

GOVERNMENT OF INDIA



SIXTH INTERIM REPORT
OF
THE INTERNATIONAL COMMISSION
FOR SUPERVISION AND CONTROL
IN
VIET-NAM



DECEMBER 11, 1955 TO JULY 31, 1956

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INTRODUCTION

The International Commission for Supervision and Control in Viet-Nam has so far submitted five Interim Reports covering its activities from August 11, 1954, to December 10, 1955.

2. This is the Sixth Interim Report of the Commission containing a summary of its activities from December 11, 1955, to July 31, 1956, and a review of the progress made by the two parties in the implementation of the Agreement on the cessation of hostilities in Viet-Nam. This Report should be read along with the relevant chapters of the five earlier Interim Reports.



CHAPTER I

ESTABLISHMENT AND MACHINERY OF THE INTERNATIONAL COMMISSION IN VIET-NAM

During the period under review, the International Commission continued to carry out the task assigned to it under Articles 29, 34 and 36 of the Agreement, namely, the supervision and control of the proper execution by the parties of the provisions of the Agreement. The Commission held 58 meetings during the period under review for the transaction of its day to day business. The Committees of the Commission, namely, the Operations Committee, the Freedoms Committee and the Legal Committee, continued their activities. Twenty-one mobile teams were sent out for investigation, reconnaissance and control thus making a total of 153 since the Commission started its activities. The difficulties experienced by the Commission's fixed and mobile teams are described in subsequent Chapters of this Report.

2. As in the past, the Commission has continued to pay periodical visits to Saigon. The question of transferring the Commission's Headquarters from Hanoi to Saigon still remains unsettled. The matter has been raised with the French authorities in the South as well as with the Government of the Republic of Viet-Nam but so far no satisfactory solution has been found. The Commission will continue to pursue this matter.

3. In accordance with the provisions of Article 45, a Co-ordination Conference of the Secretaries General of the three Commissions of Viet-Nam, Laos and Cambodia was held at Siem Reap in Cambodia on January 10 and 11, 1956. Questions of an administrative nature including the accounting procedure of the Commissions were discussed and satisfactorily settled.

CHAPTER II

PROVISIONAL MILITARY DEMARCATION LINE AND DEMILITARIZED ZONE

4. In the month of September 1955 the Commission had made certain suggestions to the two High Commands for the improvement of the administrative arrangements on the Demarcation Line and in the Demilitarized Zones. Mention was made of this in paragraphs 3 and 4 of the Fifth Interim Report. The initial reactions of the two High Commands to the Commission's suggestions were also recorded in that Report. The detailed comments of the two High Commands on the Commission's suggestions were examined by the Operations Committee. The recommendations of the Operations Committee were carefully considered by the Commission. It was seen that the response of the parties fell into three categories:

Category I—Items which both parties had not accepted.

There was one such item, namely, the question of fixed market places. The Commission agreed to drop this suggestion.

Category II—Items which had been accepted by both parties.

These included—(1) the checking of movements of personnel by the check posts on the Demarcation Line, (2) the setting up of mobile patrols on either side to stop people crossing at unauthorized places in between the check posts, and (3) the provision of telephone communication between Mobile Team 76 and the P.A.V.N. Headquarters at HO XA. As both parties had accepted these suggestions, they were finalised by the Commission.

Category III—Items which had been accepted by one party and not accepted or partially accepted by the other party.

After considering the comments offered by the two High Commands on this category, the Commission decided to convert the suggestions in this category into recommendations and the two High Commands were directed to implement them. The recommendations under this category were:—

- (1) that permits should preferably bear the photographs of the persons in whose favour they were issued to facilitate checking. In view of the practical difficulties, however, the parties were called upon to consider ways and means of providing photographs on permits. The Commission further added that permit-holders should not be prevented from crossing the Demarcation Line on the ground that the permits did not have photographs;
- (2) that the people in the Demilitarized zones should have the right of assembly and the right to hold public meetings organised for political purposes. However, as political sympathies were bound to be mixed and

meetings were likely to create public excitement, public meetings organized for political purposes should be regulated without in any way restricting the right of assembly or association. Before a political meeting was held, adequate notice should be given by the organisers to the local authorities indicating the time and place where the meeting would be held. Intimation of such meetings should be given by the local authorities to Mobile Team 76;

- (3) that the parties be allowed to increase the police strength in the zone under their control for the proper maintenance of law and order and that the first increase should not be more than 50 per cent of the present authorised strength. Any additional increase would require the approval of the Central Joint Commission and in case of disagreement that of the International Commission; and
- (4) that Mobile Team 76 be advised by telephone in advance whenever the Joint Commission was considering any serious incident or threat of such an incident, so that the team could observe at the meeting and if the Joint Commission machinery failed to take necessary action, could report immediately to the Commission and take preliminary action to prevent or limit the incident in pursuance of Commission's responsibility under Article 36(b) of the Agreement.

5. These recommendations were conveyed to the two High Commands on February 24, 1956. So far the Commission has not received any reply regarding the implementation of the recommendations from the French High Command. The P.A.V.N. High Command has replied to the Commission's recommendations in April 1956. Of the four recommendations made by the Commission, the P.A.V.N. High Command has not accepted (2) and (3) and has not commented on (4). With regard to the increase of police strength in the Demilitarized Zones (Recommendation No. 3) the P.A.V.N. High Command did not consider any such increase above the number fixed in the statute of the Demilitarized Zones was necessary and expressed the view that any additional reinforcement should be approved by both parties in the Central Joint Commission. With regard to organisation of political meetings (Recommendation No. 2) the P.A.V.N. High Command did not consider it necessary that modalities should be laid down for the regulation of such meetings.

6. The movement across the Demarcation Line and the entry into the Demilitarized Zones of persons not directly concerned with the administration of the zones are governed by Articles 6, 7, 8 and 9 of the Agreement and are closely regulated by a Protocol signed by the two High Commands in September 1954 (Decisions Nos. 6 and 11). This Protocol provides for the practical implementation of these Articles including the establishment of a permit system. Different types of permits are prescribed for the crossing of the Demarcation Line and for the entry of persons into the Demilitarized Zones. These permits are, according to Decision

No. 11, to be issued by the Joint Sub-Commission in the Demilitarized Zone and have to be endorsed by the two parties represented therein.

7. However, the actual implementation of the provisions of Decision No. 11 relating to the permit system has been far from satisfactory. The French High Command has since November 1955 unilaterally introduced certain innovations which have resulted in stopping the movement of permit-holders across the Demarcation Line into the Southern Demilitarized Zone. They are required, at the points of crossing on the southern side of the Demarcation Line, to deposit the permits issued by the Joint Sub-Commission in the Demilitarized Zone and to take temporary ones to move within the Southern Demilitarized Zone. They are required to recross at the same point in order to collect the original permit even though Hien Luong bridge has been accepted by both the parties as a common point of crossing. The Commission has received numerous petitions from the Demilitarized Zone in which objections to the new procedure have been stated.

8. The Commission considered the situation and made certain suggestions in a letter dated February 24, 1956 to the French High Command. The High Command was informed that the Commission did not see any reason for changing the present system under which the permits for crossing the Demarcation Line were issued by the Joint Sub-Commission. The Commission further suggested that the check posts should have complete nominal rolls of all permit-holders and the post at Hien Luong bridge should have master lists of all persons holding permits authorising them to cross the Demarcation Line. The High Command was also informed that it should not collect permits at the Demarcation Line, but that the Commission had no objection to the issue of additional authorization slips to the permit-holders. The P.A.V.N. High Command has complained to the Commission that hindrances to the freedom of movement of the permit-holders continue and that in many cases the French High Command has refused to renew the permits already issued and has been progressively reducing the number of permits. The Commission has again asked the French High Command in July 1956, to accept the suggestions made by the Commission in its letter of February 24, 1956. The High Command was further informed that if no satisfactory reply was received within three weeks the Commission would consider whether it should not convert the suggestions into recommendations. According to the report received by the Commission from its team in the Demilitarized Zone, movement of the people entitled to cross the Demarcation Line into the Demilitarized Zone South has virtually come to a standstill during the last eight months. The Commission is of the opinion that the freedom of movement guaranteed to the permit-holders under Article 9 of the Agreement is being denied to them, and that no action has been taken by the French High Command to remedy the situation.

9. The Commission has received from the P.A.V.N. High Command during the period under report 29 complaints relating to 236 alleged incidents in violation of Article 7, including 116 alleged incidents in violation of Article 14(c) in the Southern Demilitarized Zone.

Out of the number of incidents referred to above, 154 pertain to the period under report. In reply the French High Command has forwarded to the Commission a letter from the Government of the Republic of Viet-Nam which denies the allegations and states that a few of the incidents were caused by supporters of the North. The complaints are under enquiry. The Commission has not so far received any reply from the Republic of Viet-Nam with regard to 155 of the above alleged incidents.

10. In paragraph 41 of the Fifth Interim Report the Commission had made reference to Mobile Team 87 which was to investigate certain alleged violations of Article 7 and 14(c) in the Demilitarized Zones. It had been reported that the Commission had decided to send the team back to the field as the Government of the Republic of Viet-Nam had withdrawn its condition that liaison officers attached to this team should be in civilian clothes when the team operated in the Southern Demilitarized Zone. However, soon after, the Republic of Viet-Nam qualified this concurrence by stating that, should the presence of the P.A.V.N. Liaison staff in uniform provoke any incident; the responsibility would be that of the International Commission. The Commission informed the French High Command that it could not accept any responsibility for any incident that might occur as it was the duty of the High Command concerned to assure full security to the team under Article 25. Since the Commission was anxious to conduct the investigation as soon as possible, it proposed to the P.A.V.N. High Command that, as a special case, its liaison staff attached to Mobile Team 87 should wear civilian clothes. The P.A.V.N. High Command did not agree to this on the ground that the Commission itself had decided on November 8, 1955, that liaison officers in the Demilitarized Zones could wear uniforms if so desired by the High Command concerned. In the meanwhile, the Republic of Viet-Nam laid down a few more conditions in the form of suggestions. These suggestions were not accepted by the Commission. At the beginning of March, the French Liaison Mission informed the Commission that the Government of the Republic of Viet-Nam could agree to the resumption of investigation by Mobile Team 87 provided the P.A.V.N. liaison staff was sent in civilian clothes. In view of this, the Commission requested the P.A.V.N. High Command to agree as a special case with respect to Mobile Team 87 to the wearing of civilian clothes by the P.A.V.N. liaison staff accompanying the team. The P.A.V.N. High Command again did not agree to the Commission's request for the same reasons as given before. It further requested the Commission to take up a firm stand towards the French High Command and demand that it withdraw the unacceptable condition of civilian clothes. On July 7, 1956, the Commission converted its suggestion into a recommendation that in the Demilitarized Zones and on the Demarcation Line the representatives of the High Commands sent for liaison duties may be in uniform if so required by their High Command. In view of this recommendation it is hoped that the team will be able to resume investigations before long.

11. The P.A.V.N. High Command had lodged a complaint with the Commission that on the 25th February, 1956, the representatives of the French High Command in contravention of Article 7

permitted 150 persons amongst whom were five military officers to enter the Demilitarized Zone and attend a flag salutation ceremony on the Demarcation Line. An investigation conducted by the Commission revealed that even though the representatives of the P.A.V.N. Delegation had refused concurrence to the entry of these 150 persons into the Demilitarized Zone, the French High Command permitted their entry without authorization. The Commission, after investigation, has concluded that there has been a violation of Article 7 of the Agreement by the French High Command. The P.A.V.N. High Command lodged another complaint with the Commission that on the 17th and 25th January, 1956, the French High Command in contravention of Article 7 permitted the entry of a number of persons into the Demilitarized Zone. The French High Command forwarded a letter from the Government of the Republic of Viet-Nam which admitted that there had been an infraction of the status of the Demilitarized Zone and stated that this was due to lack of liaison between the French representative on the Joint Sub-Commission and the local authorities. The Commission has sent a letter to the French High Command stating that the procedure for the entry into the Demilitarized Zone should be strictly followed.

12. The situation in the Demilitarized Zone has not shown any improvement since the Fifth Interim Report. If anything, the difficulties have increased. As mentioned in the foregoing paragraphs, hindrances to the free movement of the permit-holders, numerous complaints about alleged infraction of the status of the Demilitarized Zone and Article 14(c), inadequate implementation of the Commission's recommendations regarding the administrative arrangements in the Demilitarized Zone and the unsatisfactory functioning of the Central Joint Commission and its subordinate agencies have largely contributed to this deterioration.

13. It has been the experience of the Commission that the Central Joint Commission through the agencies under it, has discharged its duties very unsatisfactorily. It has become increasingly necessary for the Commission to intervene and to take more active steps, even though under Article 36(b) its responsibilities are limited to supervision. It has also been found that the Central Joint Commission did not meet for days together even though cases referred to it by the P.A.V.N. Delegation were pending with it. It has not resolved the important questions described in the previous paragraph such as the question of freedom of movement of permit-holders and it has failed to undertake investigations through its Joint Groups into a large number of incidents, as the French High Command did not agree to participate. Furthermore, the disputes which have arisen in the Joint Sub-Commission in the Demilitarized Zone from time to time have not been settled. Since the dissolution of the French High Command there have been no meetings of either of the Joint Sub-Commission in the Demilitarized Zone or of the Central Joint Commission. The P.A.V.N. High Command has therefore sought the Commission's intervention as its efforts to get the Central Joint Commission to meet have yielded no results.

14. The Co-Chairmen in their message dated the 8th May, 1956, to the French Government invited them to discuss with the authorities of South Viet-Nam the question of the resolution of the practical problems with a view to reaching an arrangement which will

facilitate the work of the International Supervisory Commission and the Joint Commission in Viet-Nam. They also requested that until the arrangements envisaged above were put into effect the French Government should preserve the *status quo*. However, the *status quo* maintained by the Government of the Republic of France has not included the continued functioning of the Central Joint Commission and its agencies, with the result that the day to day problems in the Demilitarized Zone have remained unsolved.

15. The International Commission has; in a previous communication of May 2, 1956, to the Co-Chairmen, emphasized the importance which it places on the work of the Joint Commission. The Canadian Delegation, as indicated in its separate Note of May 3, 1956, to the Co-Chairmen, while not fully agreeing with the emphasis placed in this communication on the importance of the work of the Joint Commission, was in agreement that as a matter of urgency steps should be taken to ensure that the tasks of the Joint Commission continued to be performed. The Commission is of the view that the Joint Commission is an essential part of the machinery for the implementation of the Cease-Fire Agreement, and that its non-functioning adversely affects the execution of the Agreement, particularly in respect of the administration of the Demarcation Line and the Demilitarized Zones. The Commission is, therefore, of the view that the Joint Commission and its agencies should resume their normal working.



CHAPTER III

DEMOCRATIC FREEDOMS—ARTICLES 14(C) AND (D)

Article 14(c)

16. The supervision of the implementation by the parties of the provisions of Article 14(c) continues to be one of the major problems of the Commission. Under this Article, the parties have undertaken to refrain from any reprisals or discrimination against persons or organizations on account of their activities during the hostilities and to guarantee their democratic liberties. During the period under review, the Commission received from the P.A.V.N. High Command 102 complaints alleging 281 incidents concerning violations of Article 14(c) in South Viet-Nam. The Commission has also received through its petition boxes, through its fixed and mobile teams, and through the P.A.V.N. High Command a large number of petitions alleging reprisals in the South. These complaints and petitions contain allegations of a number of cases of arrest, detention, murder, massacre and mass concentration of families of former resistance workers committed by the authorities of the South. During the period under review, the Commission received from the French High Command 5 complaints involving 18 incidents, including one alleged case of murder, alleging that the authorities of the North had committed reprisals against the former supporters of the French High Command concerning violation of Article 14(c).

17. The Commission, as in the past, has forwarded the majority of these complaints and some of the petitions to the High Command concerned for comments and reports of the remedial action taken if the allegations were found to be true. The Commission is still seized with 143 complaints against the French High Command and 5 complaints against the P.A.V.N. High Command concerning alleged reprisals under Article 14(c). During the period under review, the Commission decided to send out three mobile teams to make on the spot investigations into complaints of alleged violation of Article 14(c) in the South, under the terms of Article 37 of the Agreement. The following are the complaints along with the dates on which the concurrence of the party was asked for:—

No. of the team	Date when concurrence asked for	Task of the team
103	15th March, 1956	To investigate alleged violation of Article 14 (c) in the province of QUANG NAM (DUY XUYEN)
104	15th March, 1956	To investigate the massacre of 3 families at Gia Rai (BAC LIEU Province).
105	15th March 1956	To investigate the alleged concentration of former resistance workers and their families in THUA THIEN Province.

In addition to these three cases, the Commission had decided to send out three other mobile teams during the period covered by the Fifth Interim Report. The following are the complaints and the dates on which the concurrence of the party was asked for:—

No. of the team	Date when concurrence asked for	Task of the team
85	27th August, 1955	To investigate alleged violation of Article 14 (c) in the province of CHAU DOC, South Viet-Nam.
87	8th September, 1955	To investigate alleged violation of Article 14 (c) in Demilitarized Zones (North and South).
93	4th October 1955	To investigate alleged violation of Article 14 (c) in HUONG HOA, South Viet-Nam.

In addition to the above six cases where the Commission has asked for the concurrence of the High Command concerned, the Commission has also ordered a mobile team investigation into two complaints from the P.A.V.N. High Command alleging murder and arrest in the Province of Quang Nam but the decision to send out this team has not yet been taken. In one other case, the Commission has directed one of its fixed teams in the South to undertake inquiries into an alleged murder.

18. The decision to send these teams was taken at various times by the Commission and the concurrence of the French High Command was asked for under the provisions of Article 35. During the period under review, the Commission was not able to carry out these investigations as it was awaiting concurrence from the French High Command. Concurrence for Mobile Teams 93, 103 and 105 has been received in the month of July 1956. Mobile Team 103 concluded its preliminary enquiry on 28th July, 1956, at Hanoi in the presence of liaison officers of both the parties and had not yet commenced its investigation in South Viet-Nam during the period under review. The Commission hopes that it will not meet with further difficulties and the teams will be able to carry out the investigations soon. The position as regards Mobile Team 87 has been explained in paragraph 10.

19. During the period covered by the Fifth Interim Report, the Commission had decided to undertake a mobile team investigation on a complaint from the P.A.V.N. High Command of alleged violation of Article 14(c) in South Viet-Nam. The team (Mobile Team 90), however, was not deployed in view of the reply received from the French High Command on the P.A.V.N. High Command's complaint that the persons concerned had been released. On December 12, 1955, the P.A.V.N. High Command complained that the persons involved in its first complaint had been re-arrested and asked for the despatch of the mobile team. The fresh complaint was forwarded to the French High Command on December 22, 1955.

for its comments and in April the Commission drew the attention of the High Command to its earlier decision to have a mobile team investigation. The Commission will take a final decision on receipt of a reply from the French High Command, which is awaited.

20. The Commission has taken a final decision and made recommendations to the French High Command in one case which had been pending since April last year. In the month of April 1955, when Mobile Team 47 was conducting an inquiry in the Chi Hoa prison into alleged violations of Article 21 by the French High Command, it came across 25 cases of prisoners arrested after the Cease-Fire who claimed that they were former resistance workers who had been detained for no reasons after the Cease-Fire. The P.A.V.N. High Command subsequently sponsored 23 out of these 25 cases and alleged that they were violations of Article 14(c) by the French High Command. The statements of these 23 prisoners were obtained by Mobile Team 47 and the Commission also obtained from the South Viet-Nam authorities dossiers in each case. These dossiers and the statements made by the prisoners were carefully examined by the Freedoms Committee and the Legal Committee of the Commission. After careful scrutiny of the Committees' reports, the Commission declared that there was a violation of Article 14(c) in 15 cases and has recommended the immediate release of the affected persons. In the other 8 cases, the Commission was of the view that no violation of Article 14(c) had been established. Out of these 8 cases, in one case, the Commission decided that no further action was necessary and in the remaining 7 cases, the French High Command was requested to arrange with the authorities concerned to proceed immediately with their judicial processes and submit the dossiers to the Commission, when completed, on receipt of which the Commission would review these 7 cases to see whether the provisions of Article 14(c) were violated or not. These findings and recommendations were communicated to the French High Command on June 7, 1956. The recommendations of the Commission have not yet been implemented. In another case, that of a former resistance member of Khanh Hoa province named Tran Chau who had been arrested, the Commission decided that the case was covered by Article 14(c) and recommended on June 26, 1956, to the French High Command that the person should be released forthwith. The Commission has not received any reply from the French High Command indicating that the recommendation has been implemented. The French High Command was also asked to show cause why a finding of violation of Article 14(c) should not be given for the arrest and detention of a person who had taken part in the hostilities. The Commission has not received any reply to this show cause notice although the prescribed time of two weeks has elapsed.

21. In February 1956, the International Commission received a communication from the Commander-in-Chief of the Peoples Army of Viet-Nam bringing to the Commission's notice the existence of an Ordinance in South Viet-Nam—General Order No. 6 of January 11, 1956, issued by the President of the Republic of Viet-Nam—and complaining that this Ordinance was in violation of Article 14(c). The Ordinance gave special powers to the Government to take extraordinary measures for detention or deportation for reasons of

public security. The Commission examined the complaint of the P.A.V.N. High Command and on March 5, 1956, communicated to the French High Command its view that no law, regulation or order in either of the two zones could, in any way, supersede the obligations which the two parties have undertaken under the provisions of Article 14(c) of the Agreement on the Cessation of Hostilities in Viet-Nam. The French High Command was further informed that the Commission expected that any action taken under General Order No. 6 would be taken with due regard to the provisions of Article 14(c) and if complaints were brought to the notice of the Commission regarding the application of this decree or any other law, regulation or order in either of the two zones, alleging the violation of Article 14(c), the Commission would take steps to satisfy itself that there had been no reprisals or discrimination against persons on account of their activities during the hostilities and that their democratic liberties had not been infringed in violation of Article 14(c). A copy of this communication was forwarded to the Commander-in-Chief of the Peoples Army of Viet-Nam pointing out that the Commission was always ready to deal with specific complaints regarding violations of the provisions of the Cease-Fire Agreement. Subsequently the Commission has received a few specific complaints of action under General Order No. 6 which, in the opinion of the P.A.V.N. High Command, amount to violation of Article 14(c). These cases are being pursued with the French High Command and in one case the Commission has ordered investigation by a mobile team. Concurrence for this Mobile Team 105 has been received. It has come to the Commission's notice that former resistance workers are being held in detention under Ordinance No. 6 although the Ordinance was promulgated sometime after the arrests took place. The Commission has asked the French High Command for a clarification of how retrospective effect is being given to the Ordinance. A reply is awaited.

22. It was pointed out in the Fifth Interim Report that the inability of the Commission to send out mobile teams for investigating alleged violations of Article 14(c) was causing serious concern to the Commission. During the period under review the Commission was unable to send out any investigating teams to South Viet-Nam. As has been pointed out in paragraph 16 complaints and allegations regarding violation of Article 14(c) have been very numerous and in some cases of a very serious nature. The Commission is not in a position to state whether these complaints are true or not as it has not been permitted to verify them through the machinery laid down in the Agreement. The question of the degree of co-operation extended by the party concerned to enable the International Commission to carry out investigations will be discussed in fuller detail in paragraph 69 of this Report.

Article 14(d)

23. In paragraph 12 of the Fifth Interim Report, the Commission had informed the Co-Chairmen that it was pursuing the question of residual cases under Article 14(d) with the two parties. On October 22, 1955, the Commission had made suggestions regarding follow-up action on the residual categories, outlined in paragraph 33

of the Fourth Interim Report. The Freedoms Committee was charged with the task of holding discussions with the representatives of the two High Commands with a view to arriving at a satisfactory settlement of this problem. Between January 7 and March 12, 1956, the Committee held five meetings with the representatives of the parties. During the course of discussions, both parties accented in principle the suggestions made by the Commission in its letter of October 22, 1955. No agreement has been reached, however, regarding the implementation in practice of the suggestions. During the course of the discussions, the representative of the P.A.V.N. High Command proposed that the best solution of the problem of Article 14(d) would be to have complete freedom of movement between the two zones. The representative of the French High Command was not in favour of this proposal as, in his view, it went beyond the scope of the Cease-Fire Agreement. Both parties were, however, willing to continue discussion of residual cases. In view of the developments in the South and the withdrawal of the French High Command from South Viet-Nam, the discussions with the two parties have been for the present held up. Thus, the Commission has not so far been able to resolve the question of residual cases mentioned in paragraph 33 of the Fourth Interim Report.

24. The question of investigating the complaint made by the French High Command in April, 1955, that the seminarists of Xa Doai were not being permitted to move South was referred to in paragraph 15 of the Fifth Interim Report. Mobile Team F-44 which was sent to the seminary at Xa Doai was not able to interview the seminarists concerned as the religious authorities on religious grounds did not allow the team to enter the seminary and hold investigations there. The team had to return with the task unaccomplished. The P.A.V.N. High Command informed the Commission that the religious authorities were, however, agreeable to allow the seminarists to be interviewed outside the premises. The Commission in March, 1956, informed the P.A.V.N. High Command that in its view the seminary would have been the most satisfactory place for conducting investigations but in view of the delay and the need to interrogate the seminarists immediately the investigations need not take place at the seminary grounds but the seminarists should be produced before the Commission's team at Vinh. In reply the P.A.V.N. High Command informed the Commission that the seminarists had stated that they did not wish to be interviewed by the Commission and that those who wanted to go South had been authorised to do so before 20th July, 1955. The Commission did not accept these arguments and made a recommendation in June, 1956, to the P.A.V.N. High Command that arrangements should be made to produce seminarists before the team at Vinh as soon as possible. In July, 1956, the Commission asked the P.A.V.N. High Command to inform the Commission whether or not it was prepared to produce the seminarists at Vinh within 15 days. The High Command in reply informed the Commission that the seminarists would be returning from their holidays at the end of August and that the local authorities had been directed to make arrangements with the seminarists on their return. The investigation by Mobile Team F-44 has not yet taken place.

25. The P.A.V.N. High Command had in November 1955 alleged that a serious incident took place in THU DAU MOT Province in South Viet-Nam where plantation workers approached the authorities for permits to go North. The P.A.V.N. High Command alleged that the authorities opened fire and killed one person and seriously wounded three. It also alleged that 40 persons were arrested and put in jail. The French High Command whose comments were invited admitted the occurrence of the incident but stated that there was no question of denial of facilities under Article 14(d). It enclosed a letter from the South Viet-Nam authorities in which it was stated that the workers had demonstrated and that the police had fired in self-defence and to maintain order, and that the arrests were subsequently made for common law offences and acts against the State. The Commission has decided to send a mobile team to investigate on the spot. The concurrence of the French High Command is awaited.



CHAPTER IV

PRISONERS OF WAR AND CIVILIAN INTERNEES

26. As stated in paragraph 10 of the Fourth Interim Report and paragraph 20 of the Fifth Interim Report, the parties continued to make claims against each other in respect of prisoners of war and civilian internees, particularly in cases where the replies received by them from the other party in the Joint Commission were not considered satisfactory. During the period under report 330 such claims were received from the French High Command and 834 from the P.A.V.N. High Command.

27. In its efforts to get the parties to clear their claims and counter-claims concerning prisoners of war, the Commission has been continually urging them to make further and more thorough investigations in individual cases and thereby help the other party in knowing the ultimate fate of the prisoners concerned. Under a procedure introduced in July, 1955, the parties have also been exchanging regularly, through the medium of the Commission, fortnightly reports of progress made on search requests of prisoners of war received from the other side in the Joint Commission.

28. In paragraphs 21 and 22 of the Fifth Interim Report, mention was made of the cases of 141 Vietnamese officers alleged to have been kept in detention in prisoners of war camps in North Viet-Nam after the Cease-Fire and it was stated that the Commission, on the basis of investigation carried out by Mobile Team 80, had come to the conclusion that the allegation of detention in prisoners of war camps after the Cease-Fire had not been proved, but as it felt that these 141 ex-prisoners of war, who worked in construction yards after their release, might not have been able to exercise their choice of zone of residence, it decided that their cases would be treated as residual cases remaining to be disposed of under Article 14(d) of the Agreement.

29. On receipt of further representations from the French High Command, concerning these persons, the matter was further examined by the Commission and it was suggested to the P.A.V.N. High Command in March 1956, that 89 of them should be informed by individual letters that facilities would be granted to them and to their wives and children dependent on them to proceed South in exercise of their right to choose their zone of residence, if they so desired. The P.A.V.N. High Command replied on June 12, 1956, that it did not accept the Commission's findings that these persons had been under some restrictions. They further stated that these persons had been enjoying the same rights as any other citizen and had been working on their own free will in construction yards in North Viet-Nam. In view of this, the suggested procedure was not acceptable to the P.A.V.N. High Command. The P.A.V.N. High Command also wondered why the Commission had been induced to

put up the request contained in its letter of March 10, 1956. The matter was again considered by the Commission in the third week of June and the P.A.V.N. High Command was again asked to adopt the procedure suggested by the Commission in March and report compliance, failing which the Commission would consider converting the suggested procedure into a recommendation. The P.A.V.N. High Command's reply has now been received and is being considered by the Commission.

30. During the period under review, the P.A.V.N. High Command informed the Commission that 57 German and Hungarian "rallies" were being repatriated through China. One of the Commission's teams on the Vietnam-China border was instructed to ask the following questions to these persons: "Do you consider yourself a prisoner of war?" and "Are you being repatriated of your own free will?" The team was also instructed to obtain a list of all persons being repatriated. The team was satisfied from the replies to the two questions mentioned above that the persons concerned did not claim to be prisoners of war and that they were being repatriated of their free will. But the team was unable to obtain the names of these persons. The Commission asked the P.A.V.N. High Command to supply a list of their names, but the P.A.V.N. High Command refused to do so on the ground that their cases did not come under the Geneva Agreement and at the time of their repatriation, as had been stated by the team, these persons had informed the team that they did not want their names to be revealed.

31. The Commission has before it the cases of 26 deserters, who made applications either to the French High Command or to the Commission for transfer to the French Union Forces for repatriation to their country of origin. Some of these cases have been pending for a long time. The P.A.V.N. High Command has stated that these persons have changed their mind and are no longer desirous of being handed over to the French Union Forces. The Commission has, therefore, suggested to the P.A.V.N. High Command that they be produced before the Freedoms Committee of the Commission so that the Commission might satisfy itself that they have in fact changed their mind. In reply, the P.A.V.N. High Command informed the Commission that one "rallie" handed over to the French Union Forces in February 1955 had been sentenced to death and another "rallie" repatriated in March 1955 had been sentenced to 12 years hard labour and 20 years of solitary confinement. The P.A.V.N. High Command, further, stated that in view of this attitude of the French High Command, it would not agree to the repatriation of any "rallie" through the French Union Forces until such time as the assurance which had been previously asked for from the French High Command that no deserter handed over by the P.A.V.N. High Command would be punished for desertion, was given. The French High Command has been asked to offer specific comments on the two cases quoted by the P.A.V.N. High Command and its attention has also been drawn to the fact that these persons are entitled to the benefit of Article 14(c) and should not be punished for acts connected with desertion.

32. It has, however, been made clear to the parties that the Commission does not deal with deserters under the Agreement, but

the Commission has expressed a hope that the procedure laid down as a result of discussion between the parties and the Commission for the repatriation of "rallies", which was based on humanitarian grounds, would be continued and that the Commission was ever willing to offer its good offices in this regard.

33. In one case, however, that of ex-legionary Johann Vreckar, the Commission received several petitions from him of a conflicting nature and his wishes were not clear. The Commission, therefore, decided on February 9, 1956, that a mobile team (100) should interview Vreckar with the limited task of ascertaining whether he desired to be handed over to the French Union Forces or not. No investigation into his status was to be undertaken. The P.A.V.N. High Command expressed its unwillingness to produce Vreckar before the Commission's team on the ground that he was a "rallie" and had clearly expressed his wish to be repatriated to the German Democratic Republic. The Commission reiterated its demand on several occasions that Vreckar should be produced before the Mobile team. In July the Commission converted its request into a recommendation and asked that Vreckar should be produced before the team by July 13, 1956. The P.A.V.N. High Command, however, did not produce him within the time limit. On the 14th July 1956, ex-legionary Johann Vreckar on his own came to the Commission's Secretariat and was interviewed by the three Deputy Secretaries General of the Commission. On being questioned about his wishes he stated that he did not want to be handed over to the French Union Forces. The Commission has closed this case.

34. Regarding civilian internees the latest position is as follows:—

	F.U.F.	P.A.V.N.
1. Number released upto 31-7-1956 (excluding 93 mentioned in the Third Interim Report, 67 mentioned in the Fourth Interim Report and 79 mentioned in the Fifth Interim Report) by	Regarding one identity has been questioned and it is being considered whether this release was under Article 21 or 14(c).	
2. Number of recommendations for release made by the Commission during the period under report under Article 21 to	2	..
3. Number of cases in which recommendations for release made by the Commission under Article 21 (with dates of recommendations) have not so far been implemented by	13 (29-8-55) 6 (9-12-55)	..
4. Number of cases under consideration on complaints against	111	6
5. Number of cases in which Commission has declared that release was inconsistent with Article 21 of the Geneva Agreement, against	12	..
6. Number of cases in which Commission has held violation of Article 21 and decided to take action under Article 43 of the Geneva Agreement, against	2	..

35. As mentioned in serial No. 5 above, there have been twelve cases where the French High Command released civilian internees without handing them over to the P.A.V.N. High Command. The Commission has informed the French High Command that such releases are inconsistent with the provisions of Article 21.

36. In the cases of 19 civilian internees (13 plus 6) referred to at serial No. 3 above, the Government of the Republic of Viet-Nam contended that their cases were not covered by Article 21(b) as they were former members of the National Armed Forces and had been detained or punished under the Military Law applicable to them and could not, therefore, be considered as civilian internees. The Commission examined the legal aspect of the matter and after very careful consideration came to the conclusion, with the Canadian Delegation dissenting, that, when it was clear that a person had been arrested and convicted because he had contributed to the political and armed struggle between the two parties in Viet-Nam, his case was covered by Article 21, no matter under what law he was so convicted and no matter what his status was at the time of arrest and conviction. The benefit of Article 21 could not be denied to a person if the reason for his arrest and conviction was that he had contributed to the political and armed struggle in Viet-Nam, and the fact that he was a former member of the armed forces of one party and had been arrested and convicted under Military Law of that party; could not exclude him from the definition of a civilian internee.

37. This decision was communicated to the French High Command but the Republic of Viet-Nam adhered to its own interpretation of Article 21(b). The Commission has, in a letter dated June 6, 1956, reiterated its stand and requested the French Liaison Mission to urge the Government of the Republic of Viet-Nam to implement the recommendations made by the Commission and to release the persons concerned immediately, particularly in view of the appeal made to the parties by the Co-Chairmen to give effective co-operation to the Commission. The French Liaison Mission has also been informed that if the Commission's recommendations are not implemented by the authorities concerned, the Commission would consider taking action under Article 43 of the Agreement. The recommendations have not been implemented. The difficulties encountered by Mobile Team 47 which has been charged with examining complaints of violations of Article 21 in South Viet-Nam, will be dealt with in paragraph 70 of this report.

38. The Commission would like to draw the attention of the Co-Chairmen to two cases coming under Article 21—the case of Tran Quy Minh *alias* Hamaide Francois and the case of Nguyen Truong Sinh *alias* Tangavelou, which have been pending with the Commission since June and July 1955 respectively. In both these cases the Commission, after careful examination, arrived at the finding that they were civilian internees. On the 17th February and the 27th February 1956 respectively, the Commission communicated to the French High Command these decisions and directed the French High Command to produce these two persons who were stated to

be in custody in France, at Saigon so that their choice of zone in which they would like to go and live might be ascertained. In spite of protracted correspondence with the French High Command, the recommendations of the International Commission in these two cases were not implemented. In both the cases the French High Command claimed that as Hamaide Francois and Tangavelou were of French nationality their cases were not covered by Article 21. The Commission, after examination informed the French High Command that Article 21 applies to all civilian internees irrespective of nationality. The French High Command has informed the Commission on July 14, 1956, that Hamaide Francois was released in France on September 11, 1955, after a grant of free pardon. In the case of Tangavelou, the French High Command has informed that he has been released on probation in France and that he has submitted a petition for a reprieve which is being considered. In both these cases, therefore, the French High Command has rejected the considered findings and recommendations of the Commission. The Commission has recorded violation of Article 21 in both these cases and has informed the French High Command that the Commission will take action under Article 43 of the Agreement.

39. The Commission views with concern cases of this nature where a party refuses to implement the recommendations of the Commission due to difference of interpretation of the Agreement. If the Commission is to fulfil its tasks of supervision and control adequately, it is essential that the Commission's authority on interpretation must be accepted by the parties as final.

40. The case of Father Nguyen Quang Vinh, a Trappist monk of the monastery of Chau-Son, which was mentioned in paragraph 14 of the Fifth Interim Report, has been pending with the Commission since May 1955. The French High Command had alleged that Father Vinh was detained as a civilian internee by the P.A.V.N. authorities. The Commission has obtained from the P.A.V.N. High Command a complete dossier of the case in order to ascertain whether his case is covered by Article 21. Father Vinh has been sentenced to penal servitude for life on allegedly common law charges. The Commission decided in April 1956 that the Legal Committee, acting as a team, should interview Father Vinh and also examine the dossier of his case. Father Vinh was, however, not produced before the Commission's team by the P.A.V.N. High Command. The Commission was informed on July 3, 1956, by the P.A.V.N. High Command that Father Vinh escaped from custody in the month of January, 1956. The Commission has asked the Legal Committee to examine the dossier of the case and on the basis of the documents available to submit a report whether there had been a violation of any Article of the Geneva Agreement.

CHAPTER V

BAN ON THE INTRODUCTION OF FRESH TROOPS, MILITARY PERSONNEL, ARMS AND MUNITION—MILITARY BASES IN VIET-NAM

41. Arrangements made for the supervision and control of the execution by the parties of the provisions of Articles 16 to 20 of the Agreement and additional measures taken by the Commission to discharge its special responsibility under Article 36(d) have been referred to in the first five Interim Reports.

42. The mobile team arrangements made for the continuous control of introduction of war material and military personnel on the Viet-Nam-Cambodian border at Loc Ninh continued throughout the period under report, but Mobile Team 88, located at Phuc Hoa on the Vietnamese-Chinese border had to be withdrawn on 25th January, 1956, due to the insistence of the P.A.V.N. High Command that further extension of the tenure of the team could not be given and that logistic support was to be discontinued. Another team with a new number 99 was established at Phuc Hoa on 8th February, 1956. This team also had to be withdrawn on the 16th of May, 1956, after the refusal of the P.A.V.N. High Command to implement the recommendations of the Commission. During the absence of the above Mobile Teams from Phuc Hoa, the mobile element of the Lang Son Fixed Team was given the additional task of controlling the area from Dong Dang. The mobile element visited Phuc Hoa on seven occasions.

43. However, the Commission has been of the view that continuous control by a mobile team at Phuc Hoa is essential, since the mobile element of the Fixed Team at Lang Son cannot assure the necessary supervision of most of the important lines of communication near the border between North Viet-Nam and China. The stand of the P.A.V.N. High Command has been that the maintenance of a mobile team for an undetermined period changes its character to that of a Fixed Team and that this is contrary to the provisions of Article 35. The Commission after giving full consideration to the views of the P.A.V.N. High Command, has held, with the Polish Delegation dissenting, that it has full authority under Article 35 to keep mobile teams in operation in the zones of action for such periods as it considers necessary and that such mobile teams will not become fixed teams irrespective of the length of time they are kept in operation. The above decision of the Commission was communicated to the P.A.V.N. High Command before withdrawing Mobile Team 88 and Mobile Team 99. The Commission has made it clear that the decisions to withdraw the team were forced on the Commission because of the refusal of the P.A.V.N. High Command to implement the recommendations of the Commission and to extend the necessary co-operation to the teams. At the insistence of the Commission the P.A.V.N. High Command, though it has not accepted the Commission's interpretation of Article 35, has, on the 19th of July, 1956, agreed to deployment of a new mobile team at Phuc Hoa. The Commission has, therefore, decided to send a new team to Phuc Hoa at the earliest date

possible. The P.A.V.N. High Command has informed the Commission that the tenure of the team will be discussed later.

44. In addition to the airfields within the zones of action of the fixed teams which were being controlled, the Commission decided to carry out the reconnaissance of the important and uncontrolled airfields in Viet-Nam which could be used for introducing military personnel and war material. During the period under review, in the North the P.A.V.N. High Command gave concurrence to three controls and four out of five reconnaissances requested by the Commission and seven teams completed the tasks entrusted to them. Concurrence for the fifth reconnaissance was not received during the period under report. In the South, the Government of the Republic of Viet-Nam gave concurrence in four out of ten cases where concurrence was requested. The four teams concerned completed their tasks. The reconnaissance of the remaining five airfields and the second reconnaissance of another airfield could not be carried out as the Government of South Viet-Nam did not give concurrence. In three cases where the Commission decided after reconnaissance to institute control, no control could be exercised. The Government of the Republic of Viet-Nam in connection with both reconnaissance and control referred to above, took the stand that there should be parity between the North and the South. The Commission did not accept the argument of parity and requested the authorities of South Viet-Nam to make immediate arrangements for the reconnaissance or control of the airfields concerned as the case may be. Compliance is awaited. During the period under review, the Commission completed four reconnaissances and three controls covering five airfields in the North and four reconnaissances covering four airfields in the South. Further reference is made in paragraph 73 below. During this period the Commission also carried out periodic reconnaissances of roads in North Viet-Nam. Six such reconnaissances were completed with the concurrence of the P.A.V.N. High Command. The seventh could not be completed due to bad weather conditions when the team was actually deployed.

45. Mention was made in paragraph 31 to 35 of the Fifth Interim Report of the problems of control of shipping in the Mekong River. The Legal Committee of the Commission has studied the question of the rights of shipping on rivers open to international navigation and their compatibility with the obligations of the parties under Articles 16 and 17 and has come to the conclusion that the Commission has the right to stop ships for control purposes by its teams. The French High Command has been informed of this decision.

46. In order that the fixed teams might devote special attention to such places on the coast where there was possibility of war material and military personnel being landed, the Commission has, from time to time, carried out reconnaissance of the coast of Viet-Nam. The task has been completed with the following exceptions:—

- (a) Coastal area between Ha-Tien and Rach-Gia in South Viet-Nam. This could not be done due to the alleged conditions of insecurity prevailing in this area.
- (b) The coast from Haiphong to Tien-Yen in North Viet-Nam. This could not be carried out due to the non-provision of suitable sea transport.

47. The Commission, during the period under report, ordered reconnaissance of all off-shore islands both in North and South Viet-Nam in view of complaints made by the parties about lightening of ships and in view of a case which came to the notice of the Commission. The French High Command in a letter to the Commission on the 16th December, 1955, alleged that there were a great number of places in the area of Haiphong, where lightening of ships could be effected. In January, 1956, the Haiphong Fixed Team brought to the notice of the Commission an instance where a ship was lightened in the Baie D'Along before entering Haiphong. The Captain of the ship freely gave the information to the team that his ship had anchored in the Baie D'Along for some time for off-loading into barges approximately 1,000 tons of cargo there in order that the ship might be sufficiently light to enter Haiphong harbour. The team checked the cargo of the ship and the lightened material in Haiphong port and found them to be general merchandise. On the 4th February, 1956, the P.A.V.N. High Command alleged in a letter to the Commission that numerous ships were anchoring off the Mekong estuary at night time and unloading war material into barges which brought them to the shore.

48. As a result of the allegations of the French High Command and the instance of lightening mentioned above, the Commission directed its teams early in February, 1956, to carry out a reconnaissance of the off-shore islands and submit the following information:—

- (a) Islands which are suitable for lightening of war material/military personnel.
- (b) Their recommendations regarding the frequency of control.

The parties were also requested to indicate the places along the coast of North and South Viet-Nam where lightening could take place. In May, 1956 the Commission also directed its Naval Advisers on the recommendations of the Operations Committee to reconnoitre Cap. St. Jacques area in view of the P.A.V.N. High Command's complaint in order to determine the places where lightening could take place. The reconnaissance is under way. The Commission decided in June, 1956 on similar reconnaissance of the Haiphong area by its Naval Advisers. Concurrence of the P.A.V.N. High Command for the proposed reconnaissance is awaited.

49. However, the Commission's teams have not so far been able to carry out any reconnaissance of the off-shore islands in North Viet-Nam. The Commission has been pressing the P.A.V.N. High Command since March, 1956, to provide necessary transport to the teams concerned, but the High Command has not done so. The Commission hopes that the teams along the coast of North Viet-Nam will be able to begin this reconnaissance soon. In South Viet-Nam this task of reconnaissance was partially done. However, further reconnaissance was held up as the Government of the Republic of Viet-Nam in reply to the Commission's request to provide suitable sea transport to the teams concerned informed the Commission that it would not oppose the continuance of the reconnaissance of the coastal islands south of the 17th Parallel provided similar reconnaissance was carried out of all the islands north of the 17th Parallel. The Commission refused

to accept such conditional co-operation and informed the French High Command that it took decisions in each zone on merits. It was also informed that the P.A.V.N. High Command had been requested to make available suitable transport to carry out reconnaissance of the off-shore islands in the North. The Government of the Republic of Viet-Nam has now given its concurrence for the continuance of the reconnaissance of the off-shore islands and the reconnaissance has been resumed.

50. The Commission's teams both in South and North Viet-Nam have been encountering difficulties in the performance of their normal duties. The difficulties faced by the Commission's teams in South Viet-Nam are mentioned in paragraphs 51 to 56 and those in regard to North Viet-Nam in paragraph 64.

51. The difficulties in respect of South Viet-Nam are: (a) time notice restrictions on team movements to certain areas and delays in certain cases in the provision of necessary sea and air transport; (b) lack of notifications due under Article 16(f) and 17(e) of the Agreement; (c) restrictions on the exercise of spot-checks on ships and aircraft and failure in certain cases to make available the required documents. In paragraph 45 of the Fifth Interim Report the Commission had referred to the question of time notice restrictions. According to the Instructions to the Fixed Teams and their Mobile Elements prescribed by the Commission, the fixed teams are required to give half an hour's notice before moving to any part of their zones of action and their mobile elements to give two hours notice. Though this has been accepted by the two High Commands, the Government of the Republic of Viet-Nam has been demanding on grounds of insecurity and other reasons 24 hours notice and in some cases even 48 hours, thus restricting the movements of the majority of teams. The Senior Military Advisers of the Commission discussed the situation with the representatives of the French High Command and on the basis of their report, the Commission rejected the various arguments advanced by the Government of the Republic of Viet-Nam and insisted that the teams should be taken out of control duties on giving notice as prescribed in the Instruction to Fixed Teams and their Mobile Elements. With regard to Fixed Team Tan Chau, in which case the Commission had made an exception before, the Operations Committee after studying the problem came to the conclusion that it would appear that the security situation in the team's zone and sphere of action was normal and that it considered that the team should now be able to carry out its duties effectively in accordance with the instructions laid down by the Commission. The French High Command has been informed accordingly and has been requested to provide the necessary facilities for the team to function fully. The French High Command has communicated to the Commission a letter from the President of the Republic of Viet-Nam, dated July 12, 1956, which instructs the authorities in South Viet-Nam that the advance notices by the Commission's team could be reduced to two hours unless a visit to a region under the control of another province should require longer notice. But the restrictions on the movements of the teams still continue.

52. From three to seven days advance notice has also been demanded before providing necessary sea or air transport to Fixed Team

Cap. St. Jacques for the purpose of carrying out its prescribed control duties. Sea and air transport have not been made available for weeks together in spite of requisition with the result that the team has not been able to carry out the control of the Camau Peninsula in South Viet-Nam for months. Longer notice than what is prescribed in Instructions has also been demanded in the case of two other teams.

53. The second problem faced by some of the Commission's teams in South Viet-Nam is with regard to notifications to be given under Articles 16(f) and 17(e) before the introduction of military personnel and war material. Under Article 16, military personnel can be introduced into Viet-Nam only by way of rotation, notification for which is required to be given to the Joint Commission and to the International Commission at least two days in advance of the arrivals or departures of such personnel. Under Protocol 23 signed by the two High Commands, within 72 hours of arrivals or departures of military personnel a report is to be submitted to the Joint Commission and to the International Commission. A reference was made in paragraph 28 of the Fifth Interim Report to the visits of military aircraft including U.S. Navy planes to Saigon, without advance notification of these movements to the Commission's team. The Commission had informed the French High Command that advance notifications must be given in respect of all civil and military aircraft carrying military personnel and war material in accordance with the provisions of Articles 16(f) and 17(e). However, according to the reports received from some of the teams, specially the Saigon Fixed Team, U.S. Naval and Military planes continued to enter and leave Viet-Nam without notification during the period under review. In a number of these cases these planes were seen bringing in and taking out United States and Vietnamese military personnel. In reply to the Commission's inquiry, the French High Command has stated that the United States personnel are either in transit or replacements for the MAAG (Military Aid Advisory Group) and that Vietnamese personnel are returning after attending training courses outside the country. In most cases notifications under Articles 16(f) and 17(e) were not given. As regards the military transport aircraft as distinguished from their cargoes, the Commission decided on July 26, 1956, that these aircraft in themselves constituted war material in terms of Article 17(a) and Protocol 23. The Commission has communicated the above decision to the French High Command and has informed it that the Commission will require advance notifications about the arrivals and departures of these planes in order to ensure that they do not remain in the country and that they do not unload any war material. The Commission has indicated that it was preparing detailed modalities for the control of transit operations. In the last six weeks there has been an improvement in respect of notifications and in the majority of cases such notifications are being received by the team concerned.

54. In paragraph 35 of the Fifth Interim Report, mention was made of the difficulties encountered by the Commission's Fixed Team at Saigon with regard to the control of Saigon airport and of the suggestions made by the Commission to the French High Command in this connection. As the situation did not show any improvement, the Commission reviewed the position and made certain recommendations to the party in April, 1956. In spite of this, the team continues to

encounter difficulties in the exercise of its control duties. It has not been permitted to go to the loading and unloading area and in a number of cases, in spite of the team's request, foreign incoming aircraft were not brought to the parking area for the purpose of spot checking of their cargo. These aircraft taxied directly to the military section of the airport to which the team is not given access.

55. Manifests and other relevant documents of the aircraft were also not made available to the Saigon Fixed Team on numerous occasions on the ground that the local customs and other authorities had not received instructions to show them to the team.

56. In the harbour, the Saigon Fixed Team noticed instances where war material was brought in without notification; neither were manifests made available. There were also instances where war material was shipped out and notification was given either after the loading or after the departure of the ship. The team could not check the cargo. The team was also not allowed in some cases to carry out spot checks on ships in the harbour. The Liaison Officer told the team that the ships over which the team wanted to exercise control did not carry any war material and that there was therefore no need for the team to do its spot checking and that its request for manifest would be communicated to the higher authorities. As a result, in these cases, the Commission could not satisfy itself that the incoming shipment did not contain war material. The French High Command has notified the Commission from time to time of war material introduced into South Viet-Nam during the period under report. However, prior approval of the Commission for such introduction was not obtained as required by Protocol 23.

57. During the last six weeks there has been an improvement in the matter of production of manifests and other documents to the team both in the airport and in the harbour at Saigon.

58. Both the parties have contended that internal movements of war materials are not subject to control by the Commission. The Commission has considered this argument and, in order to satisfy itself that the movements are really internal, has suggested a method of control in the zones of action of the teams. The Government of the Republic of Viet-Nam has agreed to this suggestion subject to a reservation. The comments of the P.A.V.N. High Command are awaited.

59. In paragraph 27 of the Fifth Interim Report reference was made to complaints received from the P.A.V.N. High Command regarding alleged violations of Articles 16 and 17 of the Geneva Agreement. The Commission has not been able to carry out its investigation mentioned in that paragraph regarding the alleged construction of a new airfield at Nha Ban in South Viet-Nam, the reasons being alleged insecurity conditions in the area and the stand of the Government of the Republic of Viet-Nam, mentioned in paragraph 44 above. The P.A.V.N. High Command has also alleged the construction of two other airfields in South Viet-Nam. This is under investigation.

60. During the period under report, the Commission has received a total of 24 complaints alleging 76 specific instances of violations of

Articles 16 and 17 in South Viet-Nam. In two cases where United States and Vietnamese Military personnel were introduced into South Viet-Nam without any notification under Article 16(f), the Operations Committee of the Commission came to the conclusion that there had been a violation of Article 16. In one case where a U.S. military plane brought to Saigon a consignment of aircraft wheel tyres the Committee concluded that there had been a technical violation of Article 17. In the first two cases, mentioned above, the Commission asked the French High Command to show cause why a finding of violation of Article 16 should not be given and in the third case why a finding of violation of Article 17 should not be given. The French Liaison Mission in its reply dated the 21st July has not denied the facts but has stated that due to lack of co-ordination between the various Vietnamese services, notifications were not given. The matter is under the consideration of the Commission. In another case the Commission decided that there had been no violation as on the date mentioned by the P.A.V.N. High Command in its complaint, no United States plane had landed at Tourane and in one more case, that the allegation had not been proved. In two cases the Commission declined to undertake any investigation as the allegations were too general. For the same reason the Commission just noted two complaints from the P.A.V.N. High Command. The other complaints are under enquiry. In some cases it has been found that team reports bear out the allegations made by the P.A.V.N. High Command of violations of Articles 16 and 17. In such cases the party has been asked to explain why notifications as required under the Agreement have not been given and why the procedure laid down in Protocol 23 for the introduction of war material and military personnel has not been followed.

61. During the period under review the Commission considered the question of introduction into South Viet-Nam of a number of Landing Ships (Tank) mentioned in the team reports. The Commission decided that LSTs were war material. It has asked the French Liaison Mission to explain why they were introduced without notification under Article 17 and without following the procedure under Protocol 23.

62. With reference to paragraph 30 of the Fifth Interim Report regarding necessary notification under Articles 16(f) and 17(e) to the Central Joint Commission, the situation remains unchanged. The French High Command has not implemented the recommendations. In fact, the position has become more complicated due to the non-functioning of the Central Joint Commission after the disappearance of the French High Command on 28th April, 1956.

63. One major case of a foreign military mission in South Viet-Nam came up during the period under report. On 25th April, 1956, the Commission received a request from the French Liaison Mission and the Republic of Viet-Nam for grant of permission for the entry of 350 military personnel of the U.S. Army Service Corps into South Viet-Nam. It was stated that these persons would constitute a mission called "TERM"—Temporary Equipment Recovery Mission—whose duties would be to examine war material and military equipment lying in South Viet-Nam which was the property of the U.S. Government for the purpose of selecting material to be exported from Viet-Nam and to protect and preserve this material. The Commission was informed

that the members of "TERM" would start entering South Viet-Nam by the last week of May, 1956. The Commission informed the French Liaison Mission that the matter was under consideration and that pending the decision of the Commission no entry should be effected. In spite of this, 290 United States military personnel belonging to the "TERM" have been introduced into South Viet-Nam, thus facing the Commission with a *fait accompli*. The Commission takes exception to this method of procedure adopted by the French Liaison Mission and the Government of the Republic of Viet-Nam. The Commission gave due consideration to the request of the Republic of Viet-Nam and communicated its decision on the 29th May, 1956. In this letter the Commission asked for assurances that the functions of "TERM" would be solely the selection of material for export from the country and that it would not be used for any other purpose. The Commission further asked for details regarding the mission, number and names of personnel, their postings in the country and the tasks assigned to each one of them. Lastly, the Commission proposed certain conditions on acceptance of which the Commission would be prepared to agree to the entry of the "TERM" personnel. These conditions include submission of fortnightly progress reports on the work of "TERM", submission of notifications regarding entry and exit of "TERM" personnel, right of the Commission and its fixed teams to control entry and exit and the right of the Commission to conduct spot checks at any place where "TERM" personnel were functioning. The matter is being pursued with the authorities of the Republic of Viet-Nam, whose final acceptance of the Commission's conditions has not yet been received. The Commission has also received complaints from the P.A.V.N. High Command regarding alleged activities of certain U.S. military missions in South Viet-Nam as constituting violations of Articles 16, 17, 18 and 19 of the Agreement. The matter is under the consideration of the Commission which is awaiting the comments of the French High Command.

64. The difficulty that is being experienced by the Commission's teams in the North is with regard to obtaining suitable and modern means of sea or air transport for control purposes. Since June, 1955, the Commission has been making efforts to get the P.A.V.N. High Command to provide a suitable sea-worthy boat for Fixed Team Haiphong for controlling the coast between Do Son and Sam Son. It had informed the High Command that in its view control could best be exercised by means of an amphibian aircraft. The High Command informed the Commission, in reply, that a naval craft could serve the purpose equally well and that it was negotiating with the French for obtaining two LCTs. However, when the French High Command informed the P.A.V.N. High Command that it was willing to send four boats to Haiphong harbour in one of its naval vessels the latter did not accept the offer on the ground that it could not allow the French vessel to enter its waters. The French High Command, in a letter to the Commission dated 16th December, 1955, to which reference was made in paragraph 47 above, requested the Commission's assurance that there was really effective control in the areas of Haiphong, Hong Gay, Cam Pha port and Pho Cac Ba particularly with reference to the means of transport available to the Team. This was examined by the Operations Committee of the Commission and on its recommendation the Commission informed the French High Command that

upto that time the control in the area in question had been as effective as possible with the transport facilities available to the team. The facilities consisted of vehicles only. The Fixed Team Haiphong did not have a boat to control part of its zone of action along the coast from Do Son to Sam Son once a week as prescribed by the Commission. Except for this, the control of the other areas within the zone of action of the team has been carried out by road as prescribed by the Commission in the Instructions to Fixed Teams and their Mobile Elements. In the last week of July, Fixed Team Haiphong was provided with a boat and did two short trips within its zone of action. But the team has reported that in its opinion the boat does not fulfil all the requirements of the team for the purpose of its control duties. The matter is under the consideration of the Commission. The Tien Yen and Vinh Teams have not been provided with the required sea transport.

65. The Commission's fixed teams both in North and South Vietnam have experienced difficulties from time to time in the course of their day to day working. These difficulties were often due to narrow interpretations placed by the Liaison Officers on the teams' instructions and to the differences of opinion which thereby resulted between the teams and the Liaison Officers. Such difficulties were settled or are being settled by the teams themselves or by the Operations Committee of the Commission.



CHAPTER VI

CO-OPERATION OF THE PARTIES TO THE AGREEMENT

66. In Chapter VIII of the Fourth Interim Report and in Chapter VI of the Fifth Interim Report, the Commission recorded the degree of co-operation which it was receiving from the two parties, the extent to which they were fulfilling their obligations under the Agreement and the difficulties which the Commission itself was experiencing in carrying out its tasks of supervision and control. These difficulties were brought to the specific notice of the Co-Chairmen, as the Commission felt that unless they were resolved and unless the parties were prepared to execute the provisions of Articles 25 and 35, the Commission would not be able to discharge its responsibilities under the Agreement. The Commission regrets to state that during the period under review, most of the difficulties which were described in earlier Reports still confront the Commission.

67. The difficulties which the Commission has been experiencing concern either cases "where the Commission's activities are being hindered" or cases "where one of the parties refuses to put into effect the recommendations of the Commission." This distinction has been made in Article 43 of the Agreement itself.

Difficulties in South Viet-Nam

68. The main difficulties in this category experienced in South Viet-Nam are those connected with the operation of the Commission's fixed and mobile teams and the implementation of Articles 16 and 17 of the Agreement.

Cases where Commission's Activities are being hindered

69. The Commission decided during the period under review to send four mobile teams to conduct investigations under Articles 14(c) and 14(d) in South Viet-Nam, in addition to the two teams which it had decided to despatch during the period covered by the Fifth Interim Report. The Commission has not been able to obtain the concurrence of the French High Command for the conduct of these investigations, except in three cases referred to in paragraph 18. In one case, it has been stated by the Government of the Republic of Viet-Nam that for security reasons, no investigation is possible. The International Commission took up the matter with the French High Command as in its view the security conditions in the area appeared to be normal. Nevertheless, the concurrence has not been received. The Commission is pursuing these cases. As mentioned in previous Reports, the Commission had to withdraw its mobile teams 24 and 61 as the Government of the Republic of Viet-Nam had stated that the investigations could not be carried out on grounds of security and laid down conditions which were not acceptable to the Commission. The Commission has so far been unable to resume the activities of these teams. The Commission is of the view that unless the party concerned co-operates with it in the conduct of on-the-spot investigations and unless the Commission is in a position to carry out enquiries

through its inspection teams as visualised under Article 37 of the Agreement, it will not be in a position to fulfil satisfactorily the tasks of supervision and control under the Agreement.

70. The activities of Mobile Team 47 which was investigating complaints of alleged violations of Article 21 have come to a standstill because of the non-production by the Government of the Republic of Viet-Nam of dossiers and papers concerning the prisoners and in some cases of the prisoners themselves whom the Commission had decided to interview. In spite of protracted correspondence the authorities have produced neither the persons nor their dossiers. There are over 100 such cases which remain to be settled. Amongst these are the cases of 16 alleged prisoners of war/civilian internees detained in Poulo Condore prison. The Commission informed the French High Command on June 5, 1956, that the concurrence of the authorities of the Republic of Viet-Nam should be obtained within three weeks failing which the Commission would decide what action it should take for non-implementation of the recommendations of the Commission. No reply has been received to this demand. The Commission has, on June 6, 1956, made a final demand to the French High Command for the production of dossiers concerning the other cases stating that if they were not received within three weeks the Commission would declare the detainees as prisoners of war/civilian internees. No reply has been received so far.

71. Another major difficulty is the time notice restrictions placed by the authorities in South Viet-Nam on the Commission's fixed teams. These have been described in detail in paragraph 51. The Commission had made it clear that the existence of such time notices makes it impossible for its teams to carry out all their duties effectively. In spite of the repeated efforts of the Commission, during the period under review, movements of the teams continued to be restricted.

72. The provisions of Articles 16 and 17 and Protocol No. 23 have not been fully implemented by the French High Command. The notifications which the parties have undertaken to give under the provisions of these Articles were not received regularly by the Commission. Thirty-six cases have been recorded where no notifications have been received by the Commission's team in Saigon and on fourteen occasions the team actually saw military personnel deplaning at Saigon airfield. The Commission has repeatedly taken serious objection to the failure of the French High Command to give the required notifications under Articles 16 and 17. On April 25, 1956, the French High Command informed the Commission that the Government of the Republic of Viet-Nam had indicated its consent to give the required notifications. As indicated in paragraph 53 above, notifications are being received in the majority of cases, since the last six weeks. However, there have been cases where no notifications were received. The difficulties of the team in exercising control in Saigon airfield have been dealt with in paragraph 54 above.

73. The Commission has been unable to conduct reconnaissance and control of the airfields in South Viet-Nam mentioned in paragraph 44. The details of the difficulties which arose in this connection have been described in that paragraph. The Commission has asked that

immediate arrangements should be made for the reconnaissance and control of the airfields as the case may be. Because of this lack of co-operation, the Commission has not been able to supervise all airfields in the discharge of its statutory duties under Article 36(d). The Commission has also not been able to complete the reconnaissance of part of the coast of South Viet-Nam as the particular means of transport required by the Commission was not supplied.

74. Arrangements have not been made for accommodating the mobile element of the Fixed Team at Tan Chau, decided upon by the Commission.

75. Apart from the cases which have been specified above, there are numerous other cases which are pending settlement for a long time as satisfactory replies have not been received from the French High Command. Correspondence is conducted for months together and the Commission is unable to settle cases because of lack of adequate replies.

Cases of non-implementation of recommendations of the Commission

76. Apart from the hindrances in South Viet-Nam mentioned above, there are cases where specific recommendations of the Commission have not been implemented by the French High Command or where implementation has been delayed. The majority of cases concern recommendations made by the Commission regarding release of civilian internees from prisons in South Viet-Nam. Details of these cases have been mentioned in paragraphs 36, 37 and 38. In spite of repeated requests, 21 recommendations regarding release of civilian internees have not been implemented. In nineteen cases, the authorities of the Republic of Viet-Nam have rejected the Commission's recommendations on the ground that the persons concerned were former members of the armed forces. Details of two other cases of non-implementation have been mentioned in paragraph 38 above. As pointed out in Chapter IV, the Commission gave very careful consideration to the legal aspect of the matter and confirmed its recommendations. In spite of this, the recommendations have not been implemented. The Commission views with great concern cases where the parties refuse to implement its recommendations on the ground that they interpret the provisions of the Agreement in a different manner.

77. The Commission conveyed on 24th February, 1956, its recommendations that notifications of import of war material and introduction of military personnel should be given in writing to the Central Joint Commission as laid down in Articles 16 and 17 and for this purpose a Central Secretariat should be set up. The French High Command has not accepted these recommendations.

78. Apart from the cases specified above, there are several other cases of non-implementation and partial implementation of recommendations some of which are considerably old, such as, the recommendations made by the Commission a year ago as a result of investigations conducted by Mobile Teams 57, F-16 and 24.

Difficulties in North Viet-Nam.

Cases where Commission's activities are being hindered.

79. There also exist cases in North Viet-Nam where the Commission's activities are being hindered. The case of Mobile Team F-44 has been mentioned in paragraph 24 above. This case, where the Commission has been experiencing a major difficulty, has been pending with the Commission since April, 1955 and the Commission's repeated efforts to complete the investigation have not been successful so far. Various reasons have been given by the P.A.V.N. High Command for not arranging for the interview of the seminarists including the reason of the reluctance of the religious authorities to allow the Team to interview the seminarists inside the seminary. As already mentioned in paragraph 24, with a view to expediting the matter, the Commission has decided to interview the persons concerned at Vinh and has made a recommendation to that effect. This recommendation has not been implemented.

80. The Commission has not yet been able to complete the reconnaissance of part of the coast of North Viet-Nam as the P.A.V.N. High Command has not supplied suitable means of sea transport. The question of providing suitable sea transport to the teams at Vinh, Tien Yen and Haiphong was taken up with the P.A.V.N. High Command as early as June, 1955. The teams at Vinh and Tien Yen have been without suitable means of sea transport. As stated in paragraph 64 above a boat was given to the Haiphong Fixed Team in the last week of July, 1956 but its adequacy is yet to be determined.

81. On the 1st of January, 1956 the P.A.V.N. High Command took over the air services in North Viet-Nam which connect the Commission with its teams in the North, assuring the Commission that the services would continue to be as satisfactory as before. Since that date, however, the Commission has been experiencing difficulties in the maintenance of its team at Lao Kay as the air service between Hanoi and Lao Kay has been functioning unsatisfactorily. The service to the teams at Tien Yen, Langson and Vinh has not met all the Commission's requirements. Under instructions from the Commission, the Senior Military Advisers have examined how far the air services provided by the P.A.V.N. High Command fall short of the requirements of the Commission and have made proposals for the improvement of the maintenance of the teams by air in North Viet-Nam. The matter is under the consideration of the Commission. The difficulties mentioned in this paragraph relate to the maintenance of the teams in the North and do not concern their control duties.

82. Apart from the above cases, there are a few cases where satisfactory replies have not been received from the P.A.V.N. High Command as a result of which the Commission has not been able to settle some outstanding cases.

Case of non-implementation of recommendation of the Commission.

83. One difficulty of a serious nature where the Commission's recommendation has not been implemented has been the withdrawal of the Commission's mobile team from Phuc Hoa. This has been

described in paragraphs 42 and 43. In this case the P.A.V.N. High Command has refused to implement the recommendations of the Commission on the ground that it does not agree with the Commission's interpretation of Article 35. As a result, the P.A.V.N. High Command refused to provide the necessary logistic and other support for the continued existence of Mobile Team 99. The team had to be withdrawn. In the meantime, the mobile element of the Lang Son Team visited the area on seven occasions for control purposes. The Commission, however, is of the view that a team at Phuc Hoa on continuous duty is essential to control the area. At the insistence of the Commission the P.A.V.N. High Command has agreed to the deployment of a new team at Phuc Hoa; but it has not accepted the Commission's interpretation of Article 35. As stated in paragraph 76, the Commission views with great concern cases where parties refuse to implement the recommendations of the Commission on the ground that they interpret the provisions of the Agreement differently.

84. Under the Cease-fire Agreement the parties have, apart from the obligation to implement all the Articles fully, accepted the obligation to afford full protection and all possible assistance and co-operation to the International Commission and its inspection teams in the performance of functions and tasks assigned to them by the Agreement. Neither party has fulfilled in their entirety these obligations. As has been revealed in the preceding paragraphs, the degree of co-operation given to the Commission by the two parties has not been the same. While the Commission has experienced difficulties in North Viet-Nam, the major part of its difficulties has arisen in South Viet-Nam.



CHAPTER VII

CONCLUSIONS

85. The previous Chapters of this Report and in particular Chapter VI have outlined the progress made in the implementation of the Cease-Fire Agreement in Viet-Nam, the degree of co-operation received from the two parties and the difficulties which the International Commission is experiencing in carrying out its tasks of supervision and control.

86. Apart from these difficulties, developments of a serious nature have taken place in South Viet-Nam. The Commission had already pointed out in previous Reports that the transfer of power from the French authorities in the South to the authorities of the Republic of Viet-Nam had created difficulties in the implementation of the Agreement in South Viet-Nam, particularly in view of the fact that the Government of the Republic of Viet-Nam did not consider itself as bound by the Geneva Agreement, stating that it was not a signatory to that Agreement. On April 5, 1956, the Commission received a letter from the High Commissioner for France in Saigon dated April 3, 1956, giving notice that the French High Command would withdraw completely from South Viet-Nam on April 28, 1956. The Commission thereupon decided to inform the Co-Chairmen of this serious development and ask for directions as to the future working of the Commission. In their reply dated April 19, 1956, the Co-Chairmen informed the Commission that they were considering the situation in Viet-Nam and that pending their final decision the Commission should continue in existence and carry on its normal activities.

87. The Commission interpreted the Co-Chairmen's directive to mean that, pending a final solution of the problem, it should continue to deal with the French authorities in Saigon as hitherto and that the entire machinery for the proper implementation of the Cease-Fire Agreement would be maintained. As a result of the talks held with the French authorities regarding the interim arrangements, the Commission decided that the attention of the Co-Chairmen should be drawn to the nature of these arrangements and to the fact that after April 28, 1956, the Joint Commission machinery would not be functioning due to the withdrawal of the French High Command. Accordingly, a special message was sent to the Co-Chairmen on May 2, 1956, with a separate note by the Canadian Member, and instructions were sought as to the future working of the Commission. In this communication the Commission also informed the Co-Chairmen that it would remain in being and subject to the difficulties mentioned by it, maintain its machinery for supervision and control. It requested the Co-Chairmen to take steps to resolve the difficulties to enable the Commission to carry on normal activities.

88. The Co-Chairmen of the Geneva Conference discussed the matter during their talks in London and on May 8, 1956, issued messages to the International Commission, to the Government of the French Republic and a joint message to the Governments of the Democratic Republic of Viet-Nam and the Republic of Viet-Nam. They strongly urged both the Governments in Viet-Nam to make every effort to implement the Geneva Agreements to prevent any future violation of the military provisions of the Agreement and to ensure the implementation of the political provisions and principles of the Final Declaration of the Geneva Conference. They further asked the parties to give the International Commission all possible assistance and co-operation in future in the exercise of its functions. So far as the political settlement is concerned, the Co-Chairmen requested the two Governments to transmit their views about the time required for the opening of consultations on the organisation of elections and the time required for holding of elections to unify Viet-Nam. They recognised that the dissolution of the French Union High Command had increased the difficulties of the International Supervisory Commission in Viet-Nam in carrying out the functions specified in the Geneva Agreements which are the basis for the Commission's activities and that these difficulties must be overcome. In their message to the French Government, the Co-Chairmen invited the French authorities to discuss the question with the South Viet-Nam authorities in order to reach an arrangement to facilitate the work of the International Commission and the Joint Commission in Viet-Nam. Until these new arrangements were put into effect, the French Government was requested to preserve the *status quo*. In their message to the International Commission, the Co-Chairmen appealed to the Commission to persevere in its efforts to maintain and strengthen peace in Viet-Nam on the basis of the fulfilment of the Geneva Agreements with a view to the reunification of the country through the holding of elections under the supervision of an International Commission.

89. The Commission examined very carefully the three messages which the Co-Chairmen had sent and on May 27, 1956, communicated to the Co-Chairmen its response to the appeal addressed to it. The Commission will, as stated in its message of May 27, 1956, persevere in its efforts to maintain and strengthen peace in Viet-Nam on the basis of the fulfilment of the Geneva Agreement. It will continue to deal with the parties concerned on the basis of the *status quo* until arrangements that will facilitate the work of the International Supervisory Commission and of the Joint Commission in Viet-Nam envisaged in the Co-Chairmen's message to the French Government "are put into effect". Discussions between the High Commissioner for France and the authorities of the Republic of Viet-Nam on the question of the future working of the Cease-Fire Agreement and the relationship of the authorities of the Republic of Viet-Nam with the International Commission have just been concluded in Saigon.

90. In spite of the difficulties which it is experiencing, the Commission will, as directed by the Co-Chairmen of the Geneva Conference, persevere in its efforts to maintain and strengthen peace in Viet-Nam on the basis of the fulfilment of the Geneva Agreements

on Viet-Nam with a view to the reunification of the country through the holding of free nation-wide elections in Viet-Nam under the supervision of an International Commission.

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India.

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Canada.

(Sd.) J. GOLDBLAT,
Poland.

HANOI;
September 9, 1956.

