

APPENDIX III

PRISONERS OF WAR AND CIVILIAN INTERNEES

	<i>French claim</i>	<i>Democratic Republic of Vietnam claim^(*)</i>
1. Prisoners of war released or handed over to the D.R.V.N. by the French ...	7,974 ⁽¹⁾	9,071
2. Civilian internees released or handed over to the D.R.V.N. by the French ...	59,990 ⁽¹⁾	59,034
3. Prisoners of war released or handed over to the French by the D.R.V.N. ...	13,377 ⁽²⁾	12,173
4. Civilian internees released or handed over to the French by the D.R.V.N. ...	655 ⁽²⁾	587
5. Prisoners of war still detained by the D.R.V.N. ...	9,537 ⁽²⁾	—
6. Civilian internees still detained by the D.R.V.N. ...	—	—
7. Prisoners of war still detained by the French ...	—	6,708
8. Civilian internees still detained by the French ...	60 ⁽²⁾	453

⁽¹⁾ Up to 27th of October, 1954.

⁽²⁾ Up to 25th of October, 1954.

⁽³⁾ Under investigation by the French.

⁽⁴⁾ Up to 11th of November, 1954.

APPENDIX IV

STATEMENT RELEASED TO THE PRESS ON 2ND OF SEPTEMBER, 1954

There are important provisions in the Geneva Agreement about political and administrative questions. In order that these provisions may be successfully carried out it is essential that the people of Vietnam know about them. The International Commission, which is responsible for supervising the carrying out of the whole Agreement, considers it important that the widest publicity should be given to two points:

Firstly: According to the Agreement each party undertakes to refrain from any reprisals or discrimination against persons or organisations on account of their activities during the hostilities and to guarantee their democratic liberties. In other words, whatever you may have done during the hostilities will not be used by either side as a basis for reprisals or discrimination: A fresh page has been opened. Your democratic liberties have been guaranteed by both sides.

Secondly: From the date of entry into force of the Agreement until the movement of troops is completed any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district. This means that a period has been fixed during which you are free to move from the Northern Zone to the South and from the Southern Zone to the North. It began on 22nd of July when the Agreement came into force and it ends three hundred days later in May 1955 when the movement of troops is to be completed. Until then

you can freely leave one zone and go and live in the other. The authorities in the zone you are living in not only must permit you to leave but have undertaken to assist you. Moreover, no one has any authority to compel you to leave one zone to live in the other. You have complete freedom of choice.

It will be the duty of the International Commission to investigate any complaints that these or any other provisions of the Agreement are not being faithfully carried out.

APPENDIX V
(October 19, 1954)

COMMITTEE ON FREEDOM OF MOVEMENT

The International Commission

Bearing in mind the primary responsibilities of both parties for the implementation of the Geneva Agreement, and in particular of Article 14, sections (c) and (d), dealing with the guarantee of democratic liberties and with the principles of freedom of movement from one zone to the other:

Considering its own responsibilities for supervision and control of any action taken by both parties, either individually or jointly, towards the fulfilment of their obligations under the Agreement:

Having reviewed the proposals put forward by both parties to facilitate the settlement of any difficulties which may arise regarding the application of Article 14, sections (c) and (d) of the Agreement:

DECIDES:

- (a) to establish a Committee of the International Commission, to be known as the Committee on Freedoms, to control and supervise action taken by the two parties under the provisions of Article 14, sections (c) and (d) of the Geneva Agreement;
- (b) to instruct this Committee on Freedoms to maintain close liaison with the two parties as proposed in paragraph (d) of the recommendation below, in order to be at all times informed on the various steps taken, and plans developed by both parties towards the full implementation of the provisions of Article 14, sections (c) and (d);
- (c) to authorise the Committee on Freedoms, whenever it considers it appropriate, on its own initiative or at the request of either or both parties, to have recourse to the Commission's teams for carrying out any action deemed necessary to discharge the responsibilities assigned to it by the Commission;
- (d) to request the Committee on Freedoms to submit to the Commission monthly reports on the progress achieved by both parties in the implementation of Article 14, sections (c) and (d) of the Agreement, and by itself in the carrying out of its responsibilities;
- (e) to authorise the Committee on Freedoms, whenever it may deem it advisable, on the basis of the information submitted by the two parties, to make to the International Commission recommendations or suggestions on principles, procedures and other arrangements which may provide acceptable solutions to any problem which may have arisen in the fields covered by Article 14, sections (c) and (d).

RECOMMENDS

to the two parties, in order to assure the closest liaison and collaboration between themselves and the Committee on Freedoms:—

- (a) to establish, without delay a Committee composed of representatives of the two parties to be primarily responsible for the implementation of Article 14, sections (c) and (d) of the Geneva Agreement;
- (b) that this Committee be instructed to formulate as soon as possible general principles and procedures, and to work out detailed arrangements for the practical implementation of Article 14, sections (c) and (d);
- (c) the Committee be authorised to investigate and dispose of any complaints and petitions which may be submitted to the Commission or to the parties themselves under the provisions of Article 14, sections (c) and (d);
- (d) that the Committee be instructed to keep the Commission's Committee on Freedoms, through its liaison officers, continuously informed on all and any action taken by it in the field covered by Article 14, sections (c) and (d);
- (e) that the Committee be instructed to refer to the Committee on Freedoms, for consideration and decision, all cases over which there is disagreement within the Committee.

APPENDIX VI

INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL FOR VIETNAM

ORDERS FOR MOBILE TEAM NO. 24

Information

1. The International Commission has received information and complaints, from time to time, about certain alleged incidents which might involve violation of Articles 14 (c) and 15 (d) in the Phu Yen, Qang Nam and Binh Dinh provinces. These incidents have mostly been reported to the Fixed Team by Colonel Nguyen Hung Van, Head of the Democratic Republic High Command's delegation to the Joint Sub-Commission for the 5th zone, and the Team has passed on these complaints and petitions for the consideration of the Commission. On a preliminary review of these complaints, the International Commission has decided that these alleged incidents mentioned in Appendix A⁽¹⁾ should be investigated by the Mobile Team No. 24. A brief summary of the information contained in these complaints and petitions is attached for convenient reference of the Team, together with copies of the complaints.

Intention

2. The task of the Mobile Team will be to obtain an objective appreciation of the facts relating to these alleged incidents and to set them out in the form of a connected narrative.

Method

3. *Composition*

Chairman.
Members.

(1) Not reproduced.

4. *Liaison Officers*

French.
D.R.V.N.

Interpreters

French.
D.R.V.N.

5. This narrative should also bring out clearly the reasons for the incidents, the state of law and order prevailing in the area at the time of the incidents and the attitude of the people and of the administration towards each other.

6. The Team should also secure the names of the people who have been the victims or casualties of these incidents and the extent to which the injured and the dead, if any, had been taken care of. If there are any persons injured who have still not been attended to, the Team should arrange for the local authorities providing medical assistance where such assistance is called for.

7. The narrative should also contain all available particulars about the background and antecedents of the persons who were arrested, or who appear to have been singled out for attack or reprisals, including information on whether they were associated with the former administration of the withdrawing army (of the Democratic Republic) in the area, and the nature and extent of their activities (peaceful or otherwise) since the date of the cease-fire.

8. The Team should try to obtain and study, in addition to the attached documentation containing the reports on these incidents from the Delegation of the P.A.V.N. to the Joint Sub-Commission, all other information relating to the incidents which the two sides are able to provide. For this purpose they should visit the actual sites of the incidents and collect evidence on the spot from persons who can give some reliable evidence relating to these incidents, including functionaries of the civil or military authorities, eye-witnesses and the injured.

9. In order to ensure that it gets dependable evidence without restraint, the Team should ask the local administration to assure the population in the area, through a general announcement, that the witnesses, including members of the families of victims, who approach the Team or give evidence need have no fear of any reprisals.

10. In building up its narrative the Team should endeavour to collect evidence which would enable the Commission to find answers to the following questions :—

- (a) The circumstances in which the victims were injured or killed; whether the injury or death occurred at the moment of or during arrest by the appropriate authorities of the area. If, in the course of its investigations, the Team obtains reliable evidence to show that there has been any action which exceeded the normal standards, particularly as allegations of torture have been made, the Team should give all available details in this regard in its report together with all the circumstances in which they took place.
- (b) Whether on the date of the incidents there was (and there still is) an effective civil administration in the area where the incidents occurred; the period during which the area has been controlled by the present and the previous administrations, and whether there was an orderly transfer of power in the area.

- (c) Whether these incidents have been formally reported by the local authorities, according to the established practice, if any, to the higher authorities; whether a proper investigation was conducted or action taken by the authorities including redress to the affected persons, where justified.
- (d) Provisions of the local law and procedure regulating the scope and extent of the powers of the civil authorities and of the security police in the area at the time of the incident; the circumstances under which it is normally permitted in the area for the local authorities to carry out arrests, investigations and punitive action under the current law and practice.
- (e) The general behaviour of the military authorities in the area towards the civil population and any instructions issued by the higher authorities to regulate such conduct.
- (f) The general attitude of the people in the area towards the new administration of the South Vietnam Government. Whether there was hostility, latent or expressed, towards this Government on the part of the people generally or on the part of particular individuals; if so, the reasons for this hostility including evidence on whether these particular individuals, in the exercise of their democratic rights under Article 14 (c) of the Geneva Agreement, tended to intensify the resistance of the people in the area to the new administration, and whether this, in turn, created a situation which constituted interference with local administration and justified the use of force to establish and maintain law and order.
- (g) Whether there were reprisals or discrimination by the local administration against the population generally and particularly against certain organisations or persons who were formerly associated with the Democratic Republic army or administration, on account of their activities during the hostilities or for their political sympathies since the cease-fire.
- (h) Whether the people in the area were aware of the contents and limits of democratic rights under Articles 14 (c) and 15 (d). Concrete evidence, such as copies of press notes or other forms of announcement under which these rights were brought to the notice of the local people either by the administration or by others. If the Team finds that the population does not have adequate information on this, it should request the local authorities to bring to the notice of the population the contents of Articles 14 (c) and 15 (d) and of the announcement of last September by the Commission relating to these Articles.

11. The Team should so conduct its enquiry as to avoid giving any impression of interference in local administration.

12. These instructions which cover all essential points are meant to assist and guide the Team to direct its investigations in a purposeful manner but are not exhaustive. The Team will have the freedom to report to the Commission any other factors or consideration relating to the incidents which come or are brought to its notice during the investigations.

APPENDIX VII

No. OPS II (5)

1st of December 1954.

INSTRUCTIONS FOR MOBILE TEAM No. 27 APPOINTED TO ASCERTAIN THE SITUATION REGARDING FREEDOM OF MOVEMENT IN THE BUI CHU AND THAI BINH AREAS

Ref. Maps: Hanoi Map Sheet No. 7 } Scale
Son-Tay Map Sheet No. 6 } 1:400,000

Information

Article 14 (d) of the Geneva Agreement relating to freedom of movement reads as follows:—

“From the date of entry into force of the present Agreement until the movement of troops is completed, any civilians residing in a district controlled by one party who wish to go and live in the zone assigned to the other party shall be permitted and helped to do so by the authorities in that district.”

2. This means that the people may decide of their own free will, whether they wish to stay where they are, or to go and permanently live in the zone controlled by the other party, and that the latter should be given the requisite facilities to do so by the party controlling the areas where they reside at present. This decision should be exercised freely and in an orderly manner.

3. The International Commission has received from time to time complaints and petitions from the Liaison Missions of the French High Command as well as from the people in the Nam Dinh, Bui Chu, Phat Diem, Ninh Binh, Thanh Hoa, Thai Binh and Vinh areas regarding alleged obstacles to freedom of movement of persons who wished to go and live in South Vietnam. These complaints and petitions have alleged not only the lack of adequate administrative arrangements, but also other obstacles to the freedom of movement of intending evacuees. The situation in Phat Diem and Nam Dinh was recently investigated by the Commission's Mobile Teams. The Commission has now decided that Mobile Teams should be sent to Bui Chu, Ninh Binh, Thai Binh, Thanh Hoa and Vinh to investigate the situation in these areas.

Task

4. The task of these Teams would be (a) to assess by a rapid survey within a period of about four days, the situation regarding freedom of movement existing in the Bui Chu and Thai Binh areas and to ascertain whether the people in the area are aware of the provisions of Article 14 (d) regarding freedom of movement and what facilities and assistance are provided by the local authorities to enable the exercise of this freedom by the population; (b) to ascertain and report the administrative arrangements in force, such as the details regarding permits and the procedure for their grant and the available transport facilities; (c) the adequacy and effectiveness of these arrangements for the full implementation of Article 14 (d); (d) if the arrangements are not adequate, to indicate to the local authorities the extent and the nature of the possible improvements, and report the reactions of the administration to these suggestions to improve the existing arrangements.

Method

5. The Team should visit as much as possible of the areas assigned to them including the villages about which specific references have been made

in the attached complaints⁽¹⁾ from the French Liaison Mission. It should visit the permit offices, observe the method of their work and ascertain, to the extent possible within the time available at its disposal, the effectiveness, in practice, of the existing arrangements in facilitating movement.

6. In collecting the necessary information which will enable the Team to make a proper assessment of the situation, the Team should bear in mind particularly the following questions:—

- (a) The present location and date of opening of the permit offices empowered to issue permits which would enable the recipients to travel from the present location to the zone controlled by the other side;
- (b) Whether these permit offices are easily accessible to the people;
- (c) Are there offices in the area visited empowered to issue permits to any applicant who is a resident of that province?
- (d) Are the existing system and procedure effectively publicised and known to the population?
- (e) What considerations are taken into account before permits to go South are granted or refused; what checks are applied and how long does it take normally from the date of application to issue permits? The normal period of validity of these permits;
- (f) Whether the people who want to move to the zone of their choice are subjected, in practice, to discrimination, harassment or reprisals?
- (g) Have the people freedom to meet and discuss what they wish to do regarding the exercise of democratic freedom under the Agreement, particularly freedom of movement? Are there any restrictions; if so, what are they?
- (h) The number of applications for permits to move to the South received by the permit offices in the area since their opening and the number of such permits actually granted; if the figures for previous months are not readily available at least the figures for November to be collected; and
- (i) Particulars of the normal transport facilities available.

7. In addition to the above, the Team should make a definite effort to ascertain:

- (a) the extent, if any, of misunderstanding regarding the real meaning of Article 14 (d) caused by the attitude of sections of population, or of organisations or individuals resulting in concentration of people keen on crossing over to the other zone in defiance of local regulations and without approaching the local authorities for the permit and other facilities provided for in that Article; and
- (b) the extent, if any, to which the attitude of the local authorities, the complexity of the administrative arrangements and the methods of disposal of applications for permits result, in practice, in the denial of the freedom of movement guaranteed under Article 14 (d).

8. The Team should find out whether the people in the area visited are fully aware of their rights under Article 14 (d). If the Team finds that the population does not have adequate information on these points, it should request the local authorities to bring to the notice of the population the contents of Article 14 (d) as well as the administrative arrangements which exist for permitting people to go to live in the South, if they so wish.

Followed by administrative instructions.

(1) Not reproduced.

**SECOND INTERIM REPORT OF THE INTERNATIONAL
COMMISSION FOR SUPERVISION AND CONTROL
IN VIETNAM**

December 11, 1954 to February 10, 1955

TABLE OF CONTENTS

	<i>Pages</i>
Introduction	44
CHAPTER I—	
Establishment and Machinery of the International Commission in Vietnam—	
Fixed Teams	45
CHAPTER II—	
Cease-fire, Provisional Military Demarcation Line and Demilitarised Zone—	
Supervision of demarcation line and demilitarised zone	45
CHAPTER III—	
Regroupment Plan—	
Point Camau	45
Central Vietnam Provisional Assembly Area	45
Haiphong Perimeter	46
CHAPTER IV—	
Prisoners of War and Civilian Internees—	
Claims and counter-claims under Article 21	46
Problem of "ralliés" and deserters	46
Atmosphere between the parties	46
CHAPTER V—	
Democratic Freedoms under Article 14 (c) and (d) of the Geneva Agreement—	
Complaints against non-implementation of Article 14 (c) and (d) continue	47
Action by the Commission	47
CHAPTER VI—	
New Military Personnel, Equipment and Bases in Vietnam—	
Stricter control of import of war material and rotation of personnel ...	48
Protocol of "war material"	48
General Giap's letter of 5th December, 1954: Interim reply	48
CHAPTER VII—	
Progress Report	48
CHAPTER VIII—	
Conclusions	49

APPENDICES

Appendix I(1)	Orders for Mobile Teams Nos. 38 and 42.	
Appendix II	Suggestions to the two High Commands for the orderly transfer of Public Services in Haiphong	51
Appendix III	Recommendations to the two High Commands for proper implementation of Article 14 (d)	52
Appendix IV(1)	General Instructions for Fixed and Mobile Teams.	
Appendix V(1)	Protocol No. 23.	
Appendix VI	Interim reply to General Giap's letter	55

(1) Not printed.

INTRODUCTION

The International Commission for Supervision and Control in Vietnam made its First Interim Report covering its activities from 11th August to 10th December, 1954.

2. This is the Second Interim Report of the Commission containing a summary of its activities from 11th December, 1954, to 10th February, 1955, and a review of the progress made by the two parties in the implementation of the Agreement⁽²⁾ and should be read along with the relevant Chapters of the First Interim Report.

(2) "Miscellaneous No. 20 (1954)," Cmd. 9239, Page 27 *et seq.*

CHAPTER I

ESTABLISHMENT AND MACHINERY OF THE INTERNATIONAL COMMISSION IN VIETNAM

Fixed Teams

The last two Fixed Teams of the Commission at Muong Sen and Tran Chau were established on 13th December, 1954, as mentioned in paragraph 40 of the First Interim Report, and 26 Mobile Teams of the Commission were sent out during the period under review for investigations under Article 37, making a total of 54 since the Commission started its activities.

CHAPTER II

CEASE-FIRE, PROVISIONAL MILITARY DEMARCATION LINE AND DEMILITARISED ZONE

Supervision of Demarcation Line and Demilitarised Zone

2. The Commission has decided, with the concurrence under Article 35 of the High Command concerned, to send a Mobile Team to the Hue region for supervision of the demilitarised zone south of the provisional demarcation line and the task of supervision of the demilitarised zone north of the provisional demarcation line will be performed by the mobile element of the Fixed Team at Dong Hai in the north.

CHAPTER III

REGROUPMENT PLAN

Point Camau

3. The withdrawals and transfers from the provisional assembly area of Point Camau scheduled to take place at the end of 200 days have been completed on the 7th February, 1955, in an orderly manner. The withdrawals and transfers were supervised by the Commission's teams. A copy of the instructions sent to these teams is attached as Appendix I.(*)

Central Vietnam Provisional Assembly Area

4. The Commission has decided that it cannot support the request made by the French High Command that the High Command of the P.A.V.N. should, in addition to the territories in the Central Vietnam Provisional Assembly Area from which they have withdrawn, withdraw from further territory and transfer it to the High Command of the French Union Forces at the end of the 200-day period. While communicating this decision to both parties, the Commission has asked them, in the interest of smooth and orderly transfer of power, to discuss details of withdrawals and transfers in these areas in advance and to make detailed plans and indicate these to the Commission so that it can make effective arrangements for supervision of these withdrawals and transfers through its Mobile Teams in accordance with the task assigned to it under Article 36 (a) of the Agreement.

(*) Not printed.

Haiphong Perimeter

5. The Commission has, during the period under review, considered in detail the complex problems arising out of the withdrawal and transfer of the Haiphong perimeter at the end of the 300-day period. The French Union High Command, which is in control of this perimeter till the end of the 300-day period, has to withdraw personnel and equipment several months ahead to avoid a bottleneck in transport towards the end of the period and at the same time the withdrawals have to be so effected that the transfer is smooth and orderly, there is no destruction or sabotage of any public property and no injury to the life and property of the civilian population and no interference in local civil administration (Articles 14 and 15). The Commission has, after considering the various documents and memoranda presented by the two sides, detailed complaints and counter-complaints and, after several discussions with the parties, made concrete suggestions to the parties regarding the principles to be observed in effecting withdrawals and the manner in which the International Commission will exercise its supervision so that the obligations undertaken by the parties under the Agreement are duly carried out and the rights guaranteed under the Agreement are duly safeguarded. A copy of the suggestions made to the parties is given as Appendix II.

CHAPTER IV

PRISONERS OF WAR AND CIVILIAN INTERNEES

Claims and Counter-Claims under Article 21

6. Little progress has been made in clearing off claims and counter-claims made by the parties to each other and the Commission has reviewed the latest position and made specific recommendations to the parties to dispose of claims and counter-claims within two weeks from 10th February, 1955. Cases of disagreement will, at the end of the period, be taken up for direct investigation and settlement by the Commission.

Problem of "Ralliés" and Deserters

7. The problem of "ralliés" and deserters is still under discussion between the Commission and the parties and, though no methods of solution have been worked out, the nature and the size of the problem are being settled with the co-operation of the parties before starting discussions on the methods of solution. A letter received from the High Command of the French Union Forces asking for specific action from the High Command of the Forces of the P.A.V.N. on four points in connexion with prisoners of war, civilian internees and "ralliés" and deserters has been discussed in the Commission and the P.A.V.N. High Command approached for its views.

Atmosphere between the Parties

8. The atmosphere between the parties in the solution of complicated cases of prisoners of war, civilian internees, and "ralliés" and deserters is not as co-operative as envisaged in the general scheme of the Agreement. Complaints from the P.A.V.N. High Command against the French Union High Command for delays in releasing those accepted as civilian internees in Poulo Condore and for release of 16 Chinese civilian internees from Haiphong otherwise than in accordance with Article 21(c) and similar complaints from the French Union High Command against the High

Command of the P.A.V.N. for release of prisoners of war and civilian internees otherwise than in accordance with Article 21 (c) are under investigation.

CHAPTER V

DEMOCRATIC FREEDOMS UNDER ARTICLE 14 (c) AND (d) OF THE GENEVA AGREEMENT

Complaints against Non-Implementation of Article 14 (c) and (d) continue

9. The implementation of these articles of the Agreement has been a matter of serious concern to the Commission throughout. Since the last report, the Commission had to send out five Mobile Teams for investigations in respect of alleged breaches of freedom of movement and two Mobile Teams for investigations in respect of alleged breaches of democratic freedoms.

Action by the Commission

10. Specific recommendations under Article 39 have been made to the parties to secure effective implementation of the provisions of Article 14 (d) within the time-limit specified in the Article. A copy of the recommendations made is given as Appendix III.

11. The International Commission received complaints from the French Liaison Mission regarding obstructions in the exercise of freedom of movement to people at Ba Lang and Luummy. The Ba Lang investigations have been completed and recommendations made by the Commission in that case have been the subject of a press release.

12. The Commission has received complaints from the Liaison Mission of the P.A.V.N. regarding the existence in the refugee camps in South Vietnam of persons who were forcibly evacuated and who wished to return to the North. Two Mobile Teams of the Commission are carrying out investigations in the refugee camps at Thua Thien and Bien Hoa.

13. The Commission has made its recommendations in the case of complaints against breaches of Article 14 (c) in all cases mentioned in paragraph 108 of the First Interim Report and has recommended action under Article 22 in four cases where, in the Commission's view, the local civil and military authorities in charge had violated the provisions of the Agreement dealing with democratic liberties and the principles to be observed during regroupment.

ARTICLES 14 (c) AND 15 (d)

14. Investigations in respect of incidents mentioned in paragraph 116 of the First Interim Report and some new incidents reported since are still in progress.

15. The Commission has taken a decision in the case of arrests of members of the Movement for the Defence of Peace in Saigon which was the subject matter of a complaint from the High Command of the P.A.V.N. The Commission, while refusing to interfere with the local civil administration in either zone in a matter under judicial investigation, has reserved to itself the right to be kept informed of the developments in the case of these arrested persons and asked the French Union High Command to suspend execution of the eventual judgment in this case to allow the Commission to review the final findings of the Court with a view to assessing whether the

findings do or do not conform to the Articles of the Geneva Agreement and whether any recommendations by the Commission to the authority in control of the zone are necessary under Article 39.

CHAPTER VI

NEW MILITARY PERSONNEL, EQUIPMENT AND BASES IN VIETNAM

Stricter Control of Import of War Material and Rotation of Personnel

16. The question of issuing comprehensive instructions to the Commission's teams referred to in paragraph 106 of the First Interim Report has been finalised in consultation with the two High Commands and except for the frontier of Vietnam along the Red River Delta in the North and Point Camau in the South, in respect of which reconnaissance surveys are being made, the whole frontier of Vietnam is divided into zones of action for the Fixed Teams established under the Agreement. Copy of the instructions to the Fixed Teams is given as Appendix IV.^(*)

17. The Commission has despatched a Mobile Team to Cau Bang in the North and another to Loc Ninh in the South for a period of four weeks to control the import of war material and the rotation of personnel along the Vietnamese-Chinese and the Vietnamese-Cambodian border and with instructions to report all aspects of the case in full detail to enable the Commission to decide whether it is necessary to establish more permanent arrangements at these or other points to discharge its functions of supervision over the implementation of Articles 16 and 17 of the Geneva Agreement. During the same period of four weeks, another point on the Vietnamese-Chinese border, Dong Dang, will be similarly continuously controlled by the mobile element of the Fixed Team at Lang Son.

Protocol of "War Material"

18. The parties have signed a protocol agreeing to certain categories of arms, munitions, &c., to be regarded as war material in respect of import of which notification under Article 17 (e) is required and the difficulty in this respect reported in paragraph 105 of the First Interim Report has been met by this protocol—*vide* Appendix V.^(*)

General Giap's Letter of 5th December, 1954: Interim Reply

19. The Commission has sent an interim reply to the letter dated 5th December, 1954, from General Giap, Commander-in-Chief of the People's Army of Vietnam. Copy of the reply is given as Appendix VI.

CHAPTER VII

PROGRESS REPORT

20. Appendix I of the First Interim Report, which gave in a statement form action required to be taken under various articles of the Agreement and the progress made till 10th December, 1954, requires the following changes in the light of developments that have occurred during the period 11th December, 1954, to 10th February, 1955.

(*) Not printed.

<i>Item No.</i>	<i>Task</i>	<i>Remarks</i>
26	Point Camau evacuation (15-2)	Completed.
30	Notification to Joint and International Commissions of arrivals and departures of war material, arms and munitions of all types (17(e))	The parties have signed on 14th January a protocol in the Joint Commission in respect of categories of war material, import of which requires notification under Article 17(e). Copy of the protocol is given as Appendix V.(*)
34	Duty imposed on parties to punish persons violating the Agreement (22)	Specific recommendations for action under Article 22 have been made in four cases as mentioned in paragraph 13 of this report.
35	Joint Commission to determine time limit and procedure for exhuming and removing bodies (23)	The parties have on 1st February, 1955, signed a protocol in the Joint Commission determining the time limit and procedure for exhuming and removing bodies.
38	International Commission to supervise demarcation lines and demilitarised zone (36 (b))	Supervision arranged through a Mobile Team based on Hue region and the mobile element of the Fixed Team at Dong-Hoi.
40	International Commission to supervise at ports, airfields and along all frontiers the carrying out of the provision of the Agreement regarding reinforcement of personnel and material (36 (d))	Detailed instructions issued— <i>vide</i> Appendix IV(*) of this report. Continuing commitment.

(References are to Articles of Agreement)

CHAPTER VIII

Conclusion

21. By its very structure, the Agreement, which is a balanced document, attempts to reconcile the interests and the sovereignty of the authorities in control of the two zones and, while it puts on the two parties the responsibility for the execution of the Agreement (Article 28), it gives the Commission the task of supervision over the proper execution by the parties of the provisions of the Agreement. Effective implementation of the Agreement requires close co-operation between the parties to the Agreement and this has, in various ways, been lacking during the period under report. Each party is more keen to get the Commission to denounce the other than to take reasonable measures to get the Agreement implemented. The Commission's findings, as in the Ba Lang case, show how, in many cases, the narrow or hostile attitude of local authorities of both parties is responsible for delay or difficulties in the effective implementation of the Agreement.

(*) Not printed.

22. The Commission has been insisting on the co-operation of the two High Commands promised under Article 25 and taking every possible occasion to correct the atmosphere of suspicion and distrust. While the French High Command has been trying hard to carry out its obligations under the Agreement, there have been cases, as in the case of the civilian internees at Poulo Condore, where they have not been able to implement the Commission's decision in view of the independent attitude taken by the Government of South Vietnam, which has not signed the Agreement. There has, however, been no case so far where either of the High Commands has refused to put into effect a recommendation made by the Commission.

23. There have been cases of intransigence on the part of local civil or military authorities and the Commission's teams have, on occasions, not got the facilities they are entitled to receive in the fulfilment of their task under Article 35. The Commission has informed both the High Commands that they will, in future, ask for specific action under Article 22 against local civil or military authorities who do not give the necessary facilities to the Commission's teams or in any way obstruct the teams in the fulfilment of their task.

APPENDIX II

SUGGESTIONS TO THE TWO HIGH COMMANDS FOR THE ORDERLY TRANSFER OF PUBLIC SERVICES IN HAIPHONG

The following shall be considered as "public property":—

(i) Property belonging to the State or public institutions including municipality. In respect of State or municipal-aided institutions, there will be marginal cases which would have to be decided by the Commission on the basis of the facts relating to each case;

(ii) Services of public utility managed by the State; and

(iii) Files and documents which are required for the effective operation of these enterprises. This will include all files necessary for the current working of the enterprises. (They will not include personal files of those employees who would be leaving Haiphong, or police records.)

II.—(i) The date to be taken into consideration for determining the quantity and details of public property which is to be transferred would be relevant only as far as implementation of Articles 14 (b) and 15 (d) was concerned;

(ii) The territory is to be handed over to the authorities of the Democratic Republic within the time limit fixed under Article 15—2 of the Geneva Agreement; but the handing over must be so arranged as to ensure that there was no break in the transfer of responsibility; and

(iii) In the light of Article 15 (d), during the period of regroupment, there should be no destruction or removal of public property which would by interruption of public services or definite lowering of their standards, or in any other way, result in injury to the life and property of the civil population or interference with the local civil administration.

III. Article 15 (d) of the Geneva Agreement will apply fully to private enterprises of public utility;

Private enterprises of public utility will include water supply, electricity, railways, ports and air-ports.

The removal of military equipment at present in use in any of the above-mentioned services would be permitted under the provisions of Article 15 (a) subject to the provisions of Articles 14 (b) and 15 (d), as elaborated under II (iii).

IV. There would be no hard and fast rules relating to the quantity of spare parts which the French authorities should leave behind. Where there were contracts which specified the details relating to the spare parts and fuel, they should be accepted as basis for determining the amount of reserves and spares to be left. In all other cases, reserves and spares should be fixed only on a study of the facts. In case of any disagreement, the International Commission should examine and decide what the stock of reserves and spares should be.

The evacuation of spare parts over and above those which must be left behind under the above provisions should be allowed without any restriction.

V. As regards the staff members working in public utility services, while there should be no question of compelling them to remain in Haiphong, the French High Command should ascertain which members of the staff were leaving and inform the other party in time so that advance arrangements could be made to obtain the replacement in order to ensure that there was no break in the transfer of responsibility.

VI.—(i) The French authorities would submit to the International Commission by the 1st February, 1955, complete inventories of property of public services. These inventories would be prepared in the light of the principles enumerated above;

(ii) The inventories will be divided into two lists: (a) articles which the French authorities proposed to leave in Haiphong, and (b) articles proposed to be removed from Haiphong;

(iii) An *Ad Hoc* Committee of the International Commission would examine these lists in the light of the principles proposed by the International Commission and agreed to by the parties. If necessary, on the spot enquiries could be made by the Commission's teams of experts;

(iv) On the basis of the Committee's report the Commission would, after consultation with the parties, decide which materials could be allowed to be removed;

(v) If the French authorities wish to remove any equipment before the Commission had examined the inventories, they should give the International Commission at least 72 hours' notice. The Commission would try to examine the particular cases and decide whether the removal of equipment was justified or not. If the Commission is unable to reach decision in time and if the French authorities insist on removing the equipment, they may be permitted to do so provided they give a specific guarantee that the equipment removed will be replaced or due compensation given at a later stage if it was decided that the removal was in contravention of the articles of the Agreement, either by agreement between the two sides or on adjudication by the Commission. As a rule, before the articles were removed, the teams of the Commission would inspect, identify and record the technical specification, quantity, &c., of what would be removed.

VII. Property belonging to private persons or enterprises other than those which are mentioned in Point III above shall be evacuated or left on the spot according to the wishes expressed by the persons or enterprises concerned and their decision will be final.

If any difficulty should arise in the dismantlings or evacuation of such property, the International Commission will be notified in time.

APPENDIX III

RECOMMENDATIONS TO THE TWO HIGH COMMANDS FOR PROPER IMPLEMENTATION OF ARTICLE 14 (d)

(1) The permit procedure should be a simple and uniform one, which will enable an intending evacuee to obtain, within a maximum period of about 15 days from the date of receipt of the complete application in the concerned office, a permit to go to the zone of his choice. This permit should enable him to travel from the place of his present residence directly to the other zone, subject, of course, to his being granted permission to enter that zone by the authorities in charge of the zone. The Commission recommends that such permission should also be normally granted by the authorities concerned. To facilitate this procedure and quick disposal of applications, the Commission recommends that authority to receive applications from individuals and to issue the necessary permits, after the requisite verifications and consultations where essential with the higher authorities, should be delegated by the Central authority in both the zones

to their officers in charge of the communes, and the verifications should be limited to the minimum essential. In other words, it should be possible for an applicant to present an application in a simple form, containing the essential details such as, name, age, permanent address, the zone in which he intends to live permanently, &c., to the Head of the Commune, certified, if necessary, by a responsible officer who is in a position to identify the applicant, preferably the Chief of the Village or the Commune. The applicant should then be able to obtain a permit from the office within a maximum period of about fifteen days. Any internal consultation or verification required between the Commune Office and the offices of the district or province should be a matter entirely for the authorities and the applicant should not be required to take his application personally from one office to another.

(2) In the case of persons residing in a place different from that of their permanent homes, applications should be accepted by the local office, provided the identity of the applicant is certified by a competent authority, to be prescribed, and permits should be issued from the same office.

(3) Permits should be normally valid for a period of two months from the date of issue and, if the permit holder is unable to utilise the permit in time, it should be automatically extended without any further check till the 18th May, 1955.

(4) The applicant should be informed within fifteen days of the date of the completed application whether a permit is granted or refused; and in the latter case, the reasons for the refusal should also be indicated in all possible cases and the applicant should have a right of appeal to higher authority, who should dispose of such an appeal within a period of about ten days from the date of receipt of the appeal. This will, of course, be without prejudice to the right of such persons to approach the Commission or its teams in regard to any matter affecting their rights under the Geneva Agreement.

(5) There should be separate applications from each adult with a declaration regarding his decision to stay where he is or to go and live in the other zone; but in regard to children who are under age, permits should be granted on a proper application presented by the parents or the legal guardian. It should be left to the parents or to the legal guardian to decide the wishes of such minor children in regard to the zone of their future residence. In the case of disagreement between the parents on this point, it should be settled by the person who has got the legal right for the custody of the children until the children attain majority.

(6) There should be no detailed inquiry into the motives of persons before permits are granted and a simple declaration of a definite wish to go and live in the other zone given with the full knowledge of the implications of Article 14 (d) should be considered adequate for this purpose. To implement this in practice, the Commission suggests that the authorities of the two zones should consider incorporating the provisions of Article 14 (d) on the application form with a simple explanation of its contents, and a declaration by the applicant that he had read and understood those provisions, or that these were read out to him and fully understood by him, should be enough for the grant of a permit.

(7) Permits should be granted to all persons who have not been either convicted or are undergoing trial for any offence under the prevailing common law. In regard to persons under trial, the authorities in charge of the area where such a person who applies for a permit to go to the other zone now

resides, should endeavour to complete the proceedings quickly so that, in the event of acquittal, the person concerned will have adequate time to obtain a permit and to complete his journey to the other zone before the expiry of 300 days from the date of cease-fire.

The Commission may have to consider, at a later stage, if any action is required under the Agreement in regard to persons who are convicted or are now undergoing trial for common law offences but are likely to be released after the expiry of 300 days, in the event of any such persons now indicating their desire to exercise their right to go and live in the other zone.

(8) The persons who migrate to the other zone for taking up permanent residence should be allowed by the authorities in charge of the area of their present residence reasonable facilities to take with them their moveable property after discharging their outstanding dues. This latter condition should apply only in regard to the dues payable to the Government or any private dues which may have become subject of judicial proceedings. Settlement of complaints regarding private dues which are not the subject of judicial proceedings should be a matter for the individuals concerned and the grant of permit with the right to take moveable property should not be held up because of any allegations in this regard against an applicant by other individuals.

(9) Transport facilities at a reasonable cost should be made available by the authorities in the two zones to all intending evacuees. In regard to destitutes, where some financial assistance is required, the State should consider the question of giving such assistance and, if this is not possible, permission should be granted to non-political organisations to provide assistance in such cases, if they offer such assistance.

(10) The intending evacuees should have freedom to meet and discuss in a peaceful and orderly manner what they wish to do in respect of their future residence so long as such rights are not exercised in a manner which tends to constitute interference with normal administration or in contravention of existing laws and regulations.

(11) The parties should indicate to the Commission, once a fortnight, the number of applications received by their permit offices from persons wishing to go and live in the other zone, the number of permits issued, and the number of applications refused, together with the reasons for the refusal, and any other relevant information regarding freedom of movement which they wish to bring to the Commission's notice. The statement should be by provinces.

(12) Although the people in these areas are generally aware of their rights under Article 14 (d), in view of certain misunderstandings about the real intentions and the Article referred to earlier, it would be useful if further detailed announcement is made by the authorities controlling the two zones about the contents and limits of democratic rights, including freedom of movement with reference to Articles 14 (c), 14 (d) and 15 (d) and the facilities available in each area for the implementation of Article 14 (d) including the permit procedure.

APPENDIX VI

INTERNATIONAL COMMISSION FOR SUPERVISION AND CONTROL IN VIETNAM

Letter from Mr. M. J. Desai, Chairman of the International Commission for Supervision and Control, in Vietnam, to His Excellency General Vo-Nguyen-Giap, Commander-in-Chief of the People's Army of Vietnam

Your Excellency,

Hanoi, January 28, 1955.

I have the honour to refer to your Excellency's memorandum on the acts of violation of the articles of the Geneva Agreement in the regroupment area of the French Union High Command and, in particular, on the subject of the activities of the special American Mission headed by General Collins, dated 5th December, 1954, and to state that the memorandum has been carefully considered by me and my colleagues in the Commission and we have also obtained the comments of the French High Command on the allegations made. A copy of the comments from the French High Command is enclosed for your Excellency's information.^(*)

2. The members of the Commission, while forwarding the following observations on the details of the alleged violations given in your Excellency's letter, would like to request your Excellency to inform the Commission specifically whether the memorandum should be considered as a definite complaint by the High Command of the P.A.V.N. for detailed investigation under Article 37 of the Agreement and, if so, to communicate to the Commission, in the light of the following observations, the specific articles of the Agreement violations in respect of which require investigations under Article 37 and full particulars in support of this request.

(i) Allegations regarding reprisals, arrests or massacres

Of the incidents mentioned in the memorandum, specific complaints have been made to the Commission in respect of all incidents excepting the one at Kim-Doi, province of Thua-Thien. All specific complaints made to the Commission in respect of incidents have or are being investigated and, in cases where investigations are completed, necessary recommendations have been made by the Commission to the High Command of the party concerned under Article 22. I would, in this connexion invite your Excellency's attention to the Secretary-General's memorandum to the French Liaison Mission, No. ICSC/PET/54/2 dated December 24/28, 1954, copy of which was endorsed to the Liaison Mission of the P.A.V.N. High Command. Similar action on other incidents which are being investigated will be taken on the merits of the case. No investigation has been made with reference to the alleged incident at Kim-Doi as no complaint in this regard has been received by the Commission.

On the question of arrests and reprisals and the denial of freedom of opinion and the case of seven members belonging to the Executive Committee of the Movement for the Defence of Peace in Saigon, I would invite reference to Secretary-General's memorandum dated 23rd December to the Liaison Mission of the P.A.V.N. High Command which conveys the decision of the Commission in this case.

^(*) Not printed.

(ii) *Violations or threat of violations of Articles 16, 17, 18 and 19*

On the general question of alleged violation of Articles 18 and 19, I would invite reference to the observations in the letter from the French Liaison Mission No. 560/MFLCI/AV dated 23rd January, 1955. Commission's Inspection Teams are controlling rotation of personnel and introduction of arms and ammunitions into Vietnam under Articles 16 and 17 and the Commission is, in the light of experience, expanding its control activities, wherever necessary, to secure full compliance with Articles 16 and 17 along all the frontiers of Vietnam. As regards the alleged violation of Articles 18 and 19 by the French Union High Command in consequence of the provisions of the Manila treaty and the activities of the American Mission headed by General Collins, the Commission has not gone into details; before doing so, the Commission would be grateful for a definite confirmation from the High Command of the P.A.V.N. that they desire an investigation under Article 37 and, if so, full particulars in support of the charge that violations of specific articles of the Agreement have occurred.

(iii) *Allegations regarding violation of Article 14(d) by exercising pressure on people to move to the south*

As your Excellency is aware, a specific complaint in this connexion made by the P.A.V.N. High Command is already under investigation of the Commission and recommendations will, if necessary, be made after the Commission has reviewed the reports of its investigating team.

3. The basic structure of the Agreement of the Cessation of Hostilities in Vietnam places the responsibility for execution of the Agreement on the parties (Article 28) and the responsibility for *supervision of the proper execution* by the parties of the provisions of the Agreement on the Commission (Article 36) and it is the Commission's responsibility to assess and, where necessary, correct the performance by either party to secure the proper execution of the provisions of the Agreement. Cases have occurred where, on investigation, the Commission has found that there has been no proper execution by the parties of the provisions of the Agreement due to ignorance, misunderstanding or narrow-mindedness of officials and the Commission realises that such individual lapses cannot be stopped altogether. I would, on behalf of myself and my colleagues in the Commission, like to assure your Excellency that we will, as hitherto, continue to exert ourselves to the utmost limit to discharge adequately our responsibility of supervision of the proper execution by the parties of the provisions of the Agreement and, in the pursuit of this task, demand, where necessary, from the High Commands of the parties to the Agreement, action under Article 22 to punish persons under their respective commands who violate any of the provisions of the Agreement and insist that the High Commands of the parties afford us all assistance and co-operation in the performance of the functions and tasks assigned to us under the Agreement (Article 25).

4. In the ultimate analysis, the successful implementation of the Agreement depends on the co-operation and assistance of the two High Commands and everything that maintains and promotes this co-operation and assistance makes for more effective implementation of the Agreement on the Cessation of Hostilities in Vietnam.

I take this opportunity, on behalf of myself and my colleagues, to renew to your Excellency the assurances of our highest consideration.

Yours faithfully,

M. J. DESAI,
Chairman.