trade. The Indian side stated that they would deal with these dues in greater detail under Item 3.

As far as the boundary alignment was concerned, there was a significant difference between the texts of these documents and the translations quoted in the Chinese statement. In the text it was merely stated that the boundary was "upto" Barahoti, thus showing clearly that Barahoti was Indian territory and was not a part of Tibet.

Nor was there any reference in the text, as claimed earlier by the Chinese side, to Jonam as the boundary; and in fact the Chinese side themselves in their later statement accepted that Jonam was in India.

The Chinese side also quoted a passage from a book written by Swami Pranavananda in 1949. This book published just over ten years ago was obviously no evidence of tradition; and Swami Pranavananda had himself accepted, on his own initiative, long before these meetings. If officials, that he had erred in the delineation of the alignment in his book. The Chinese side were supplied by the Indian side with a photostat copy of Swami Pranavananda's statement accepting his mistake.

Sangchamalla and Lapthal have always been a part of Kumaon and the traditional pasture grounds of the people of Milan. The Indian side could not, therefore, accept the assertion made by the Chinese side, without any evidence, that in 1941 certain Tibetans rented these pastures to other Tibetans.

The Chinese side also quoted a passage from Strachey. All that Strachey had stated in this passage was that Lapthal was more accessible from Tibet. But comparative accessibility has never been a criterion: in the determination of a boundary. Strachey himself declared, in the passage cited by the Indian side in their own statement, that from Sangchamalla he had proceeded north towards the boundary of Tibet. Lapthal was to the south of Sangchamalla and, therefore, the evidence about Sangchamalla covered Lapthal.

The Chinese side quoted a passage from Nain Singh's account. Nain Singh was correct in referring to Niti village as a boundary village; for the area upto the Niti pass is a part of Niti village. If Tibetan soldiers were in Lapthal village it was obviously a case of unlawful intrusion..

Treaty basis of the Indian alignment

Regarding the evidence cited by the Indian side to show that the traditional and customary boundary in the Middle Sector had been confirmed by various treaties, agreements and diplomatic exchanges, the Chinese side produced no new arguments to dispute their validity, but in fact stated much that was of little relevance. That this traditional; alignment had the sanction of treaties and agreements was no unilateral interpretation of the Indian side, but well-established conclusion.

In the Spiti area, the traditional and customary boundary has been confirmed by the treaties of 1684 and 1842 dealt with in detail when considering the Western Sector; for in those years Spiti was a part of Ladakh. As was repeatedly pointed out by the Indian side, these treaties showed that the traditional and customary boundary in; this area had been formally recognised by the Governments of Tibet and China.

The boundary in the Barahoti area was also confirmed by the two Governments concerned. In 1889-1890 and in 1914 the traditional

alignment in this region was specifically defined by accredited Indian officials to officials of the Tibetan Government. The Sarji, who was provided with a description of the boundary in 1889, and Lonchen Shatra, who received the communication of the Indian Government in 1914, whatever their rank, were both Tibetan officials authorised to deal with this problem. The Indian side provided photostat copies of the relevant documents. It was, therefore, beyond all doubt that under international law the fact that the Tibetan Government did not object to the alignment as described by an Indian official in 1889-1890 and both described and shown on a map by an Indian official in 1914 constituted formal acceptance of the Indian alignment. Acquiescence is a well-known principle in international law. A formal description of the alignment communicated by the one Government to another is not a unilateral claim; for the other Government had occasion and opportunity to challenge this description but, in fact, accepted it and thereby recognised the description of the boundary as correct. As the Chinese side repeatedly pointed out, there were discussions between India and Tibet in 1926 regarding certain aspects of the boundary in the Nilang-Jadhang area. This itself showed that if Tibet had any points for discussion with India regarding the boundary, she did not hesitate to raise them. So this confirmed the Indian position that in 1889-1890 and 1914 Tibet had no objections to the description given by the Indian Government of the boundary in the Barahoti area.

The Indian side also showed that the whole boundary between India and China had been specifically confirmed by the Chinese Government in 1950. The Indian Government, in their reply to the Chinese Government's expression of their anxiety to stabilise the "Chinese-Indian border", stated that the "recognised" boundary between India and Tibet should remain inviolate. This constituted a fresh and formal reaffirmation of the well-known, traditional and delimited alignment throughout its length. The use

of the adjective "recognised" was of great significance. It made it clear that the Indian Government were drawing the attention of the Chinese Government to the fact that the traditional Indian alignment had been already recognised as delimited by the Chinese Government. If the Chinese Government did not accept this boundary and considered the alignment shown on their own maps as correct, it was impossible that they would not have, on this occasion, said so. Indeed, had the Chinese Government had any doubts at all about the boundary alignment not merely was this an opportunity for them to raise the question, but it was imperative that they should have done so, But in fact it was only in September 1959, ten years after the People's Government came into power, that China, for the first time, created the so-called boundary question.

It was also sought to be argued by the Chinese side that the correspondence between the two Governments in 1950 provided a confirmation of the boundary alignment claimed by China. This was shown by the Indian side to be wholly untenable. It was a complete falsification of the facts to state that the situation on the India-China boundary was in 1950 in conformity with the alignment now being shown on Chinese maps. There was no Chinese personnel or personnel of the Tibet region west of the traditional Indian alignment in the Western sector in 1950, and no proof to establish Chinese or Tibetan presence in these areas at that time had been furnished either in the correspondence between the two Governments or at these meetings of officials. The Chinese side again stated (even though it was irrelevant to any discussion on the Middle Sector) that the People's Liberation Army had passed through certain Indian areas in the Western Sector. This had already been dealt with in the letter of the Prime Minister of India of 21 December 1959 and in the note of the Indian Government of 12 February 1960. The Indian side, therefore, only stated again that it was to them a matter of the utmost surprise and regret that

the Chinese side should base any claim on unlawful intrusion. Trespass had never conferred, and could never confer title. The Chinese Government themselves had recognised the validity of this argument in their note of 3 April 1960.

As for the Middle and Eastern Sectors, the Indian Government had always been in control of the areas right upto the alignment, and convincing proof to this effect would be furnished under Item 3.

The Chinese side once more brought forward the old argument questioning the relevance in this connection of the 1954 Agreement.

The Government of India had already shown beyond doubt that the Agreement had a bearing on the boundary between the two countries and that normal relations between India and Tibet could not have been established if the Chinese Government had at any time made, or even had in mind claims to large areas of Indian territory contiguous to the Tibet Region. As for Article 4 which enumerated the border passes, the very wording showed that these were border passes and that China had reserved no claim to the territories west of Shipki Pass and south of the other five passes. As this had been made very clear in the earlier correspondence between the two Governments, the Indian side did not once more elaborate this in detail. They only pointed out that Article 4 stated that "traders and pilgrims of both countries may travel" by the passes. This meant that the Governments of India and China agreed that both Indian and Chinese travellers could use these passes. If these passes, however, had been within China, there was no reason why the agreement of the Indian Government should have been necessary for Chinese travellers using what would have been Chinese passes. The fact that it was necessary for the two Governments jointly to give permission for the use of certain passes placed it beyond doubt that these passes were border passes. This became even clearer when read with Article 5 (2) of the

Agreement, which provided for inhabitants of "border districts" travelling to and fro across the border.

The Indian side were most surprised at the argument of the Chinese side that if the boundary question were to be referred to in the negotiations of 1954, it should have been for the Indian side to raise it first. The position of the Indian Government regarding the limits of their territory and the precise alignment of their international boundaries had been well-known for years and had been repeatedly and authoritatively confirmed in public. The Chinese Government had never disputed the statements of the Indian Government at the time they were made, and in fact had never raised any claims to traditional Indian territory until their communication of 8 September 1959. It was inconceivable that if the Chinese Government had had such claims in mind, particularly when they applied to such large areas of Indian territory, they would have remained silent in 1950, 1954 and indeed right upto 1959. The confirmation since 1950 on various occasions by the Government of the People's Republic of China of the Sino-Indian boundary was a confirmation of the traditional Indian alignment which had been shown repeatedly on Indian maps.

The Indian side also pointed out that as, despite frequent occasions and opportunities, the Chinese side had not till September 1959 disputed the traditional Indian alignment, they were estopped from doing so. The Chinese side, being unable to refute this, described this principle of estopped as "absurd". Estopped is, however, an elementary principle of international law whose importance required no elaboration or emphasis; and it was no serious refutation merely to set it aside as "absurd" without giving any reasons at all for showing why it could not be regarded as valid or applicable.

The Chinese side claimed that it was China which had raised the boundary question at the meetings of the two Prime Ministers in 1954. This was an

incorrect statement of facts. The Chinese Government themselves, in paragraph 2 of their Memorandum of 3 November 1958, had stated that it had been raised by India. The Prime Minister of India, in paragraph 5 of his letter of 14 December 1958, had confirmed that he had raised the matter. As Chinese maps were showing the boundary wrongly, the Prime Minister of India took the initiative in discussing them. And even according to the Chinese Government in their note of 3 November 1958, Premier Chou En-lai had not claimed in 1954 that the alignment shown on Chinese maps was the correct one. The Chinese side drew attention in this connection to the earlier communications from the Chinese Government.

The Indian side pointed out that these had been fully dealt with in the letters of the Prime Minister of India of 22 March 1959 and 26 September 1959, and the note of the Government of India of 12 February, 1960.

The Chinese side also questioned the pertinence to the boundary problem of their adherence in 1954 to the Five Principles. The Indian side pointed out that by the 1954 Agreement the two Governments could only have confirmed the territorial integrity of each other's country if they had had clear and precise knowledge as to the alignment of their common boundary. The Government of India in addition had made it explicitly clear that there was no outstanding question between India and the Tibet Region of China, let alone any uncertainty regarding the precise alignment of the Sino-Indian boundary; and it was on that basis that the Agreement incorporating the Five Principles had been signed. It would, therefore, have been a violation of the Five Principles if the Chinese side had had in mind claims to large areas of Indian territory but had given no indication of them at all.

The Chinese side argued that the facts that China had signed the Five Principles with Burma and Nepal but yet had since held negotiations with them on the boundary, and that the Prime Minister of India had offered to

sign the Five Principles with Pakistan, showed that acceptance of the Five Principles did not necessarily mean an acceptance of the traditional boundary. The Indian side pointed out that it was not for the officials of India and China to discuss the understanding and intention of the Burmese and Nepalese Governments regarding their boundaries with China. But it was clear that there were no Chinese claims to large areas of Burma and Nepal or, in fact, any Chinese claims comparable in any way to the claims now being made by China to Indian territory. The question of the offer to Pakistan by the Prime Minister to sign the Five Principles was also outside the terms of reference of these meetings of India and China. However, the Indian side pointed out that it was quite feasible to offer to sign the Five Principles with another country if it were well-known and recognised at the time by both sides that there were disputes involving territory between the two countries. At the time the Prime Minister made his offer, the Indian Government knew the extent of Pakistan's claims, even though they were not valid. What was incompatible was that the Five Principles should be signed by two countries, one of which had in mind undisclosed claims to vast areas of the other's territory, while the other country was wholly in ignorance of these claims and was, in fact, led over the course of many years to believe that well-recognised and delimited frontiers clearly shown on her maps were regarded as beyond doubt and dispute. Two countries could sign the Five Principles if they were both aware that one of them had claims to parts of the territory of the other; but two countries could not sign the Five Principles if one of them had vast undisclosed claims to the territory of the other.

The Chinese side stated that the Prime Minister of India, in his letter of 22 March 1959, had not referred to the 1954 Agreement, and they sought to conclude from this that even the Government of India had at that time not regarded the 1954 Agreement as having a bearing on the boundary. The

Indian side pointed out that Prime Minister Nehru was not in that letter drawing up an exhaustive list of the treaties and agreements that gave added sanction to the traditional Indian alignment. He was merely drawing attention "to some of these agreements" which gave "sufficient authority" to the Indian alignment. He was not giving a full list of the agreements which provided complete, total authority. He mentioned only three sectors- -Sikkim, Ladakh and Eastern Sector-and was not covering an' sectors of the Indian boundary. At the Barahoti conference in 1958, and in the later correspondence between the two Governments when the Middle Sector as well as other sectors of the alignment were being discussed in detail, attention had been drawn to the 1954 Agreement.

THE TRADITIONAL, CUSTOMARY AND TREATY BASIS OF THE BOUNDARIES BETWEEN SIKKIM AND BHUTAN AND TIBET

The boundary between Sikkim, and Tibet lies along the crest of the Great Himalaya and the Donkya ranges, which form the watershed between the Teesta River" in Sikkim and the Yaruchu and the sources of the Amochu in Tibet. This natural, traditional and customary boundary between Sikkim and Tibet was confirmed by the Convention signed by Britain and China at Calcutta in March 1890.

Article I of the Convention laid down that:

"The boundary of Sikkim and Tibet shall be the crest of the mountain range separating the waters flowing into the Sikkim Teesta and its affluent from the waters flowing into the Tibet Machu and northwards into other rivers in Tibet."

This article in the Anglo-Chinese Convention of 1890 was confirmed by the Anglo-Tibet Convention of 1904, the Anglo-Chinese Convention of 1906 and the Simla Convention of 1914.

This traditional boundary alignment between Tibet and Sikkim, which has been confirmed by various treaties, was jointly demarcated on the ground- the eastern portion in 1895-96 and the northern sector in 1902-03. It has been well recognised by both sides and has always been beyond dispute. Chinese maps have also been showing this alignment. In their note of 26 December 1959, the Chinese Government stated:

"The boundary between China and Sikkim has long been formally delimited and there is neither any discrepancy between the maps, nor any dispute in practice."

The Bhutan-Tibet boundary is also a natural, traditional and customary one. It follows the crest of the Himalayan range which forms the main watershed between the Amo Chu and the waters flowing into Ram Tso, Yu Tso, Nyang Chu and Kuru Chu in Tibet and the Paro Chu, Punakha, Thimbu, Tongsa and Bumtang rivers in Bhutan. This natural alignment has also been the traditional and customary boundary between Tibet and Bhutan. The Chinese Government have also recognised this traditional and customary alignment. In their note of December 26, 1959, the Chinese Government stated: "Concerning the boundary between China and Bhutan there is only a certain discrepancy between the delineation on the maps of the two sides in the sector south of the so-called McMahon Line. But it has always been tranquil along the border between the two countries". The area referred to was the south-east corner of Bhutan and the Indian Government were surprised that the Chinese Government should concern themselves with it as it was on the Bhutan-India boundary and not the Bhutan-China boundary. The Indian side added that this area had always been part of the Tashigong Dzong of Bhutan and the villages in the area had always considered themselves as part of Bhutan. There was a vast amount of traditional and customary evidence to substantiate this.

TRADITIONAL AND CUSTOMARY BASIS OF THE BOUNDARY IN THE EASTERN SECTOR

The Indian side brought forward evidence to show that the Indian alignment in the Eastern Sector was based on tradition and custom. There were numerous references in ancient Indian literature to the inclusion of the tribal areas in India. The Kalika Purana (of the 2nd century AD.) related in Chapters 36-40 the story of the defeat by Narakasur of King Ghatak, one of the chiefs ruling over the tribal area, and the establishment of his capital at Pragjyotishpur (Gauhati). The Mahabharata, written sometime after 400 B.C., stated (Chapter XXVI of Sabha Parva) that Narakasur's son; Bhagadatta, was defeated by Arjuna and both the King and his Klrata (tribal) followers were compelled to pay tribute. In a later passage of the same work (Udyog Parva, Chapter XVIII) it was stated that Bhagadatta and his tribal followers took part in the battle of kurukhetra on the side of the Kauravas. The Ramayana, written at about the same time, stated that King Amurataraja founded the city of Pragjyotisha, and his grandson Viswamitra practiced tapas (penance) upon the banks of the Kausiki, flowing through the Himalayas in the northwest part of the Pragjyotisha region.

Later the King of Pragjyotisha was again defeated by Raghu whose kingdom, according to Kalidasa's Raghuvamsa (4th century AD.) extended north of the Himalayas from Hemakuta (Kailash) to Kamarupa indicating that this latter kingdom, which is now Assam" stretched even beyond the Himalayas. West of Pragjyotisha, Sonitpur (Tezpur) was the capital of another Indian kingdom. Both the Bhagavata and the Vishnu Purana gave an account of the defeat of King Ban (a contemporary of Narakasur) by Krishna at Tezpur. King Ban's grandson Bhaluka later established his capital at Bhalukpong (not far from Balipara) at the foot of the Aka hills where the

remains of old fortifications were still visible. The Aka hill tribes claim this prince as their progenitor.

In course of time Pragjyotisha, Sonitpur and other areas south of the hills were all united under the rulers of Kamarupa. The Vishnu Purana stated that Kamarupa extended for 100 yojanas (about 450 miles) in all directions from Kamakhya temple (situated near what is now Gauhati), and the Kalika Purana said that the Kamakhya temple was in the centre of Kamarupa. This would include the whole of present Assam. Hieun Tsang, who visited India about 640 A.D., confirmed this by his statement that the kingdom of Kamarupa was under a Hindu ruler and was about 10,000 li, or an area with a Circumstance of 1667 miles. The Yogini Purana (of about 8th century AD.) provided further information. It stated in Book I Chapter XI that Kamarupa extended right upto the Kanja hills (that is, the Himalayan range) in the north.

Till the eighth century Kamarupa was ruled by the Hindu dynasties of the Varmans, the Salasthambas and Palas. They then came under the pressure of the Ahoms, a branch of the Shan tribe who finally in about 1228 A.D. became masters of Kamarupa and gave the territory their name Ahom, now softened to Assam. These rulers, who held sway in this area for nearly six centuries and became absorbed in the Hindu fold, had extensive relations with the tribal people in the north and established their political authority over them. A work written in the 17th century, entitled the Political Geography of the Assam Valley, contained the names of tribes who were tributaries of the Ahom Kings. The Daphlas, Akas and Bhutias were referred to in this list and the tribute paid by them and the passes by which they descended to the plains, were noted. The work also described certain villages of the Mikkir and Miri tribes which were under direct Ahom rule. Relations with the tribes were in the hands of duly appointed frontier Wardens and Governors. For example, the Sadiya-Khowa Gohain was in

charge of conciliating the tribes of Sadiya country, and the Barphukan and Darrang Rajas were in charge of the Bhutias. They had in their offices a number of men versed in the languages, customs and habits of the tribes. There were also tribal experts at the court of the King.

The general success of the Ahoms in their dealings with the hill tribes was testified to by the Mogul historian Shihabuddin Talish, who accompanied a Mogul expedition in 1662-63. He wrote, "Although Most of the inhabitants of the neighbouring hills paid no taxes to the Raja of Assam yet they accepted his sovereignty and obeyed some of his commands".

Another document which gave an account of the interview which the Assamese Ambassador Madhabcharan Kataki had with the Mogul Commander, Raja Ram Singh, referred to the tribal legions of the Ahom Army:

"Numerous Chieftains of the mountainous regions have become our willing allies in the campaign. They consist of a total strength of three lakhs of soldiers. They are not amenable to any considerations of right or wrong. Their participation in this campaign has been directly sanctioned by His Majesty and they rush furiously against the enemy without waiting for the orders of the general. They are quick and sudden in their attacks, and their movements and actions cannot be presaged".

In 1826, Ahom authority in this area was finally displaced by the British. During the last years of Ahom rule, control over tribal peoples weakened, but it was never lost. Michell, in his authoritative Report on the North-East Frontier of India, reported (page 97)

that "In 1820-Before we took possession of Assam, the Mishmis were obedient to the orders of the Assam Government, and paid tribute to the Sadiya Khowa Gohains".

Similarly about the Abors Michell noted (page 53) "1825-Captain Neufville reported to the Quartermaster-General that the Abors were giving assistance to the Gohain of Sadiya against the Singphos." He also stated that "a large body of them, to the amount of 20,000 or 30,000 came down to assist the Bura Gohain in repelling the Maomarias, who were devastating all the country east of Jorhat" (Page 55).

The fact that this tribal area was a part of India was also attested to by a number of travelers. Desideri who was in Lhasa for several years between 1716 and 1729 and travelled extensively in Tibet, mentioned what were even then known as the extreme limits of Tibet. On pages 143-145 of his diary, which the Indian side already quoted when dealing with the Western Sector, *An Account of Tibet*, he said:

"The other place the Thigettans venerate exceedingly is called Ce-ri (Tseri or Tsari) on the extreme borders of Takpo-tru-lung. Traversing the province of Takpo and going East (North East) after crossing an exceedingly high, but not difficult mountain where grow many trees, one comes to the country of Congbo, divided into upper Cong-bo, or Cong-to, and lower Cong-bo or Cong-me, which are again divided into several provinces. ...All the Cong-bo provinces lying to the South of the river march with the above mentioned people called Lhoba, which means Southern people... Not even the Thibettans who are close neighbours and have many dealings with them, are allowed to enter their country, but are obliged to stop on the frontier to barter goods."

It was clear from this passage that at that time Tibetan jurisdiction did not extend beyond the Tsari Hills in the Subansiri area and Cong-me, to the north of Abor region, further east.

Horace Dela Penna, another traveller who visited Tibet a little later, in 1730, wrote that Tibet:

"on the south is bounded by Bengal, Lho ten ke, Altibari, Mon, Brukpa, Lhoba, Lho K'haptra, Shapado, Bha..."

'This account of Dalla Penna has been published in C. R. Markham: Narratives of the Mission of George Boqle to Tibet and of the Journey of Thomas Manning to Lhasa. London. 1879. The quotation was from page 314. Here again Lhokhaptra referred to a part of the present Siang Frontier Division of India and Lhoba to the tribal territory in general lying south of the traditional north-east frontier of India.

In 1849 Dr. Gutzlaff, a corresponding member of the Royal Geographical Society read a paper giving a first-hand account of the area. This paper was published in The Journal of the Royal Geographical Society, Volume XX, Part II, 1851. He stated (page 191-J 92): "'Tibet borders to the N. on Kokonor, the Desert of Gobi and Eastern Turkestan; to the S. on Yunnun, the nominal territory of Birmah, the wild land of the Abor tribes and Assam. the possession of the Sikkim Rajah, the British territory with the Punjab, and a small part of Afghanistan..."

A page later, Gutzlaff described the region to the south-east of Tibet and said: "Farther W. according to Chinese maps, runs for a distance of more than 100 geographical miles, the Naetsoo river (Ludnaghtseu) into which flows, from the North, the Moktsoo, forming the boundary between these hill tribes and Tibet..."

Naetsoo referred to the Chayul Chu and its tributary the Nye Chu; and Moktsoo referred to the Char Chu river. This indeed placed the boundary much to the north of where it lies at present.

That Tibet had no jurisdiction in the Dibang and lower Lohit valley was also clear from Gutzlaff's statement on page 193 that "the hill-tribe, having most intercourse with Tibet, is the Mismee a somewhat more civilised race than those more to the East, but not under the rule of the Lamas".

T. T. Cooper, another traveller in this region in the eighteen sixties, in his book *The Mishmee Hills* published in 1873 in London, wrote (Page 208) :
We found our host Kaysong very hospitable, he was a Meju Mishmee, and like all his tribe, had benefited by yearly visits in his youth to the Thibetan frontier town of Roemah". Roemah was Rima.

Later, on page 213, he said:

"With the first dawn of day we left Larkong and commenced the ascent of the boundary mountain, a long, steep ridge, rising to a height of over five thousand feet. The range runs almost due east, and forms a well defined limit between Assamese and Thibetan ground."

So clearly the boundary between Assam and Tibet ran along the top of the range.

When Cooper and his party descended further on the other side of the range, they were met by some Tibetans who "desired us to return to the summit of the boundary range, and receive there the instructions sent down from the Tibetan authorities at Roemah" (Page 217).

In 1883 Michell, in his *Report on the North-East Frontier of India*, which the Indian side quoted earlier, wrote (page 47):

"The Northern boundary of Abors is believed to be the Nain phala hills, inhabited by people who resemble the Abors in dress and appearance. After these hills are crossed Eastern Tibet is reached."

And about the territory near the Dihang bend (lying north of the present Siang Frontier Division of India) Michellwrot

"About the neighbours of the Mishmis we have fairly accurate information. To their north lies the country of Poba or Poyul, an independent people dwelling on a table-land. This State, we have reason to believe, is highly civilized. All the natives, whether Assamese, Abors or Thibetans, who have been examined about this

country, assert that the Sanpo passes by Poba, and our last explorer remarks that four days' journey along the right bank of the Sanpo from Gyala Sindong brings the traveller to the country of Poba, a state virtually independent of Thibet and differing to it in manners, customs and religion. Father Desgodin who resided many years in Thibet, believes that these people of Poba, would be only too glad to trade with neighbouring countries; but they are completely isolated by the mountain barriers surrounding them, which are inhabited by wild tribes."

This made it clear that even north of the Great Himalayan Range, Tibetans exercised no jurisdiction in certain areas.

These accounts were confirmed by various Chinese works. The Wei Ts'ang T'u Chih (Topographical Description of Central Tibet) written by Ma Shao-Yun and Meo Hsi-Sheng in 1792, stated on page 49:

"Loyu wild people's country is to the south of the Tibetan territory" (Photostat 1).

Similarly, the Chinese work Hsitsanq Tu Kao, written by Huang Pei-Chiao in 1886, stated on page 38 of Chapter 8:

"From Lnoyul to Kashmir and Pulute the wild tribes that are seen are of four categories. They and the areas such as India all belong to the British..."

Further on it said:

"Lhoyul wild people: old name is Lokhe Pu Chan country. It is to the south of Tibetan territory several thousand li. The people there are wild and stupid. They do not know Buddhism ... Tibetans call them Lao Kha". (Photostat 2).

This made it clear that this tribal territory was not only outside Tibet, but also under British Indian administration.

The Ching Shih Kao, i.e. the Dynastic History of the Ching Period, confirmed that the tribal area lay outside Tibet. On page 2 of Book 27 of this work it was stated:

"Khang (Kham or Cnamdoarea) is 1250 miles to the east of Inner Tibet. Its border in the east reaches Szechuan, the border in the south reaches the tribal area and British Assam, the border in the west reaches Wei (Tibet) and the border in the north reaches Chinghai". (Photostat 3).

Evidence for the traditional basis of the Indian alignment was also provided by unofficial maps published in China, and other countries. The Indian side under Item 2, were presenting unofficial maps only.

(i) The Emperor Kang Hi, as was well known, had a systematic map .of Tibet prepared by certain Jesuit missionaries and Lamas who were in his employ, between 1711 and 1717. A copy of this map was sent to Paris and was published by Du Halde in his Description de la Chine and by d'Anville in his Nouveau Atlas de la Chine, 1737. This map showed the Oumoula range- that is, the Great Himalayas-lying south of the Lopra-Catchou river - that is the Chayul Chu-and its tributary the Nutchou~the Nye Chu-as the southernmost limit of Tibet in this region. (Photostat 4). This corresponded to the traditional Indian alignment.

(ii) Another Chinese map in several sheets prepared in the Tao Kwang reign (1821-1850) showed the Naichu, which name seems to have been applied both to the Nye Chu and to the Chayul Chu after the Nye Chu joined it, upto its junction with the Muchu, as the southern-most limit of Tibet. The Muchu was clearly the' Char Chu. (Photostat 5). This boundary corresponded to the traditional Indian alignment.

(iii) The Ta Tsing map of 1863 again showed the mountains in the immediate vicinity of the Chayul Chu (which in this map was called Lobnakchu), and its tributaries the Nye Chu (Naichu) and the Char Chu

(Muchu) as the southern limits of Tibet. (Photostat 6). This corresponded to the traditional Indian alignment.

(iv) The *Hsitsanp tu kao*, written in 1886 by Huang Pei-chiao, contained a map which showed the southern frontier of Tibet in this region in the same way as in the maps quoted above (Photostat. 7) . The passage in the text which corroborated the map has already been quoted

(v) Map No. 25 in the *Atlas, Tâ Ching ti kuo chuan-tu*, published by the Commercial Press, Shanghai, in 1908 clearly showed a boundary which approximated to the traditional alignment and showed the tribal territory outside Tibet. (Photostat 8).

(vi) The map of Tibet in the *Atlas of the Chinese Empire* published by the China Inland Mission in 1908 showed the Indo-Tibetan boundary in this area more or less in consonance with the traditional alignment. (Photostat 9).

(vii) The map on page 30 of *Chung kuo chin shih yu ti tu Shwo* published by Chiao Chung Academy, Canton (1910) showed an international boundary alignment which largely corresponded with the traditional alignment shown on Indian maps. (Photostat 10).

(viii) The map of Tibet in the *New Atlas and Commercial Gazetteer of China*, which as the Indian side stated on an earlier occasion, was based on authoritative surveys and, \Was published in 1917, showed the traditional Indo-Tibetan frontier alignment east of Bhutan (Photostat 11).

(ix) The map published by Peking University in November 1925, depicting the maximum extent of China in the days of the Ching Dynasty, again showed the frontier of India in this sector as lying approximately where the present Indian boundary lies. (A photosat of this has already been supplied).

In addition to these nine Chinese maps, the Indian side cited some maps prepared by private agencies in other countries.

(i) The German map prepared by Stulpnagel and published in Gotha in 1885 showed the Indian boundary north of the tribal area (Photostat 12).

(ii) The Sketch map .of some parts of Southern and Eastern Tibet as used Many Years ago by Catholic Missionaires, and published in 1871, clearly showed that the Abor, Mishmi and other tribal areas lay outside Tibet (Photostat 13).

(iii) Similarly the map of Asie Meridionale, published by Andriveau Coujon in Paris Ln 1876, showed the tribal territories lying outside Tibet. (Photostat 14).

(iv) A map specially prepared for the Royal Geographical Society of London in 1912, and cited earlier in connection with the Western Sector, showed a boundary which approximated closely to the traditional alignment. (A photostat of this map has already been supplied).

(v) Another map also published in the September 1916 issue of the Geographical Journal, the journal of the Royal Geographical Society, showed the tradition al Indo-Tibetan frontier alignment in this sector. (A photostat of this map has already been supplied).

This extensive and varied evidence showed that the present Indian alignment in the Eastern Sector was the traditional and customary boundary between India and Tibet, which had been for centuries well-recognised and beyond dispute.

THE TREATY BASIS OF THE INDIAN BOUNDARY ALIGNMENT IN THE EASTERN SECTOR

The traditional and customary boundary of India in the Eastern Sector obtained the added sanction of treaties in 1914 when the Indo-Tibetan Boundary Agreement of 24/25 March 1914 and the Simla Convention of 3 July 1914 were concluded.

The boundary agreement between India and Tibet was concluded by an exchange of letters between the British and Tibetan Plenipotentiaries on the 24th and 25th of March, 1914. The exact alignment of the boundary from the east of Bhutan to the tri-junction of India, Tibet and Burma, was delineated on a 1"-8 miles map in two sheets.. The letter of the Tibetan Plenipotentiary accepting the boundary so delineated stated:

"I have now received orders from Lhasa, and I accordingly agree to the boundary as marked in red in the two copies of the maps signed by you, subject to the conditions mentioned in your letter, dated the 24th March, sent to me through Mr. Bell. I have signed and sealed the two copies of the maps. I have kept one copy here and return herewith the other."

The conditions mentioned in the British Plenipotentiary's letter were:

- (1) The Tibetan ownership in private estates on the British side of the frontier would not be disturbed.
- (2) If the sacred places of Tso Karpo and Tsari Sarpa fell within a day's march of the British side of the frontier, they would be included in Tibetan territory and the frontier modified accordingly.

The possibility contemplated in the second condition did not arise because it was later found that both Tso Karpo and Tsari Sarpa lay on the Tibetan side of the boundary.

The traditional Indo-Tibetan boundary thus confirmed was also shown by a red line on the map attached to the Convention initialled by the Plenipotentiaries of India, China and Tibet on 27th April 1914 and finally signed by the Plenipotentiaries of India and Tibet on 3rd July 1914. Article 9 of the Convention described the boundary in the following terms:

"For the purpose of the present Convention the borders of Tibet and the boundary between Inner and Outer Tibet shall be as shown in red and blue respectively on the map attached thereto." by OT

The Chinese side, in their statement made at the 17th meeting in Peking on July 22, 1960, repeated the contentions made earlier by the Chinese Government regarding the validity of the Indo-Tibetan Boundary Agreement. These contentions have been fully answered in the letter of the Prime Minister of India to the "Prime Minister of China on September 26, 1959 and the note of the Government of India of .12 February 1960; and the Chinese side have brought forward neither fresh evidence nor any additional arguments in support of their contentions.

It was contended by the Chinese side that "neither the Simla Convention nor its attached map involved the Sino-Indian boundary line, and the Simla Conference did not discuss the Sino-Indian boundary in the first place by this was meant that the boundary between India and Tibet in this sector had not been involved or discussed, it was not a correct statement of the facts. The Indo-Tibetan boundary was relevant to the Conference, it was discussed and a valid agreement regarding it was reached.

That the Simla Conference met to discuss not only relations between China and Tibet but also those between Tibet and India was clear from both the correspondence preceding the Simla Conference and the proceedings of the Conference.

The 1904 Convention between the Indian and Tibetan Governments dealt with Indo-Tibetan relations in general. This was accepted by the Anglo-

Chinese Convention of 1906. Thus the Chinese Government accepted that Tibet could settle her own relations with India. On 17 August 1912 the British Government drew the Chinese Government's attention to this position, and on 30 January 1913 the Chinese Government accepted the British Memorandum of 17 August 1912 as the basis of negotiations. The credentials presented by the three Plenipotentiaries at the conference also made it clear that the conference was to discuss all important matters regarding Tibet. The credentials of the British Plenipotentiary stated that the negotiations were being held.

"for the conclusion of a Convention to remove all such causes of difference and to regulate the relations between the several governments", and that the British Plenipotentiary was being appointed

"to sign for Us and in Our name everything so agreed upon and concluded and to do and transact all such other matters as may appertain thereto".

The credentials of the Tibetan Plenipotentiary issued by the Dalai Lama stated

"...I hereby authorise Srid Dzin (Ruler) Sha-tra Paljor Doji to decide all matters that may be beneficial to Tibet and I authorise him to seal all such documents".

The credentials of the Chinese Plenipotentiary stated

"Ch'en I-fen (Ivan Chen) is hereby appointed Special Plenipotentiary for Tibetan negotiations".

At the conference the Tibetan Representative submitted detailed statements defining the limits of Tibetan territories and these naturally led to a discussion of the limits of Tibet. All that the Chinese Representative wanted was that the question of the political status should be taken first. The Indian side quoted from the record of the second meeting of the Simla

Conference, held on 18 November 1913 a copy of which had been given to the Chinese representative:

"Sir Henry McMahon (the British Representative) painted out that this left him face to face with his initial difficulty and he did not see how the political status of Tibet could be discussed until the limits of the country were defined. In the circumstances he considered that, in order to save time he must first go into the question with Lonchen Shatra, but he would have preferred to have been able to discuss it with Monsieur Ivan Chen simultaneously. He would have to defer doing so until his Chinese colleague was authorised to join in the discussion."

As the Chinese Representative raised no objection to the proposals it meant that he agreed to a discussion of the Indo-Tibetan boundary by the British and Tibetan Representatives. For it would be noted that McMahon referred to the limits of Tibet in a comprehensive and general manner and not merely to the Sino-Tibetan boundary. Since the Indo-Tibetan common boundary was a traditional one, it could easily be settled between the two parties, while the boundary between China and Tibet was disputed and required mediation and discussion in a full conference.

The discussions and agreement on the Indo-Tibetan boundary were not behind the back of the Chinese representative, as now' alleged by them. The discussions took place in Delhi between 15 to 31 January 1914, and the agreement was signed on 24/25 March 1914. During this time the venue of the tripartite conference was also in Delhi. At the 4th meeting of the full conference on 17 February 1914 McMahon tabled a statement on the limits of Tibet. In a map attached to the statement the "historic Tibetan frontiers" were shown for acceptance. What later came to be known as the McMahon Line was shown on this map as part of Tibet's historic frontiers. Again, the Indo-Tibetan boundary formally confirmed on 24 and 25 March was shown

on the map attached to the draft Convention and submitted at the 7th meeting on 22 April 1914. At the meeting the British Representative stated that the draft convention:

"Would inaugurate such a status for the whole of the Tibetan territories as would offer the best hope of restitution of peace and prosperity to the inhabitants of an extensive area adjoining the frontiers of China and British India.

The reference to an extensive area adjoining the frontiers of China and British India was obviously to the Sino-Tibetan frontier in the east and the Indo-Tibetan frontier in the south. The Chinese Representative raised no objection.

On the 27th April all the three Representatives initialled the map and the Convention.

All this showed that the McMahon Line was not arbitrarily drawn by the British and Tibetan Representatives behind the back of the Chinese Representative.

The Chinese side contended that the Chinese Government had not recognised the Convention of July 3, 1914 and that they had informed the British Government to that effect on 3 July and 7 July 1914, But the non-adherence of the Chinese Government was irrelevant as far as the Governments of India and Tibet were concerned; and the obligations they had assumed by the exchange of letters and the Convention, and the boundary alignment they had formalised, were binding on them both. This was made clear even then to the Chinese Government. The Indian side drew the attention of the Chinese side to the communication presented by the British Minister at Peking to the Government of China on June 25, 1914, stating:

"As it is, the patience of His Majesty's Government is exhausted and they have no alternative but to inform the Chinese Government that,

unless the Convention is signed before the end of the month, His Majesty's Government will hold themselves free to sign separately with Tibet.

In that case, of course, the Chinese will lose all privileges and advantages which the Tripartite Convention secures to them..."

Similarly in their letter dated 8 August 1914 addressed to the Chinese Ambassador in London, the British Foreign Office stated:

"...the Agreement recently reached between the British and Tibetan delegates at Simla represents the settled views of His Majesty's Government on the question, as stated by the British Plenipotentiary at the final meeting of the Conference.

Chinese adherence or recognition was not necessary for the Anglo-Tibetan Convention of 3 July 1914 and the Boundary Agreement of 25 March 1914 to be valid.

The assertion of the Chinese side that Tibet was a part of China and therefore had no right to enter into treaties was an untenable assertion which had not been supported by any evidence. The letter from the Prime Minister of India dated 26 September 1959 and the note of the Government of India dated 12 February 1960 had already dealt with this in detail.

However, the Indian side advanced the following further facts to show that Tibet was at that time fully entitled to enter into treaties.

Tibet had in the past, entered into a number of treaties which were not only considered valid by the parties concerned, but were in actual operation for decades and, in some cases centuries. The Indian side had referred earlier to the treaties of 1684 and 1842 which Tibet had signed with Ladakh and Kashmir and under which Tibet's traditional boundaries in the west had been confirmed and her trade relations with Kashmir regulated. These treaties had been in actual operation up to our own times. Similarly the Nepal-Tibet treaty of 1856 was in operation for a full century until

abrogated by the Sino-Nepalese treaty of 1956. Article III of the 1956 treaty between China and Nepal stated: "All treaties and documents which existed in the past between China and Nepal including those between the Tibet Region of China and Nepal are hereby abrogated." This showed that Tibet had been in a position to sign treaties and that China recognised such treaties as valid. That the Chinese Government themselves recognised this right of Tibet to enter into treaties was evident also from the fact that the Chinese Amban assisted the British Government in 1904 in concluding the Anglo-Tibetan Convention of that year. Later, in 1906, the Chinese Government not only extended full recognition to this treaty but undertook "to secure the due fulfillment of the terms specified therein."

The correspondence leading to the Tibet Conference of 1914 and the actual proceedings of the Conference provided further proof of China's acceptance of Tibet's right to enter into treaties. The Indian side had already cited some of these facts earlier in this statement, and now gave a few more. In pursuance of the Chinese offer of 30 January 1913 to negotiate on the basis of the British Memorandum of 17 August 1912, the British Minister communicated to the Chinese Government on 26 May 1913 the British Government's proposal for a joint conference in India with a view to settlement of the Tibetan question by means of an agreement of which all three Governments would be signatories. On 4 June 1913 the President of China said that he was not opposed to tripartite negotiations. On 14 July 1913, when the Chinese Vice-Minister for Foreign Affairs raised the question of the Tibetan representative's status, the British Minister insisted that the representatives must go to the conference on an equal footing. On 28 July 1913, when the British Charge d'Affaires communicated to the Chinese Vice-Minister for Foreign Affairs the powers being given to the British and Tibetan delegates, the Vice-Minister again raised the question of the status of the Tibetan representative, whereupon the British Charge d'Affaires

replied "that it would be a waste of time to consider all this again as we had gone over it all before, and that I could only repeat that it was the intention of His Majesty's Government that the delegates should attend the Conference on an equal footing." A few days later the British envoy was told that the Chinese representative would go to India in any circumstances. In other words, the Chinese Government accepted Tibet's equality of status at the conference. On 7 August 1913 the Chinese Foreign Office sent the following note:

"A Presidential Order was received on 2nd August appointing Ivan Chen as Special Plenipotentiary of Chinese Government for the conduct of negotiations relating to Tibet.

It therefore devolves on our Government to order Ivan Chen to proceed to India as speedily as possible there to open negotiations for a treaty jointly with the Tibetan Plenipotentiary and the Plenipotentiary appointed by the British Government and to sign articles which may be agreed upon for the purpose of removing all difficulties which have existed hitherto in regard to Tibet."

The Chinese Government thus accepted tripartite negotiations and recognised the treaty-making powers of Tibet, and the plenipotentiary and equal status of the Tibetan representative. Explicit provision was made for a treaty with the Tibetan and British Governments. The British representative informed the Chinese Government on 25 August 1913 "that His Majesty's Government note with satisfaction the Chinese Government's acceptance of the principle of the equality of status of the representatives and of the tripartite character of the negotiations".

During and after the Conference China never disputed the equal status of the Tibetan plenipotentiary. On 27 April 1914 the Chinese representative initialled the Convention, the preamble of which mentioned the Dalai Lama as a party along with the British Emperor and the President of the Chinese

Republic. At no time did China mention the equal status of Tibet as one of her reasons for refusing to accept the Tibet Convention of 1914.

On 3 July 1914, when the Chinese representative failed to sign the Tibet Convention which had earlier been agreed to and initialed by all the three parties, the British Government concluded the agreement separately with Tibet. Another agreement regulating trade between Tibet and India was also concluded on the same day. This treaty was in full operation until very recently.

After 1914 Tibet had frequent dealings with the Indian Government. Between 1921 and 1924, as the Chinese Government are aware, the Tibetan Government entered into correspondence with the Indian Government regarding certain minor frontier disputes in the Pangong area. Similarly in 1926 there was correspondence between these two Governments on a frontier dispute and the Tibetan Government participated in a commission which had been appointed to examine certain claims put forward by the Tibetan Government in the Nilang Jadhong area. The fact that the Chinese side themselves had referred to these negotiations of the Tibetan Government regarding the boundary showed that the Chinese Government recognised Tibet's right in the past to have foreign relations on her own and deal with matters concerning her boundaries.

The Chinese side stated that the Chinese Government had protested many times against the so-called McMahon Line and that the Tibetan Government also had repeatedly expressed dissatisfaction with it. These assertions had already been shown to be incorrect in the Prime Minister's letter of 26 September 1959 and the note of the Government of India dated 12 February 1960, and it was hardly necessary to repeat those points. The Chinese side referred in particular to the letter sent by the Tibetan Foreign Office on 18 April 1945. As could be seen from the text of that letter and

from the very passage quoted by the Chinese side, the Tibetan Government clearly recognised that a Boundary Agreement had been signed in 1914. They also recognised that the area south of the McMahon Line was Indian territory. The first sentence of the Tibetan letter stated "The Indo Tibetan boundary which is marked with a red line in the map shows all the areas below Tawang as within British territory". The Tibetan Government only doubted whether certain areas lay south of this Line; and the Government of India made the position clear in January 1946.

COMMENTS ON THE EASTERN SECTOR UNDER ITEM 2

Regarding the Eastern Sector, the Indian side brought forward vast and varied evidence to show that the Indian alignment was based on tradition and custom and later received the added sanction of treaties. The Chinese side did not even seek to rebut most of the positive evidence brought forward by the Indian side. Instead, they once again propounded their usual arguments questioning the value of evidence drawn from ancient epics, disputing the validity of unofficial maps and casting doubts on the motives of those whose firsthand accounts substantiated the traditional and customary alignment. As the Indian side had already, on earlier occasions, often stated the correct position on these matters, they did not repeat those points, but only made a few additional comments. As for the alignment claimed by the Chinese side, the evidence cited was meagre; and even this was shown by the Indian side to be inconclusive.

Evidence of tradition and custom supporting the Indian alignment It was surprising that despite the detailed elaboration provided earlier by the Indian side showing the value of ancient Indian chronicles for the purpose of establishing the boundary alignment, the Chinese side once more made general statements criticising them. These old chronicles are extremely valuable in tracing the ancient history of India and have been accepted by all scholars as primary sources. They are contemporary accounts written by men with a first-hand knowledge of the places and areas described by them; and their accuracy has been corroborated by other evidence, archaeological, epigraphic and documentary. The Chinese side quoted a passage in the Imperial Gazetteer of India questioning the value of these chronicles for the early history of Assam. But the Imperial Gazetteer was written over fifty years ago, at the beginning of this century, when knowledge of ancient Indian history was still rudimentary. Since then a very

great amount of work has been done in the field of historical scholarship; and all that we have learnt during these years has proved the remarkable accuracy of the historical and geographical knowledge provided by the Indian Epics and the Puranas. Today these ancient Indian chronicles are accepted as sources in both spheres. One section of the Puranas is devoted to geography and another entirely to history; and the fact that the accounts in the eighteen Puranas are almost identical forms extremely weighty evidence of their accuracy. The internal evidence of the Puranas also shows that they were written by men living in the localities described. Even when these Epics and Puranas do not locate places with precision, they describe correctly the extent of kingdoms, the lie of ranges and the courses of river. They make clear where the traditional and customary boundary alignment of India lay. This ancient evidence is supported by the continuity of tradition and custom as the basis for the boundary through the centuries. Medieval and modern evidence support ancient evidence, and each confirms the other.

The Chinese side stated that in the passage quoted by the Indian side from the Ramayana, they could not understand the significance of the reference to the Kaushiki river. This showed the extent of the Kingdom of Pragjyotisha in those days. It then included the whole of modern Assam and the North East Frontier Agency and stretched right up to Nepal.

The Chinese side also sought to minimise the importance of Kalidasa's Raghuvamsa. Literary tradition, however, has always been an important source of historical evidence. It is clear from Kalidasa's works that he had a first-hand knowledge of the areas he was describing, and he explicitly stated that the Kingdom of Pragjyotisha extended north of the Himalayas. The argument, therefore, of the Chinese side that when these works referred to the tribal areas they might have had in mind the areas in the plains, was wholly untenable. As the Indian side had clearly shown, the

chronicles and works left no doubt that the tribal areas described in the passages cited by the Indian side were areas in the Himalayan region. There were explicit references, for instance, to Smitpur and to Bhalukpong in the Aka area. It is also a well-known fact that the Kiratas, mentioned by name in the passage from the Mahabharata cited by the Indian side had their home in what is now the Indian North East Frontier Agency. All these early Sanskrit texts emphasised what we know also from other sources, that the Himalayan mountains always formed the northern frontier of India, and inspired her cultural and spiritual life.

The Indian side were also surprised that the Chinese side should have doubted the statement of their own distinguished countryman, the famous pilgrim, Hieun Tsang.. The information given by him was precise enough to show that the limits of the kingdom of KHmarupa were nowhere near the alignment now claimed by the Chinese side, but approximated more to the present Indian alignment and indeed tallied with the extent of Pragjyotisha as described in the Ramayana.

Regarding the Ahom rule over these tribal areas in the north since 1228 A.D., the Chinese side also made certain comments but were not able to refute the evidence brought forward by the Indian side. This evidence not merely proved contacts and intercourse between the Ahom rulers and these tribes but showed indisputably that the area was controlled and ruled directly by the Ahoms and that tribute was paid to them. The Chinese side stated that the various passages specifically quoted by the Indian side referred possibly to other parts of Assam in the east and south and not to the areas north of the alignment now claimed by the Chinese side. This was clearly a misinterpretation. When the Mogul historian, Shihabuddin Talish referred to the inhabitants of the "neighbouring hills" accepting the sovereignty of the Raja of Assam, he was undoubtedly referring to the tribal areas in the north, because the expedition of Mir Jumla, the Mogul General,

which Talish accompanied, went only into this northern area. Talish never went anywhere in eastern or southern Assam. As for the statement of the Assamese Ambassador, Madhabcharan Kataki, about the tribal legions, a reference to his work would show that he was talking of the Ahom army. Even the statement of Kataki quoted by the Indian side showed that he was referring to the Himalayan areas, because nowhere else in Assam are "mountainous regions" to be found. The Indian side suggested that the Chinese side would do well to consider the evidence brought forward by the Indian side on its merits rather than to depend on a second-hand work published in 1949 which happened to have cited some of the evidence brought forward by the Indian side and drawn some erroneous conclusions from it. It was also pointed out that even in this particular book it was nowhere stated that any part of this area now claimed by China ever belonged to Tibet.

The Chinese side stated that some of the evidence cited by the Indian side did not pertain to the Tawang region. In fact, the Indian side had brought forward evidence to cover every area south of the traditional Indian alignment, and a great amount of evidence had been adduced to show that the Tawang region had always been a part of India. For instance, the reference in the documents of the 17th and other centuries to Bhutiya territory being a part of India, clearly applied to this region. A large number of official maps, including Chinese maps, had also been cited to show that the boundary in this area lay along the Himalayan ranges, that is, to include the Tawang area in India. Other Chinese sources were also cited to show that Lopas, that is, non-Tibetans, were never citizens of Tibet. This obviously included the inhabitants of Tawang as well.

The Chinese side then commented on a few of the large number of first-hand accounts of travellers brought forward by the Indian side. They contended that Desideri was not referring to the Sino-Indian border and

was using the terms "extreme borders" and "frontier" loosely. That was an argument of no weight. Desideri indicated clearly the southern limits of both Takpo and Cong-to. He could not, therefore, have been referring to the border between Takpo and Cong-to, for it is well-known that Cong-to lies to the east of Takpo. The crucial sentence in the passage, on which the Chinese side made no comment, was the statement that the Congbo (Cong-to) provinces "march with" the territory of the Lepas and that the Tibetans were never allowed to enter that country. This made it clear that the Lopa ter'ritory was not a part of Tibet and that Desideri could not have been referring to the internal divisions of Tibet. The statement of Desideri that the Tibetans were "obliged to stop on the frontier to barter goods" confirmed that the frontier referred to was none other than the traditional Indo-Tibetan alignment lying north of the tribal territory.

Regarding Gutzlaff, whose testimony was cited by the Indian side the Chinese side merely contended that he was mistaken, but gave no reasons for their conclusion. They drew attention to the sentence in his account that the Mishmis were the tribe having most intercourse with Tibet. The Indian side failed to see what the Chinese side hoped to prove from this. It was inconceivable that the Chinese side intended to assert that because the Mishmis had contacts with Tibet, it followed that the Mishmis area was a part of Tibet. Gutzlaff had a detailed knowledge of this region and he even specifically listed the rivers which formed the boundary between the tribal territory and Tibet.

The detailed evidence cited by the Indian side was characterized by the Chinese side, without any reasons whatsoever, as "wrong or at least ...vague." It was noteworthy that even the Chinese side were unwilling to state categorically that the evidence of these travellers was wrong. Michell's reference to the Pobas as an independent people was a statement of historical fact which could not be refuted. The Tibetan Government

exercised little or no control over the Po-me area for a long time, let alone over the Pe-ma-ko area (originally inhabited by the Abors) or the Abor area further south. However, the Indian side were only concerned with proving that the traditional alignment lay along the ranges separating eastern Tibet from the Abor region.

The information provided by Cooper was also very precise and proved clearly that the Tibetan authorities at that time considered the frontier as lying a few miles south of Rima. All that the Chinese could say, in an effort to refute his evidence, was to allege that it was "one-sided" because Cooper had been harassed by the Tibetan authorities. Obviously, this was no proof that his evidence was partisan or that it factually incorrect.

Regarding the important Chinese sources cited by the Indian side, it was argued by the Chinese side that they were private works containing incomplete and erroneous information. But this effort to disparage the literary, geographical and historical works of their own country proved ineffective. From the preface written by Lu Hua-c'hu, a Chinese official who accompanied the Chinese army into Tibet in 1786, and the introduction written by the two authors, it was clear that Wei ts'ang t'u chih was based on the information contained in all previous Chinese works and in particular on the authoritative Institutes of the Ta Ch'ing- dynasty. It was, therefore, neither incomplete nor erroneous so far as the territories of Tibet were concerned. So, too, the Hsitsang tu kao, whatever its other limitations could not be considered erroneous in regard to the territories which formed part of Tibet. The Chinese side stated that the author himself had not regarded all the contents of his book as reliable. This might well have been the case; but certainly that part of his book which concerned the limits of Tibet was reliable. The internal evidence of these two works, as also of other Chinese works in general of the 19th century, showed that the authors were not mistaken about Tibet, but were ignorant about Lopa

territory. In fact, none of these works ever gave a description of the Lopa territory or of the various tribes living in that territory. This in itself confirmed the traditional Indian alignment by showing that both Chinese and Tibetans were ignorant of this tribal territory because it lay outside their jurisdiction. So when the Chinese side pointed out that the authors of these works could not obtain direct material from the area now claimed by the Chinese side, they were in fact saying that these works substantiated the Indian alignment.

The Chinese side also stated that the passages from these works had been wrongly translated by the Indian side. A reference to the original texts, however, showed clearly that there had been no errors in translation. The passage from the Wei ts'ang t'u chih stated clearly that the tribal country of Layul was to the south of Tibetan territory.. Had it been a part of Tibet, Layul would not have been characterized as a country and as lying south of Tibetan territory. The passage did not say that Layul was "in the southern territory of Tibet", but stated precisely that it lay "to the south of Tibetan territory". The Indian side showed that no other translation was possible. The map attached to the work. also showed that the territory was outside Tibet and not a part of It, for it mentioned a boundary between Tibet and Layul.

Again, there could be no doubt that the passage from the Sintang tu kaa had been correctly translated by the Indian side, and that the interpretation sought to be given by the Chinese side could not be sustained. The passage clearly grouped together the Layul people with other Indian people inhabiting the territory up to the Kashmir region, and all these people were stated to have been of four categories and to have belonged to the British. The argument of the Chinese side that the tribal people were characterized in this work as "Outer barbarians", as distinct from those in the interior, could not also be sustained, for the tribal people were clearly stated in this

work to be foreigners. In fact, the title of the passage in question was Appendix on Foreign (Outer) Wild Tribes. The passage itself ran:

"Now here we set forth foreign tribes that had not been referred to earlier in this work. From Lhoyul to Kashmir and Pulute the wild tribes that are seen, are of four categories".

It was then stated that all these tribes and India belonged to the British. The map in this work also supported this, for it clearly mentioned Tibet's southern boundary with Sikkim, Bhutan and Layul. And not merely did the Indian side establish that their translations were accurate, but they drew attention to what was significant, that they had brought forward other detailed evidence confirming the testimony of these works.

With regard to Ching shih kaa, a statement from which had also been cited by the Indian side; the Chinese side did not challenge the validity and authenticity of this work. They only contended that the passage in question recorded the four frontiers of the Kham area and not the boundaries of Tibet; that is, the Chinese side accepted that the tribal area was not a part of the Kham area. But since this tribal area immediately adjoined the Kham area in the south and since the Wei area had been separately mentioned as lying to the west of the Kham area, the tribal area could not possibly have belonged to Tibet. So, even according to the Chinese Interpretation, the tribal area would lie outside Tibet. The distinction made between the tribal area and Assam could not affect the argument that the area was outside Tibet and was a part of India.

The Indian side had brought forward many maps, ancient and modern, published in many countries, including China, which correctly showed the traditional Indian alignment. The Chinese side did not dispute on their merits the evidence provided by most of these maps, but merely asserted that unofficial maps could not clearly prove anything. This argument had

been answered on so many earlier occasions by the Indian side that they did not think it was necessary to deal with it again in detail.

The Chinese side commented on a small number of these maps, but even these comments were shown to be of no relevance. They described the maps from the Atlas published by the China Inland Mission in 1908 and from the New Atlas and Commercial Gazetteer of China of 1917 as "imperialist". This accusation had been disposed of both by the Indian Government in the earlier correspondence and by the Indian side at the earlier discussions. The maps were shown to be accurate and based on the most authoritative information. It was surprising that the Chinese side should have stated that these maps showed the alignment claimed by them in the Eastern Sector. In fact, they showed an alignment corresponding to the traditional Indian boundary.

The Chinese side alleged that the map produced by the Catholic missionaries showed no boundary line. The Indian side had brought forward two maps issued by missionaries, one of the 18th century and one of the 19th century. The map of the 18th century, showed Tibet and the limits of Tibet; and the Great Himalayas lying south of the Chayul Chu were shown as the southernmost limits of Tibet in this region. This corresponded to the traditional Indian alignment. The map of the 19th century clearly showed the boundary line as lying north of Bhutan, Tawang and the Abor and Mishmi territories. "It also showed clearly that the term Lower Zayul applied to the Rima area.

"It was strange that the Chinese side should have disregarded the Chinese maps of the Ching period brought forward by the Indian side solely on the ground that some physical features had not been shown precisely. The value of old Chinese unofficial maps as evidence of traditional boundary alignments had been repeatedly explained by the Indian side, and the Chinese side themselves had cited such an unofficial Chinese map on one

occasion-at the 22nd meeting on 26 August 1960. The unofficial Chinese maps cited by the Indian side "were obviously of great value, and their very antiquity added to their importance as proof of boundary alignments. The Chinese side made no efforts to deal with them. Nor did they deal with the other unofficial maps, published in other countries, which had also been cited 'by the Indian side.

Evidence submitted by the Chinese side

The Chinese side themselves brought forward little specific evidence to support the alignment claimed by them in this sector. They merely asserted that this territory had belonged for a very long time to Tibet, thus withdrawing the argument put forward in their earlier communications to the Indian Government that this territory had belonged not to Tibet but to China, as distinct from Tibet.

The actual evidence brought forward by the Chinese side pertained only to what they called Monyul, Layul and Lower Zayul "They did not state what they considered to be the area of these three localities, and judging from the evidence these appeared to be only "three small pockets of the large area claimed by the Chinese side in the Eastern Sector. For example, Lower Zayul, as was later shown of the Indian side, really referred only to the Rima area; but even at "the Simla Conference of 1914, the statements and maps brought forward by the Chinese Government showed that the claim that Lower Zayul extended south of the McMahon Line was meant to cover only a small corner of what is Mishmi territory. Of the total length of over six hundred miles of the alignment in this sector, the area dealt with by the Chinese side appeared to comprise only about a hundred miles; and of the total Indian territory claimed by them the areas regarding which evidence was submitted pertained to less than a tenth of the whole. Thus between Tawang at the extreme west of this area and Walong in the

extreme north of this area, they brought forward evidence only for a stretch of a few miles of the Dihang valley. So even if all that the Chinese side stated were correct, it could by no means prove that they had a title to the whole area south of the McMahon Line which they were now claiming. The Chinese side asserted that these three units covered the whole area south of the Indian alignment claimed by them, and that many foreigners had described the whole area in this way. The Indian side pointed out that this was not correct, and requested the Chinese side to cite the accounts of foreigners which would support their contention. The Chinese side brought forward no such evidence. Instead, they mentioned a map published by the Survey of India in 1906. It was found that while a number of place-names were marked on this map, there was nothing to show that the entire area south of the traditional alignment was comprised by these three names, Monyul, Layul and Lower Zayul.

The Chinese side asserted that the whole area now claimed by them had been covered by dzongs, or Tibetan administrative centres. But the Indian side pointed out that no evidence to this effect had been provided, and from the mere assertion that these dzongs existed, it did not follow that they covered the whole area. In fact, all these dzongs were located either in the extreme west or in the furthest north; and not only were they all nearer the Indian alignment than the Chinese alignment but they were all very distant from each other. No proof had been brought forward to show that these dzongs covered large areas, that the limits of these areas marched with each other and that together they covered the whole area now claimed by China.

Moreover, all the evidence brought forward by the Chinese side pertained to the areas in the north, near the traditional Indian alignment; almost nothing had been said about the southern areas near the alignment claimed

by the Chinese side and no evidence at all had been brought forward to substantiate that line.

Furthermore, even this evidence brought forward by the Chinese side did not substantiate the Chinese claim to these particular areas. The Chinese side abandoned the contention that the Monyul area had always been a part of Tibet, and claimed that it became Tibetan territory only around 1680 when the Fifth Dalai Lama despatched Lanchu K'e and Mera Lama to take over this area. The phrase said to have been used in the document was "to establish rule". However, the quotation actually given by the Chinese side did not indicate in any way that Monyul was a part of Tibet. The communication was addressed to all countries of the world including Monyul; and this could not prove the Monyul was Tibetan territory. Nor did the rest of the document support the Chinese claim. In fact, the reference to the collection of voluntary contributions indicated clearly that the Dalai Lama was only authorising the collection of contributions to the monasteries.

The Chinese side stated that what the Mera Lama had done was to renovate the monastery. Even if this were so, it was no proof of Tibetan administration; and as renovation of a monastery presumes its existence, this showed conclusively the Lamaist Buddhism existed in this area before the period of the Mera Lama, when, according to the Chinese side, Tibetan authority was extended to this area. This was an acceptance by the Chinese side themselves of what they had disputed on numerous other occasions, that Tibetan Buddhism can exist without Tibetan political authority prevailing.

Later, the Chinese side argued that this area had come under Tibetan authority in the days of the Second Dalai Lama. The Indian side pointed out that there were contradictions in the Chinese position; sometimes they claimed authority from the 17th century, sometimes from the 14th or 15th

century, and yet again they said it was traditional, that is, presumably, much earlier still. The Chinese side were unable to clarify the position. Nor was the claim that Tibetan rule over this area dated from the years of the Second Dalai Lama borne out by the document cited by the Chinese side in this context, for it stated merely that the people of this area were "believers in the Yellow Sect" and not that they came "under the rule of the Yellow Sect".

The other document quoted by the Chinese side that of the Seventh Dalai Lama, enjoined the Monbas to guard the frontier. This was presumably the frontier between the Monba area and that of the warrior tribes to the east. The exhortation by a religious pontiff to adherents of his faith that they should guard themselves against neighbouring tribes does not show territorial sovereignty. The pledge by the local officers in 1853 not to give up territory-was also not pertinent. The Chinese side stated that there was a pledge in this document by the people of Monyul "that they will not allow the sovereignty of the frontier to fall into someone else's hand". The Indian side pointed out that no such passage was to be found in the document. Finally, the Chinese side accepted that there-was no such passage, but said that this had been their general understanding of the document.

The Chinese side stated that the British Indian Government had signed an agreement of non-aggression with the Monbas in 1853. It was pointed out by the Indian side that this was purely an administrative agreement. The sovereign Indian Government reached agreements in the 19th century with the tribal authorities who were under them for the better maintenance of law and order. There could be no question of their entertaining any ambitions towards areas which were already under their sovereign control. These agreements would be dealt with in greater detail under Item 3.

The Chinese side cited a document of 1865 according to which the people of Udalguri are said to have promised to be true to their masters. The Indian

side pointed out that it was well-known that Udalguri was an important town in Assam. Even the Chinese side accepted that Udalguri was south of the alignment claimed by them, and that by 1865 it was under Indian control. However, it was claimed that Tibetans continued even thereafter to collect taxes there. The Indian side pointed out that, this implied simultaneous exercise of jurisdiction which was, in fact, not the case. The Indian side stated that it was wholly incorrect to assert that the Tibetan authorities controlled this area right up to the forties of this century. The area south of the traditional Indian alignment had always been under Indian administration and jurisdiction, and evidence to this effect would be brought forward under Item 3. The Chinese side quoted a so-called census said to have been held in this area in 1940; but the document merely dealt with the donations to be made by villages for celebrating the enthronement of the Dalai Lama and the amounts fixed by the Monba chiefs. The activities of the Tibetan official who was said to have been sent to Tawang in 1942 could not have comprised a study of the boundary, for neither he nor his entourage visited any place south of Tawang. This was obvious from the so-called boundary description which was apparently submitted by him to his superior officer. It was not the contention even of the Chinese side that in 1942 the Tibetan Government were collecting taxes at Udalguri, an important administrative centre in the plains with a railway station of its own, or at Kobirali where there has been a large tea estate since the last century.

The local administration of Tawang was never under Tibetan control. The Tawang monastery recognised the spiritual supremacy of Tibetan religious leaders and collected religious dues from the local inhabitants. The collection of such dues for religious purposes did not confer territorial sovereignty on the Tibetan religious authorities. The truth that collection of such dues could not and did not confer any territorial sovereignty had been

accepted by the Chinese Government themselves as far back as in 1914. At the Simla Conference, on 7 March 1914, Ivan Chen the Chinese delegate stated: "What is termed spiritual influence should not be confused with what is termed temporal authority. What the Dalai Lama exercises is only spiritual influence and not temporal authority. He exercises the former in the same way as the Pope does in the West. The sphere within which his spiritual influence is extended can under no circumstances be claimed as the extent of his temporal authority... what is paid to the Tibetans is not in the shape of revenue in the ordinary sense of the word, but merely contributions to the monasteries. It is rather charity than a tax". And on 13 June 1914 Sun Pao-chi, the Chinese Minister for Foreign Affairs, informed the British Minister in Peking that "the Tibetans affected to think that they had rights over all places inhabited by Lamaists, but this was riot so. The Lamas might have ecclesiastical authority but this did not necessarily mean that these places belonged to Tibet."

The Chinese side argued that when these spokesmen of the Chinese Government stated that these territories did not belong to Tibet, what they had in mind was that they belonged to some other province of China. But this could not affect the strength of the Indian position; for the point at issue was whether Tibetan political authority was an automatic consequence of Tibetan spiritual authority. The crucial point was the acknowledgement that these areas did not belong to Tibet, and not to whom else - Chinese or non-Chinese - they did in fact belong.

The Indian side again pointed out in this connection that, whatever the system in Tibet, it remained to be proved that in areas where Lamaist Buddhism prevailed, Tibetan political authority also prevailed. For example, Lamaist Buddhism was to be found in Nepal, but it did not and could not follow that Nepal was politically subordinate to Tibet.

The Chinese side next dealt with what was called the Layul area but they did not state to which particular area this term Layul applied; nor did they give any indication of the exact extent of the area. It was merely stated that the area had originally been under the administration of the Po-me area and that later on it was given to Pe-ma-kang. For the period up to 1914, no historical evidence whatsoever was brought forward except for a vague reference to the order of the Fifth Dalai Lama of 1680, whose inconclusive nature had already been established by the Indian side. Since the areas south of the watershed had always been a part of India, the Indian side pointed out that they had full information regarding the history of this area in this sector as also the history of the neighbouring region, namely, Pe-ma-kang. The term Po-me was applied only to the valley of the Nugong Chu which was also called Po-Tsangpo in its lower reaches in Tibet. The term Pe-ma-koe was applied to the valley of the Tsangpo below the gorge and up to about the Indian boundary. The Pe-ma-koe region was originally inhabited by the Indian Abor tribes, but, as mentioned earlier, they were gradually displaced and pressed southward into Indian territory by the Monbas from the time of the Seventh Dalai Lama in the 18th century. The Chinese side asked the Indian side to prove that these Tibetan areas north of the "McMahon Line" belonged to Tibet. The Indian side pointed out that this was not their concern. It was for the Chinese side to prove their contention that Po-me had extended south of the so-called McMahon Line.

The Chinese side stated that since the 17th century the decrees and orders promulgated by the Tibetan Government had included also the Layul area, but they brought forward no evidence in support of this statement. Nor did they produce evidence to show that Layul had extended to the area south of the traditional alignment. As shown earlier by the Indian side, Chinese sources themselves had considered that Layul lay outside Tibetan territory;

and since the Po-me and Pe-ma-koe areas were also inhabited by tribal people, Layul would also have included these areas. If at all the Tibetan decrees and orders had included Layul, it could be only the Po-me and Pe-ma-koe areas, and not the areas further south. Even according to the Chinese claim, before 1927 there were no Tibetan administrative units south of Kepang La.

The Chinese side quoted a report claimed to have been written by Buddha Kujū in 1914 after inspecting the Layul area. As the Chinese side brought forward no evidence regarding the extent of Layul, this document was not pertinent. Nor did they clarify which were the La-ka, Lo-na and Lo-cha areas referred to in this document.

The document of 1921 quoted by the Chinese side merely stated what, according to Kongbu Sonam, were the stages of some particular route. The Chinese side claimed that he had indicated that the border lay near Pasighat; but there was no reference in the document that could at all suggest this. The Chinese side asserted that two places, Jung-tune and Jen Keng, mentioned in the document, were near Pasighat, but they failed to identify these places when asked to do so.

It was claimed by the Chinese side that in 1927 the Chieftain of Po-me, who had rebelled against Tibet, had been pursued right upto the Indian border and that thereafter the Tibetan Government had set up a tso attached to the Tetung Dzong. While there were occasional raids by the Pobas into the Abor region and by the Abors into the Poba region, no part of the Abor region had been included in any administrative unit of Tibet. The creation of Tetung Dzongs and of tso attached to it was, therefore, of no relevance to the subject of the location of the Indo-Tibetan boundary alignment. But even if this evidence were valid, it could not establish the traditional basis for Tibetan presence south of the McMahon Line; for tradition by definition has to be much older than thirty years.

The Chinese side cited three documents from the Tibetan records. In an effort to show that when the British advanced gradually along the Brahmaputra valley, the Tibetan local authorities were unable to collect their taxes from the villagers of Lo-na, Shamai and Kakao and that the Tibetan Government had instructed their officials to continue collection of the taxes. But the fact was that the Tibetan Government had made no representation to this effect to the Government of India. As for their representation of 1947, this had already been dealt with in the letter of the Prime Minister of India of 26 September 1959 (paragraph 14).

A letter of 1945 from the Sera monastery, cited by the Chinese side referred to the alleged collection of taxes from five villages, presumably south of Keping La. In fact, Tibetans have never collected any taxes south of Keping La. It was only in 1936, when Tibetan mercenaries were employed in the feud between the Shumong and Kong Kar tribes, that the Tibetan authorities across the border tried to collect what the local Abors regarded as payment for these mercenaries and what the Tibetans seem to have regarded as taxes. The British local authorities intervened in the 'forties', and the Administrative Officer informed the Tibetan authorities across the border that no attempt should be made to collect any sort of payment from the people living south of Keping La. This interdict was accepted and since then there has been no such collection south of the international boundary in this sector.

Regarding the Lower Zayul area, the Indian side pointed out that unless the Chinese side could identify Lower Zayul, as against what was presumably Upper Zayul, the document of 1896 regarding the administration of Lower Zayul and Upper Zayul could not be regarded as pertinent to the Chinese case. The boundary referred to in this document, also did not tally with the description of the boundary given by the Chinese side. But the Chinese side never defined the extent of Lower Zayul.

The Chinese side quoted a document of 1911 which was said to be the report of Cheng Feng-Hsiang to Chao-erh-Feng. The document is said to have referred to the Ya-pi-chu-lung as the boundary; but the Chinese side were unable to identify this place. It was possible that Ya-pi-chu-lung was the same as Yepak, which was about twenty miles north of what the Chinese had described as their boundary under Item 1, and would not substantiate it. The report also seemed to be based on very meager data. The other document quoted by the Chinese side the report of P'eng Jui, showed that the only villages known on the west bank of this river were Sung Kung, Chinma and Walong. The other Miju villages (which he seemed to mistake for Lolo villages) south of Yepak stream and north of what the Chinese now claim as their alignment, such as Sati and Minzong, were not referred to at all. These two officers seem to have known nothing about the position on the east bank of the river where also there are several Miju villages. Actually, the whole area belonged to Mijus, whose traditional boundary with Tibet lay considerably north of Walong.

It was not understandable what the Chinese side had in mind when they stated that it was only in 1944 that the Britishers intruded into this area. The whole area right upto to the natural, traditional and customary alignment in the Eastern Sector had always been under the sovereign jurisdiction and administration of the Indian Government. The Chinese side while claiming that their alignment was the traditional one, could bring forward no evidence to this effect.

The Chinese side quoted a statement by Nain Singh, whom once again they most unfairly alleged to have entered Tibet surreptitiously. Reading the account of Nain Singh as a whole, it became obvious that when he referred to the British frontier, he was referring to the then administrative frontier of British territory. His account also showed clearly that Tawang was not politically a part of Tibet. For he wrote: "the Mompas who inhabit the

Tawang district differ materially in language, dress, manners and appearance from the inhabitants of Tibet and resemble according to the Pandit, in many respects the Dhukpas of the Bhotan country on the west." He also stated: "this Tawang monastery is entirely independent of the Jongpan and of the Lhasa Government."

The Chinese side further quoted a statement of the record of Lala's exploration. Lala, however, made it clear that Tawang (Mantangong) was not a part of Tibet. For he referred to "traders from Tibet coming to Mantangong", the authorities at Mantangong deporting Tibetan merchants and the Tsukhang levying customs duty on the Tawang-Tibet border.

The Chinese side also quoted a statement by Kingdon Ward. This was surprising, for Kingdon Ward had never had any doubts that Tawang was a part of India. Both the article quoted by the Chinese as well as Kingdon Ward's detailed work Assam Adventure, published in 1941, made clear that the international boundary lay along the so-called McMahon Line.

As for the account of the Mongolian Lama compiled by Col. Tanner, it did not prove that the territory was traditionally Tibet an. On the contrary, it showed that the King of Powa had long been independent of Tibet. There was no ambiguity about this statement.

The Chinese side quoted an article by Major Holdich of 1912. The Indian side pointed out that the general purport of the whole article" was to show that the boundary in the Eastern Sector lay where it was now shown on Indian maps. For example, there was a very detailed account in that article of all the Indian explorations carried out in this region right up to the alignment.

Evidence regarding the treaty basis of the Indian alignment The Indian side had brought forward conclusive evidence to show that in 1914 the Governments of India and Tibet had formalised the natural, customary, traditional and jurisdictional boundary in this sector. Further, as would be

shown in great detail under Item 3, the areas right upto this alignment had always been under Indian control, and it was wholly incorrect to state that Indian personnel and troops had moved upto this boundary line after 1914, and pressed forward in even larger numbers around 1951. The Chinese side, in addition to their old arguments regarding the so-called McMahon Line also brought forward certain new arguments which were not directly relevant to the boundary question.

At the very outset the Indian side stated that it was a matter of great surprise and regret to them that the Chinese side had once more suggested that the Government of India were seeking to benefit from the imperialist policies of other nations. The Indian side affirmed once again that the Government of India had always made clear and the Indian side themselves had stated categorically at the meetings of the officials, that independent India had not, and had never had, any territorial ambitions in Tibet. India had given up of her own volition all the extra-territorial rights enjoyed by Britain in Tibet before 1947 and had recognised Tibet as an autonomous region of China. No better proof of this was required than the fact that discussions pertaining to the Indo-Tibetan border were being held with officials of the Chinese Government.

Discussing what they termed the nature and background of the Simla Convention, the Chinese side described it as "an important step in the British conspiracy to invade Tibet" and separate it from China. The Indian side had no wish to defend the policies of British imperialism, and the Chinese side themselves had recognised this. But the analysis given by the Chinese side of the background to the Simla Conference did not correspond with the facts. Long before the Simla Conference Sino-Tibetan relations had virtually ceased to exist; and this had nothing to do with the British. The Chinese army and representatives had been evicted, from almost the whole country by the Tibetans on their own. Thereafter, the Tibetans had issued a

declaration of independence and resisted all Chinese attempts to re-establish their authority within Tibet. The whole correspondence between the British and Chinese Governments in these years showed that the British Government had sought to help the Chinese Government, in the context of the fighting on the Tibet-China border and the anxiety of the Chinese Government to reestablish their connection with Tibet.

The Chinese side suggested that the terms of the British Memorandum of 17 August 1912, mentioned by the Indian side, showed that it was a measure to intimidate and apply pressure on the then Chinese Government. However, were this so, it was surprising that the then Chinese Government had been willing and indeed eager to commence negotiations on the basis of that Memorandum. In fact they had later decided to attend the tripartite conference on the even more disadvantageous from the Chinese point of view.

It was the Chinese Government which had stated that the Chinese plenipotentiary would proceed to India "to open negotiations for a treaty jointly" with the Tibetan and British plenipotentiaries; and it was the Chinese Government which had acknowledged that the plenipotentiaries of the three sides would be meeting on an equal footing. In accordance with diplomatic usage which is normally only followed at international conferences of representatives of sovereign countries, the three plenipotentiaries exchanged credentials; and the Chinese representatives, far from protesting, had accepted the credentials of the Tibetan representative, which had stated that he had authority to decide all matters that might be beneficial to Tibet. It was thus abundantly clear that the Simla Conference, convened after considerable preparation, and to which plenipotentiaries of both Tibet and China came, was a meeting of equals to settle outstanding issues between the "several Governments".

The negotiations leading to the Simla Conference showed that far from the British entertaining ambitions in Tibet, the Tibetan side were concerned at the attempts of the Chinese side to convert Tibet into a Chinese province. The Memorandum of 17 August 1912 recalled China's treaty obligations with regard to Tibet in order to assuage Tibetan apprehensions and to ensure that Tibet would participate in the Conference. In fact, to facilitate Tibetan participation, China assured the British Government that she did not entertain any aggressive designs towards Tibet. These voluntary assurances did not suggest that China was acting against her volition under pressure from a third Government.

The allegation that the Chinese Government were forced to attend the Conference was also belied by the fact that at the Conference her representatives took a full and whole-hearted interest in the proceedings, commented on the proposals of the other representatives and submitted their own counter-proposals, some of which were accepted by the other representatives. Not merely the fact that China initialled the draft convention but the whole series of exchanges prior to the meeting, as well as the course of the proceedings, established beyond doubt that China had participated in the Simla Conference in her own interest and in exercise of her sovereign will.

The Chinese side, on previous occasions, had quoted with approval the actions and communications of former Chinese Governments, but on this occasion sought to repudiate what had been done by China in the exercise of her sovereign power. The Indian side pointed out that the Chinese side could not seek support from the actions of previous Chinese Governments when they suited the Chinese side and disown them when they did not conform with the present claims of China. The Chinese side contended that they had a right to do so. The Indian side stated that this was an extraordinary position for any Government to adopt, for it would unsettle all

relations between Governments. It was an accepted principle of international law that all past commitments of previous Governments were binding on successor Governments, at least until they were re-negotiated. Further, if at these meetings officials of either side discarded such facts and agreements as were inconvenient, there would seem to be little purpose in the discussions.

The Indian side showed that it was incorrect to state that the Sino-Indian boundary had not been discussed at the Simla Conference. The discussions on the Indo-Tibetan boundary between the Tibetan and British Representatives had lasted for a month and had been full and frank, it being the earnest desire of both sides to formalise the traditional boundary. The agreement was concluded by an exchange of letters which made it clear that the Government of Tibet had acted willingly. Such bilateral discussions were common during the Simla Conference. For instance, the modifications suggested by the Chinese in the boundary between Inner Tibet and Outer Tibet had been made as a result of bilateral discussions between the Chinese and the British representatives. The outcome of these discussions was submitted to the plenary session because they concerned all three parties; but the discussions regarding the Indo-Tibetan boundary did not concern China and therefore did not require formal submission to a plenary session.

In this connection, the Indian side drew the attention of the Chinese side to the fact that the plenipotentiaries of India and Tibet had in 1914 enjoyed the necessary powers to conclude this agreement, without the endorsement of China. Moreover, under international law a failure of one of the parties to a multiple treaty to ratify it could not affect its binding value on other parties or the validity of the obligations assumed by them. The Chinese side stated that they could not agree, but gave no reasons for their refusal to accept a well-established principle of international law.

The Indian side had no wish to discuss the whole history of the relations between Tibet and China; but they were obliged to point out that in the period under discussion Tibet had had independent and direct relations with her neighbours as far as her interests along the border were concerned, without the exercise of any control by China. Such nominal suzerainty over Tibet and other connections as China had claimed would seem in fact to have been virtually extinguished. Obviously the present position regarding Chinese authority in Tibet could not be projected backwards and could not under international law affect the status and powers of Tibet in 1914.

The Indian side pointed out that the Chinese side themselves had affirmed. at these meetings that the Tibetan authorities had "negotiated" with the British Indian authorities on the dispute pertaining to Dokpo Karpo in the Western Sector and the dispute regarding the Nilang-Jadhang area in the Middle Sector. In the latter dispute the Tibetan and British Governments had even constituted a commission for the consideration of the dispute. Again, the Chinese side themselves had pointed out that a Tibetan official had come to the Barahoti area and that all the discussions about this area from 1889 right upto 1954 had been with the appropriate Tibetan authorities. On none of these occasions had the Chinese Central Government conferred powers on the Tibetan representatives, who had functioned effectively without requiring even a symbol of Chinese participation. If the Chinese side considered that Tibet had had authority to "negotiate" on all these occasions both before and after 1914, they could not logically deny that Tibet had had the power to confirm a traditional boundary in 1914. But, in fact, in the case of the Simla Convention, there was in addition an explicit recognition of the authority of the Tibetan representative by virtue of the Chinese acceptance of the credentials of Lonchen Shatra.

It was also pointed out by the Indian side that the Chinese side had brought forward no evidence of any kind to suggest the exercise of Chinese authority or the presence of Chinese personnel in Tibet, much less on the borders of Tibet and India, during the years 1912 to 1950. The fact that in 1950 the Chinese Government considered it necessary, as they themselves had often claimed and the Chinese side at these meetings had repeated, to "liberate" the Tibet Region, was proof that in that period the only effective authority which had had control of Tibet and powers to confirm the boundaries of Tibet was the Tibetan Government in Lhasa.

The Indian side had already specified some of the treaties signed by Tibet in her own right, and they therefore only made at this stage a few additional comments on this point. The authenticity of the treaty between Tibet and Ladakh of 1684 was beyond doubt. The 1842 treaty was not a treaty confirmed by China but one in which Tibet and China were equal parties. This treaty came into operation on signature, no ratification being necessary. The Chinese disputed the account given by the Indian side of the treaty of 1856 between Nepal and Tibet. But the facts were that when Nepal invaded Tibet, China was unable either to assist Tibet or to represent it at the conclusion of the peace treaty. It was incorrect to state that it was only signed after it had been authorised by the Chinese Minister in Tibet. China had no part in the conclusion of this treaty. This was conferred by Article 7 of the treaty by which Tibet granted extra-territorial rights to Nepal. In international law, the grant of such rights of extra-territoriality was normally an exercise of sovereign rights. Unless a State had complete and unrestricted control of its territory it could scarcely grant such rights. The Chinese Government had at no time objected to the treaty and in fact the People's Government of China had given it formal recognition in the treaty signed by them with Nepal in 1956. If Tibet had had no power to conclude treaties there was no need formally to abrogate a treaty between

Tibet and Nepal. Abrogation pre-supposes validity till the time of abrogation. The treaty of 1956 contained the clearest recognition that Tibet had had the power in the past to conclude treaties on her own with foreign States without the participation or permission of China.

The Chinese side repeatedly tried to dismiss the fact of Tibet's direct dealings with her neighbours by suggesting that these were due to the machinations of British imperial policy. The Indian side showed that this was not a correct account of the facts of history. From about 1873 onwards, it was the British who, far from intimidating the Chinese Government, began to negotiate with them for establishing trade and other relations with Tibet, because they were anxious to restore Chinese influence in Tibet. It was found, however, that the Anglo-Chinese Convention of 1890 and the Trade Regulations of 1893, which had been concluded without Tibetan participation, could not be enforced because of Tibetan defiance of agreements which did not have their concurrence. There could be no greater proof that Tibet at that time was not subject to Chinese authority. The provisions could only be implemented after they had been renegotiated in 1904 with Tibet; and the Chinese Amban assisted the British Government in concluding this agreement. Indeed, the then Chinese Government had not even protested against the Younghusband Mission. The Convention of 1906 between China and Britain specifically acknowledged that Tibet had refused to recognise the validity of, or to carry into full effect, the provisions of the 1890 Convention and the 1893 Regulations, and therefore a separate Agreement had had to be signed in 1904 with Tibet. But in order to support Chinese claims in Tibet the British Government had signed with the Chinese Government at the Chinese capital this Convention of 1906, expressly confirming the provisions of the 1904 Convention with Tibet. The Indian side also recalled that as late as 1942-43, when Britain and China were allies in war, the combined pressure from both the

Governments-as al50 the Government of the United States could not persuade the Tibetan Government to give facilities for military supplies to China. The neutrality of Tibet in the face of this combined pressure was further conclusive proof that during this period Tibet was in control of her own affairs, even in respect of her external relations. The facts showed indisputably that throughout this period, while Tibet had implemented the obligations assumed by her, China had been unable to do 50 without Tibetan concurrence.

It was also pointed out by the Indian side that almost the entire bulk of such evidence as the Chinese had brought forward at these meetings was of Tibetan, as distinct from Chinese origin. To challenge the right of Tibet in 1914 to conclude an agreement confirming a traditional border, specially after her representative had been duly chosen and accepted as an equal plenipotentiary, was in effect to disown all the evidence of Tibetan origin. As the Chinese side themselves had brought forward evidence of Tibetan competence in the matter of boundary negotiations, it did not seem possible to question the validity of the 1914 agreement which delineated the boundary that had behind it the sanction of tradition and custom stretching back for many centuries.

It was also shown by the Indian side that under international law a vassal State could conclude international agreements with third States with the knowledge and expressed or implied consent of its suzerain state. This was amply borne out by state practice. Thus Egypt and Bulgaria had concluded on their own, treaties with foreign governments, although they were under Turkey's suzerainty. Bulgaria in fact had at the Hague Peace Conference of 1899 ratified a declaration forbidding the launching of projectiles and explosives from balloons even though Turkey had not ratified it. The history of the British Commonwealth of Nations also provided examples of such treaty-making powers. India herself had concluded agreements before

attaining independence in 1947, and no one had ever suggested that these international obligations acquired before 1947 were not binding on India. Even the Chinese Government had not taken up this position, for otherwise there would have been no need for India formally to give up the extra-territorial rights acquired on her behalf before 1947.

All that the Chinese side stated in reply to this was that the concept of vassal states was an 'imperialist' concept. This was clearly no answer to the detailed exposition of the Indian side; but the baseless allegation was particularly surprising, for the Chinese side had earlier argued at great length that till the 19th century Ladakh had been a vassal of Tibet. Surely it was not being suggested by the Chinese side that till the 9th century Tibet had held Ladakh as an "imperialist", and the present Chinese claims were based on that?

It was, therefore, clear that whether Tibet had been a vassal or not in 1914, the validity of the 1914 Agreement and the Simla Convention and their binding nature on Tibet, and on China since 1950, could not be affected. The arrangements for the Simla Conference, where the three parties had had equal plenipotentiary status, had been made with the full knowledge and consent of China. The fact that China was prepared to conclude a treaty "jointly" with Tibet established clearly that Tibet had the power to conclude treaties not only with other States but even with her own suzerain, namely, China. The Convention itself, by Article 7, recognised the right of Tibet to negotiate trade regulations in order to give effect to the Convention of 1904 between Britain and Tibet, and in conformity with this Article Britain and Tibet signed the Trade Regulations. It was significant that the Trade Regulations of 1893 and 1908, which were entered into by China on behalf of Tibet were cancelled and the Simla Convention provided expressly for the implementation of the Convention of 1904 which had been concluded not with China but with Tibet. At no time had the Government of

China taken objection to this Article of the Simla Convention or to the Trade Regulations of 1914. Though China disowned the initialling of the Simla Convention by her Plenipotentiary, she never protested against the participation of Tibet at the Conference as an equal party, or gave it as a ground for not ratifying the Convention. At the conversation between the British and Chinese delegates on 15 April 1914 referred to by the Chinese side, no objection had been taken by the Chinese delegate even to the suggestion that Tibet was 'independent'. In fact, it was pointed out by the Indian side that Premier Chou En-lai, in his letter of 23 January 1959, had acknowledged as a fact that Tibet had had the power to sign the Simla Convention of 1914. For he stated in that letter: "although related documents were signed by the local representative of the Tibet Region of China, the Tibet local authorities were in fact dissatisfied with this unilaterally drawn line". At the meetings of the officials also the Chinese side had taken the same line, that their objection was to what the Tibetan Government had signed and not to their competence to sign it.

The Chinese side quoted a statement made by the Chinese representative at the Simla Conference on 13 October 1913 and contended that he had declared that Tibet was an inseparable part of China. The Indian side had not cited this document because it dealt with aspects of Sino-Tibetan relations not relevant to these discussions, but once the Chinese side referred to it, the Indian side were obliged to point out that in that statement it had been contended that the Young husband Expedition had been a result of Tibet's failure to follow Chinese advice. It had also been stated clearly that China engaged not to convert Tibet into a Chinese province.

The Chinese side cited also statement by Ivan Chen on 21 April 1914 and said he had asserted the subordinate status of Tibet.

The Indian side pointed out that when Ivan Chen made that particular statement he had only been dealing with the status of Tibet if the Convention had come into force, and not with her status at the Simla Conference itself. It was not a description of existing circumstances, but the expression of a hope.

The Chinese side suggested that the Simla Conference had been convened for discussions between the Central Chinese Government and the authorities of an autonomous region, and compared it with the discussions which had led to the Agreement between the Chinese and Tibetan Governments of 1951. This was a contention which was hardly worth taking seriously. It would be most strange, to say the least, if such discussions between a Central Government and the authorities of a constituent state took place in a third country in the presence of the representative of that country. Furthermore, as already pointed out the three representatives had had equal plenipotentiary status.

The Chinese side then argued that any treaty-making powers enjoyed by Tibet were illegitimate, such as those exercised by Manchukuo or Taiwan. The Indian side replied that they had brought forward sufficient evidence to show that its exercise had been legitimate and recognised by Chinese Governments. Indeed the Chinese Governments had had regular dealings with these Tibetan Governments.

The Indian side pointed out once again that the Chinese representative at the Simla Conference had been aware of the formalization of the Indo-Tibetan boundary. There was evidence in the proceedings of the Conference also to show this. From 17 February 1914 onwards, if not earlier, the Chinese Government were awarded that this sector of the boundary between Tibet and India was being discussed by the two states concerned, and the alignment was also officially shown on the Convention Map. The British representative clarified this by referring to the Tibetan territories

"adjoining the frontiers of China and British India". There was also a general reference in the Convention itself to the Indo-Tibetan boundary; The Chinese Government had raised various objections to the boundary between Inner Tibet and Outer Tibet. On 7 March 1914, the Chinese representative had objected to the division of Tibet into two zones. On 19 March the Chinese Government had proposed that special arrangements be made for the tract between the Salween and Chiamdo, while the area east of the Salween should be administered absolutely by China. On 7 April they had proposed that the Salween should be the boundary line between Szechuan and Tibet. On 20 April they had proposed that a large tract of territory east of the Salween should be administered as a special zone by China. All these 'concessions' had been listed in a Memorandum from the Chinese Foreign Office of 25 April 1914. On 1 May 1914, the President of the Chinese Republic had sent a Memorandum stating that the Chinese Government's objection to the boundary as settled by the Simla Convention was to the inclusion of Chiamdo and Kokonor in Tibet. On 13 June 1914 they had agreed to include in Inner Tibet certain tracts north of the Tangla range and east of the Salween, if the Chinese Government were given a free hand in the administration of Inner Tibet. In none of these proposals and statements of the Chinese Government had objection been taken to the McMahon Line. It was extraordinary that if the Chinese Government had had any objections to this boundary, of whose formalization they were aware, they would have remained silent without expressing surprise or registering a protest on these numerous occasions when they had had an opportunity to do so. It was impossible that the Chinese representative would have allowed the British and Tibetan representatives to have settled between themselves a boundary in which China was interested. The indifference of Ivan Chen could only mean, therefore, that he felt that this was not a matter of concern to the Chinese Government because it was a

matter which concerned India and Tibet alone. This was also the attitude adopted by the Chinese Government.

Again, after the Simla Conference was over, the Chinese Government on various occasions had made fresh boundary proposals. On 13 May 1919 they had proposed that Batang, Litang and Tachien Lu should become part of the Chinese province of Szechuan, southern Kokonor transferred from Outer Tibet to Inner Tibet, and Gongo transferred from Inner Tibet to Outer Tibet. No mention was made of the McMahon Line.

It was therefore, beyond doubt that in 1914 Tibet had had the right to conclude a boundary agreement on her own, that the Chinese Government had recognised this without limitations or reservations, and that the Chinese Government were aware of the formalization of the Indo-Tibetan boundary by India and Tibet. It was clear also that the Chinese Government had raised no objection to it, either at the time of the Conference or later, because it did not concern them. The refusal by the Chinese Government to ratify the Simla Convention had no bearing on the formalization of the Indo-Tibetan boundary by India and Tibet and their reasons for not ratifying the Convention were entirely different. The Convention and Trade Regulations signed by Tibet became operative and were fully in force till recent times.

The Chinese side alleged once more that for a long time after 1914, the Indian Government had not published this exchange of notes or changed the delineation of the boundary in this sector on their maps. The Indian side pointed out that this was an incorrect statement of the facts. As had already been shown, the Convention initialled on 27 April 1914 and the map attached to it, which included also the McMahon Line, had received the full agreement of both the Tibetan and the British representatives and the Chinese Government had been told specifically on 6 June 1914 that in case their representative was not prepared to sign the treaty, the British and

Tibetan representatives would do so independently of China. The actual publication of the Convention and the notes was withheld as there was a reasonable hope that the Chinese Government would soon withdraw their minor objections to the boundaries of Inner Tibet in two small sectors, and would, in their own interests, accede to the Convention. It was in this hope that the British Government withheld the publication of the Convention; but they published it in the first edition of Aitchison's *Treaties, Engagements and Sanads* to be published after 1914 - i.e. in 1929. As for the delineation on official Indian maps, the Indian side stated that they would deal with this under Item 3.

The Chinese side also made a completely irrelevant reference to Hyderabad. The Indian side pointed out that there was no parallel. The question of Hyderabad was wholly a matter for the Government of India. It was sufficient to state that there had never been any question of the Government of India accepting Hyderabad's independence or autonomy or acquiescing in her direct dealings with other States, much less recognising any representative from the then Government of that state as an equal plenipotentiary.

Nor "Were there any agreements-let alone treaties - of any date regarding Hyderabad, which India had not been able to enforce.