

2. PRELIMINARY OBJECTION OF THE GOVERNMENT OF INDIA

PART I

Introduction

1. The Government of the Republic of Portugal, having filed an Application on 22 December 1955, submitted to the International Court of Justice in June 1956 a Memorial in which it asked the Court:

(1) To adjudge and declare

(a) that Portugal has a right of passage through the territory of India in order to ensure communications between its territory of Damão (coastal Damão) and its enclaved territories of Dadra and Nagar Aveli;

(b) that this right comprises the transit of persons and goods, as well as the passage of representatives of the authorities and of armed forces necessary to ensure the full exercise of Portuguese sovereignty in the territories in question.

(2) To adjudge and declare

(a) that the Government of India must respect that right;

(b) that it must therefore abstain from any act capable of hampering or impeding its exercise;

(c) that neither may it allow such acts to be carried out on its territory.

(3) To adjudge and declare that the Government of India has acted and continues to act contrary to the obligations recalled above.

(4) To call upon the Government of India to put an end to this unlawful state of affairs.

2. In a letter dated 10 November 1956, asking for an extension of the time-limit fixed for the delivery of its Counter-Memorial, the Government of India informed the Court that it had the intention to raise a preliminary objection to the Court's jurisdiction to entertain the above-mentioned Application of the Government of Portugal, and to do so on more than one ground. The Government of India now has the honour to file, in conformity with Article 62 of the Rules of Court, the six preliminary objections to the Court's jurisdiction which are formulated and justified in its present pleading. Since the proceedings on the merits, under paragraph 3 of Article 62 of the Rules of Court, are suspended on the filing

of a preliminary objection, the Government of India will refrain at the present time from filing a Counter-Memorial notwithstanding Article 41, paragraph 2, of the Rules of Court and the Order of the Court dated 27 November 1956.

3. In the present pleading the Government of India will in general deal with the matters of fact and of law asserted in the Portuguese Memorial only so far as may be necessary for the formulation and justification of its preliminary objection to the Court's jurisdiction. At the same time it emphasizes that the Memorial contains a number of allegations of fact and propositions of law which it considers to be incorrect and it reserves the right to reply to them at any future stage of the proceedings.

4. The Government of India deems it necessary, however, to correct at the outset certain misrepresentations of fact in Section "D" of Part I of the Memorial, in order that the Court may be in a position to view the present dispute in its true perspective. It therefore prefaces its Preliminary Objection with a brief historical and factual statement.

5. The incursion of the European powers into India had never been acquiesced in by the Indian people and in the 19th century there was a great resurgence of the national spirit. A distinct movement was then started by the intelligentsia for national unity, self-government and emancipation from foreign rule, though the most active and intense phase of this movement only began in 1920 under the leadership of Mahatma Gandhi. From 1920 onwards the movement ceased to be confined to the educated classes, spreading to the masses of India. It adopted non-violence as "an article of faith", and *Satyagraha* (civil disobedience) as the means for achieving national liberation. According to Mahatma Gandhi foreign domination was to be overcome not by force of arms but by the united moral force of the people. The nation won its freedom when in 1947 the British voluntarily withdrew from India and when afterwards, as a result of negotiations with the independent Government of India, the French also withdrew from their settlements in 1950 and 1954.

6. The Portuguese gained a foothold in India in the 16th century with fire and sword. The Bull of 4 May 1493 of Pope Alexander VI divided the world between Spain and Portugal and gave Portugal "exclusive domain and sovereignty" over all discovered and undiscovered lands in the East which did not already belong to a Christian power¹. The Portuguese believed that this authority from the Church sanctioned acts of violence against those who did not follow the "true" religion. On the high seas they intercepted, captured and destroyed vessels belonging to the oriental powers. On land

¹ The text of this Bull will be found at *Civiltà Cattolica*, 6th Series, 1865, Vol. I, p. 665; and at F. C. Danvers, *The Portuguese in India*, London, 1894, Vol. II, p. 483.

they followed a policy of sack and massacre. In 1530 and again in 1534 the town of Daman was burnt to the ground. Diu, the third possession of the Portuguese in India, was acquired by them from the Sultan of Gujerat by duplicity and deceit. The conquests were followed by the terrors of forced conversions and the Inquisition. The repressive conduct of the Portuguese in India is testified to by all historians, not excluding their own great historian Oliveira Martins (1844-1894), their great poet and philosopher, Antero de Quental (1842-1891), and a writer of genius, Eça de Queiroz (1845-1899) (Annex A. No. 1.)

7. It is, therefore, not surprising that Portugal's hold on its possessions in India was always opposed by the people, or that there is a long history of revolts and rebellions against the Portuguese. The first major revolt took place in 1654 and was led by a Roman Catholic priest called Castro, who had the support of a large number of Hindus. In 1787 came the famous "conspiracy" of the Pintos. This was also led and organized by priests. In 1812, 1823 and 1824, there were minor uprisings and a more serious rebellion in 1835. In 1869 there took place the Custoba Revolt. The Ranés of Satari revolted about 12 times, their major revolts having taken place in 1852, 1855, 1857, 1871, 1895 and 1912. In 1871 and 1895 the Ranés were joined by the "native" garrisons. All these revolts were suppressed with the utmost severity, and in 1912 the power of the Ranés was finally broken, the pick of their youth being deported to Africa.

8. According to a Portuguese official publication (*Anuario Estatístico*, 1951) the population of the Portuguese possessions in 1951 was 637,591. Of these 388,488 were Hindus, and 234,275 were Christians. The rest were Muslims, Parsees, Jews and Buddhists. Thus the Hindus totalled 60.9 per cent. of the population. The mother tongue of the inhabitants of Goa (ordinarily called "Goans"), both Hindus and Christians, is Konkani, an Indian language spoken in the State of Bombay. Konkani, like Marathi and Gujerati, is derived from Maghadi Prakrit, an off-shoot from Sanskrit. In Daman and Diu the language generally spoken is Gujerati, which is another regional language of the State of Bombay. The Hindus of Goa are in every respect identical with the Hindus of Maharashtra (part of the State of Bombay). Large numbers of Hindus fled from Goa at the time of the Inquisition and settled on the boundaries outside Goa. Those outside Goa and inside Goa form one single community, and intermarry freely. Many Christians also left Goa and settled on its outskirts, namely the districts of Kanara and Belgaum (in the State of Bombay) and Mangalore (in the State of Mysore). There are 234,275 Christians in Goa and over 8 million in the rest of India.

9. Traditionally, Goans have been treated in India on a par with the rest of the population, and they have found respected

places in Government service and in public life. They have been Mayors of Bombay, judges of the High Courts, civil servants, army officers, professors, lawyers, doctors, etc. There are in India about 150,000 Goans, a number equal approximately to a fourth of Goa's population. The majority, about 80,000, reside in Bombay. All Goan students who go in for higher education appear for the Matriculation examination of the University of Bombay, there being no facilities for university education in Goa. The economy of the Portuguese possessions in India is largely based on the remittances sent from India by the resident Goan population in India.

10. Long before 1947, there developed in the Portuguese possessions no less than in British India and in the French settlements the movement for self-determination. In 1928 a Goan Committee of the India National Congress was founded in Margao, in Goa, by an engineer called Dr. Tristao Braganza Cunha. In 1933 Portugal enacted the Colonial Act, Article 2 of which reads:—

"It belongs to the organic essence of the Portuguese nation to fulfil the historic mission of possessing and colonizing overseas dominions and of civilizing the native population which are compressed therein, by using also the moral influence which is granted to them by the Padroado of the East."¹

The arrogance of the Colonial Act was publicly denounced by Goans, in Bombay and in Goa, including a distinguished Goan liberal, Mr. Meneses Braganza.

11. In the Portuguese possessions in India there were then, and still are, no civil liberties. There was and still is no freedom of expression or assembly. Permission of the authorities is required before any social function or religious ceremony can be held. Newspapers are censored. Even advertisements, calendars and invitation cards are subject to official censorship. In March 1946, a "Goan Political Conference" was held at Bombay by Goans from Goa and from (then British) India. This Conference issued a manifesto which took note of the principles of democracy and of self-determination solemnly recognized by the British Government, and of the elections which were being held in India for a Constitution-making body, and it demanded the immediate grant of civil liberties by the Portuguese Government in India. The manifesto said: "We are assured of the support of our brothers

¹ The Portuguese Constitution of 1933 and the Colonial Act of the same year continued and confirmed the inferior status of Portugal's overseas possessions. Article 3 of the Colonial Act described all the overseas possessions of Portugal as colonies forming the "Portuguese Colonial Empire". In 1951, Law No. 2048 described the colonies as "provinces" of Portugal. On the basis of Law No. 2066 of 1953, Decree No. 40216 of 1955 gave a "Political Statute" to the "State of India". This Statute did not in fact change the colonial status of the Portuguese possessions in India.

in British India with whom we align ourselves in demanding freedom for our common motherland." (Annex A. No. 2.) In the same month at a general meeting of the Goa Congress Committee held in Bombay a resolution was unanimously passed calling upon the Portuguese "to leave the shores of Goa, Damaun and Diu so that we can achieve our destiny in common with the rest of India". (Annex A. No. 3.) Shortly afterwards the people of Goa welcomed a leader of the Indian National Movement, and when he was prevented from addressing a meeting in Goa, subjected to indignities and deported to British India, there began in Goa an open campaign for civil liberties. In a famous letter of 18 July 1946, concerning the deportation of the Indian leader, Mahatma Gandhi wrote to the Portuguese Governor-General, Mr. Jose Bossa: "... He has commanded my admiration for his having gone to Goa and put his finger on its black spot. Inhabitants of Goa can afford to wait for independence, until much greater India has regained it... Your description of him as 'stranger' would excite laughter, if it was not so tragic. Surely the truth is that the Portuguese coming from Portugal are strangers..." (Annex A. No. 4.) The campaign for civil liberties, emancipation from foreign rule and union with the motherland developed on Gandhian lines. It came to be known as the "Jai Hind" movement and took the form of mass civil disobedience, non-cooperation with governmental activities, boycott, and peaceful agitation. Throughout Goa people held meetings to demand civil liberties. These meetings were broken up by the Portuguese police and military with considerable violence. Between June and November 1946 about 1,500 Goans were arrested by the Portuguese Government. They were held in detention without trial for long periods and subjected to severe beatings. The leaders were charged with treason, sentenced to long terms of imprisonment and deported to Portugal. These included Dr. Tristao Braganza Cunha, Mr. Purshottam Kakodkar, Mr. Luxmikant Bhembre, Dr. Rama Hegde and Mr. Ignacio de Loyola, all of whom were sent to Peniche, an island prison off the coast of Portugal. About eight prisoners were sent to Angola in Portuguese Africa.

12. In 1947, the year of Indian independence, the Portuguese Government took extreme measures to suppress the movement for liberty and for unity with independent India. Several thousand European and African troops were introduced by the Portuguese Government for this purpose¹. In the circumstances, the Goan struggle went underground, and many Goans fled to India. Inside Goa the movement for independence could continue only in the form of surreptitious distribution of literature, the posting of patriotic bills, and the hoisting of the new flag of independent

¹ According to information received by the Government of India, the total strength of Portuguese armed forces in their possessions in India in 1947 was 861. In 1949 it had risen to 3,443, and in 1954 to 7,062.

India. This underground movement has continued in Goa to the present day.

13. In 1953 Captain Fernando da Costa Romba, the Chief of Police of the Portuguese possessions, wrote to Mr. Francis Mascarenhas, President of the United Front of Goans, at Bombay, inviting him to Daman for discussions on the future of the Portuguese possessions in India. Captain Romba said in the letter that he was empowered by the Overseas Ministry at Lisbon to discuss all political problems regarding Goa, Daman and Diu. (Annex A. No. 5.) After an exchange of four telegrams, and having received the necessary assurances, Mr. Mascarenhas, accompanied by Mr. Waman Desai, Secretary of the United Front of Goans, and a party of four, left Bombay for Daman. At Daman they were received by the Acting Governor. On 13 August 1953, at 3 a.m., an agreement was signed. However, as Mr. Mascarenhas and his party were leaving the building, they were suddenly arrested by the police in the presence and at the orders of Captain Romba, and the signed documents as well as other papers were seized from them. After three days of detention and ill-treatment, Mr. Mascarenhas and his party were let off and conducted to the border.

14. In February 1954, Dr. Pundalik Gaitonde, an eminent surgeon, was arrested in Goa for having uttered at a private dinner party the words "I protest" in response to a statement made by a speaker that "Goa is Portugal". Within five days of arrest, and without trial, Dr. Gaitonde was deported to Portugal. This incident touched off a series of protest meetings throughout the country which in turn led to the intensification of the liberation movement. In a note of protest handed to the Portuguese Legation in New Delhi on 15 March 1954, the Government of India pointed out that the "continuance of these repressive measures resulting in the arrest and deportation of Goans for professing pro-Indian sentiments is likely to have serious repercussions in India". (Annex A. No. 6.) The Portuguese Government, however, continued its policy of repression and there was unprecedented tyranny and terror throughout the Portuguese possessions. On 18 June 1954, over 40 eminent Goans, advocates, doctors and professors were arrested by the Portuguese Government. The arrests were accompanied by house searches and interrogation of numerous persons throughout Goa. Many Goans, fearing arrest by the Portuguese Government, sought asylum in India. News of these events spread to the Goan community in Bombay and there was instant reaction. The Goans of Bombay, led by the Goan National Congress, reaffirmed their faith in non-violence and decided to bring about the liberation of their homeland by adhering strictly to Gandhian principles. All the Goan parties (the Goa National Congress, the United Front of Goans, the Goan People's Party and the Azad Gomantak Dal) formed an Action Committee under the president-

ship of Dr. Tristao Braganza Cunha. In July 1954, a manifesto was issued by the Goan residents of Bombay calling upon Goans at home and abroad to "free ourselves from the Portuguese rule and to unite with India". (Annex A. No. 7.) On 15 August 1954, small groups of peaceful, unarmed Goans, carrying the national flag of India, entered Goa from Indian territory at several places, in order to invite the punishment of the Portuguese Government and thus ultimately to shame its conscience. These peaceful *Satyagrahis* were rounded up by the Portuguese police and military and were beaten mercilessly, subjected to inhuman torture, detained without legal justification, and finally on the strength of special legislation were tried and sentenced to long terms of imprisonment. Inside Goa the *Satyagraha* was offered at three places. An Indian teacher in a school at Margao, Mr. Hemant Laxman Soman, offered *Satyagraha* at Panjim and was beaten very violently, subjected to indignities and detained till December 1954. In spite of brutal treatment at the hands of the Portuguese military and police, the *Satyagraha* continued, and on entirely peaceful lines.

15. In July 1954, Mr. Mascarenhas and Mr. Waman Desai, President and Secretary respectively of the United Front of Goans, on whom an unscrupulous deception had been practised by the Portuguese local authorities (see paragraph 13 above), entered the village of Dadra together with ten others. They were welcomed by the local inhabitants who hoisted the flag of the United Front of Goans and the national flag of India. Soon after, members of the Azad Gomantak Dal (Organization of Free Goans) and the Goan People's Party, led by its leaders, Mr. Vishwanath Lavande and Mr. George Vaz, entered Nagar Aveli. They met with no resistance, the Portuguese Administrator of Dadra and Nagar Aveli and his entire police force having left the administrative capital, Silvassa, the previous day. After a few days this Portuguese Administrator, Captain Virgilio João Fernandes Fidalgo, together with two police officers and 150 men, requested permission to cross into Indian territory. Permission was granted and they were allowed to bring their arms with them and given every facility and comfort by the Indian police as was later generously acknowledged by the Portuguese Legation.

16. The Goan liberators of Dadra and Nagar Aveli set up an independent administration, with which to this day the Government of India has no relations. In spite of repeated requests, emanating from the inhabitants of these territories as well as from the Goans resident in India, that the Government of India should merge the territories into the Indian Union, the Government of India has not done so. The "Liberated Territory of Dadra and Nagar Aveli" is administered by Dr. Antonio Furtado, a Goan patriot, who was at one time Administrator of Comunidades and Judge of the Administrative Court of Panjim in Goa. In 1950,

the Portuguese Government, for purposes of publicity abroad, brought pressure on him to sign a letter of protest against a statement on Goa made by the Indian Prime Minister in Parliament: Dr. Furtado refused to do so, gave up his appointment and took asylum in India. In a letter to the Governor-General, Dr. Furtado said: "When you summoned me to your office and asked me the reason of my not signing the protest against Pandit Nehru's declaration, it was easy to foresee what the future held in store for me. My frank answer that I was not against Portugal but that I was also not against India and therefore found it hard to sign it, irritated Your Excellency so much, that you ordered the Director of Civil Administration to immediately dismiss me from the post of the Judge of the Administrative Court and Administrator of the Village Communities. Your Excellency also let your vindictive intention transpire in the following terrible threat: 'The Minister for Colonies will decide whether you shall go to Cabo Verde or some other Colony'... I can understand that as a representative of a colonial power Your Excellency should try to force me not to be against the power you represent, but I could never allow you to trample on my birthright of being for India, in order that the most beautiful sentiment, which is second only to God's will, might not be defiled." (Annex A. No. 8.)

17. On 24 July 1954, the Legation of Portugal presented a note to the Government of India in which it demanded "the grant of the necessary transit facilities to the Portuguese armed forces and authorities staying at Damão, to enable them to go to Dadra for the purpose of re-establishing the order which has been disrupted and to drive out the invaders". (Annex A. No. 9.) In a note of 28 July 1954, the Government of India pointed out to the Portuguese Legation that they could not "permit the movement of foreign troops and police on Indian soil, and they certainly cannot be a party to the suppression of a genuine nationalist movement for freedom from foreign rule in any part of the Portuguese establishments in India". (Annex A. No. 10.)

18. The policy of the Government of India in relation to the foreign establishments in India was already well known. In pursuance of this policy the Government of India had already entered into friendly negotiations with the French Government as a result of which France made a *de facto* transfer to the Government of India of Chandernagore on 2 May 1950, and of Pondicherry, Karikal, Mahe and Yanam on 1 November 1954. The *de jure* transfer of Chandernagore took place on 9 January 1952. A treaty formally ceding to India the former French settlements of Pondicherry, Karikal, Mahe and Yanam was signed on 28 May 1956. Further, the Government of India was firm in its adherence to the principle of non-violence. While its objective was the withdrawal of all foreign rule from India, it made it clear to all concerned that it

would achieve this objective by peaceful means. In a statement made in Parliament on 25 August 1954, the Prime Minister of India said: "The policy that we have pursued has been, even as in India under British rule, one of non-violence, and we have fashioned our approach and conduct accordingly. This adherence to non-violence means: (i) that we may not abandon or permit any derogation of our identification with the cause of our compatriots under Portuguese rule; and (ii) equally, we may not adopt, advocate or deliberately bring about situations of violence." (Annex A. No. 11.)

19. On the other hand, since 1947 the Portuguese Government had embarked on a policy of hostility towards independent India. It had augmented its armed forces with several thousand European and African troops. (See paragraph 12 above.) Further, the Portuguese Government refused the repeated overtures of the Government of India for a peaceful and just solution through negotiation, on the ground that "Goa was Portugal". Moreover, the Portuguese Government had been the first to initiate the gradual breakdown of good neighbourly relations between the two Governments on which was based the free and informal intercourse between the two territories. From 1947 onwards the Portuguese Government introduced restrictive and discriminatory legislation against Indian nationals which affected the entry, residence, occupation and trade of as many as 20,000 Indian nationals resident in Goa.

20. A restrictive measure regulating for the first time the entry of Indians into Portuguese possessions in India was promulgated in 1947, and required Indian nationals to report to the police within 24 hours of arrival. (To this day Goans, other than Portuguese officials and their families, are exempt from the provisions of the Indian Law relating to registration of foreigners.) In 1950 the Portuguese Government decreed restrictions on the setting up of commercial establishments by Indian nationals in the Portuguese possessions in India. (To this day there are in India no restrictions on Goans as regards trade, industry, employment, etc.) In 1952 a measure intended to affect the resident Indian population provided that no "foreigner" could rent accommodation without authorization of the Portuguese Government. In the same year the authorization of the Portuguese Overseas Minister at Lisbon was made compulsory in respect of transactions connected with immovable property. The entry of Indian newspapers and magazines was banned. Entry of Indian films was restricted, and those that were allowed were required to have Portuguese sub-titles. Numerous administrative orders and regulations made it difficult for Indian nationals to continue in the Portuguese possessions with peace and honour. Often, they were subjected to ill-treatment by the police. (Annex A. No. 12.)

21. In view of the above it could hardly have been expected of the Government of India to allow to the Portuguese authorities permission for passage of its armed forces across the sovereign territory of India, and more especially when their purpose was to subjugate, by force, people who had already freed themselves from foreign rule.

22. It remains to emphasize that contrary to what is said in the Portuguese Memorial at paragraph 35 the Government of India did not cut communications between Daman and Nagar Aveli before its liberation by the *Satyagrahis*, and in order to bring about its liberation. The fact is that only a day before the liberation of Dadra, that is, on 21 July 1954, the Governor of Daman was permitted by the Government of India to visit Dadra and Nagar Aveli and return to Daman.

23. Secondly, the Government of India did not, contrary to what is alleged in the same paragraph, "deploy considerable armed forces between Damão and the enclaves, as well as around the enclaves", nor were any trenches dug along the frontier. These allegations are wholly unfounded. The facts are that early in 1953 the Government of Bombay slightly augmented its police along the border in order to deal with increased smuggling and illegal traffic in the area. Smuggling, it may be added, has always been a problem along the frontier of Daman, as appears again and again in the correspondence between the British and Portuguese authorities set out in Annex C to this Preliminary Objection.

24. In short, while the Portuguese Government in the Memorial seeks to represent the case to the Court as one in which Portugal is the victim of an unscrupulous disregard of international law on the part of India, the facts are quite otherwise. The Government of India in the delicate situation which has arisen with respect to Daman and the enclaves has maintained a correct attitude, while the Government of Portugal has much to answer for in its actions with respect to Daman and the enclaves, both recently and in the past.

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Glossary and Maps

Glossary The Fifth Preliminary Objection of the Government of India contains references to a number of unfamiliar Indian words and in order to assist the Court a Glossary explaining these words is appended to this pleading at Annex C. No. 1.

Maps

Two maps are enclosed in the pocket inside the back cover of this Volume¹. They are not intended to be comprehensive maps of the areas concerned but have been prepared only for the purpose of indicating clearly to the Court the places referred to in this pleading and the annexed documents.

¹ Not reproduced. [*Note by the Registry.*]

PART II

First Objection

25. The First Objection of the Government of India is that Portugal's Declaration, dated 19 December 1955, by which she purported to accept the compulsory jurisdiction of the Court under Article 36, paragraph 2, of the Statute of the Court, the so-called Optional Clause, is wholly invalid by reason of the third condition contained in the said Declaration and that, in consequence, the Portuguese Government, when it filed its Application on 22 December 1955, was not entitled to invoke against India the compulsory jurisdiction of the Court under the Optional Clause.

THE FACTS

26. The relevant parts of the Portuguese Declaration, the full text of which is given in Annex B. No. 1, are as follows:—

“Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* without special agreement, as provided for in the said paragraph 2 of the Article 36 and under the following conditions:

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(3) The Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.”

The Portuguese Government in its Application filed on 22 December 1955 expressly claimed to found the jurisdiction of the Court in the present case on the basis of this Declaration.

THE LAW

27. The Government of Sweden, in a Note dated 23 February 1956 (Annex B. No. 2), made the following communication to the Secretary-General of the United Nations with reference to the third condition of the Portuguese Declaration:—

“The Swedish Government is compelled to state that in its opinion the cited condition in reality signifies that Portugal has not bound itself to accept the jurisdiction of the Court with regard to any dispute or any category of disputes. The condition nullifies the obligation intended by the wording of Article 36, paragraph 2, of the Statute where it is said that the recognition of the jurisdiction of the Court shall be ‘compulsory *ipso facto*’.

For the stated reason, the Swedish Government must consider the cited condition as incompatible with a recognition of the 'Optional Clause' of the Statute of the International Court of Justice."

28. The Government of Portugal in a Note dated 5 July 1956 to the Secretary-General of the United Nations (Annex B. No. 3) made the following reply to the objection taken by the Swedish Government to the terms of the Portuguese Declaration:—

"In no way, indeed, does sub-paragraph (3) warrant the conclusion that the Portuguese Government would be in a position to withdraw from the jurisdiction of the Court any dispute, or category of disputes, already referred to it, for it expressly states that the reservation would only take effect from the date of its notification to the Secretary-General of the United Nations. The Portuguese Declaration thus produces all the effect provided for by Article 36 as regards disputes referred to the Court prior to a possible notification. Hence, the interpretation of the Swedish Government is not in accord with the facts.

This material flaw would suffice to enable further comment to be dispensed with. Yet in order to show more clearly the absence of any basis for such doubts as to the validity of the Portuguese Declaration it should be mentioned that the contents of sub-paragraph (3) amount to no more than a form—attenuated be it said—of the reservation which several countries have in the past invoked (without ever having thereby given rise to any objections), of the right to abrogate at any time their declarations of acceptance. In any case, the Court alone is competent to pronounce on the validity of these declarations."

29. The Government of India shares the view of the Swedish Government that the third condition of the Portuguese Declaration is incompatible with a recognition of the Optional Clause of the Statute of the Court. The Optional Clause provides that States parties to the Statute "may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes", etc. Portugal, by the third condition, reserves to herself the right at any moment during the currency of the Declaration to change the scope of her acceptance of compulsory jurisdiction by notifying the Secretary-General that a given category or given categories of disputes are to be excluded from the Declaration and by the exercise of this reservation may at any moment reduce her obligation under the Optional Clause to a vanishing point.

30. The Portuguese Government in the above-quoted passage from its Note of 5 July 1956, contests the Swedish proposition that by reason of the third condition Portugal cannot be said to have recognized the Court's jurisdiction with regard to any dispute

or category of disputes. It says that under the express terms of the third condition the exclusion of any category or categories of disputes from Portugal's acceptance of jurisdiction would only take effect from the date of notification to the Secretary-General. On this basis, it argues that the Portuguese Declaration "produces all the effect provided for by the Optional Clause as regards disputes referred to the Court prior to a possible notification". It further argues that the third condition of the Portuguese Declaration is no more than an attenuated form of the reservation found in the Declaration of several States whereby the right is reserved to abrogate at any time their entire acceptances of the Court's jurisdiction under the Optional Clause.

31. The Portuguese arguments, in the view of the Government of India, do not dispose of the objection taken by the Swedish Government to the form of the Portuguese Declaration. It is one thing to reserve the right to terminate a Declaration altogether on notice to the Secretary-General; it is quite another thing to reserve the right to alter the terms of a Declaration at will by notice to the Secretary-General while still maintaining the Declaration in existence against other States. In the former case, so long as the Declaration remains in force, the categories of disputes covered by it are fixed for the duration of the Declaration and ascertainable by reference to the Declaration itself. In the latter case, they are neither fixed for the duration of the Declaration, nor ascertainable by reference to the Declaration alone. A Declaration of this variable content gravely undermines the protection afforded to States adhering to the Optional Clause by the provision that a Declaration is only to take effect "in relation to any other State accepting the same obligation". This provision, as the *travaux préparatoires* of the Optional Clause fully confirm, envisages that each State shall fix in its Declaration the categories of legal disputes to which the Declaration applies and that any two States will be bound *inter se* to submit to compulsory jurisdiction only in regard to those categories of disputes covered by both their Declarations. The Portuguese form of Declaration is objectionable and incompatible with the Optional Clause because it leaves other States in complete uncertainty from one moment to the next as to what may be the "same obligation" which exists between them and Portugal under the Optional Clause. In this connection, it is to be observed that paragraph 4 of Article 36 of the Statute refers only to the deposit of *Declarations* with the Secretary-General and requires the Secretary-General to transmit to the Parties to the Statute and to the Registrar of the Court copies only of *Declarations*. Article 36 (4) does not, in short, appear to contemplate at all that alterations should from time to time be made in the content of Declarations under the Optional Clause by notifications to the Secretary-General.

32. It is beside the point to say, as the Portuguese Government says, that under the express terms of the third condition the reservation of any given category of disputes from the Portuguese Declaration would only take effect from the date of its notification to the Secretary-General. States which adhere to the Optional Clause are entitled to expect a reasonable degree of certainty in regard to the obligations imposed on them by the Declarations of other States. Furthermore, quite apart from the fact that the Secretary-General is not under any express statutory duty to transmit the notification to other Parties to the Statute, there will be an inevitable time-lag between Portugal's alteration of her obligations under the Optional Clause and the receipt by other States of notice of that alteration. During this interval any other State will have a quite different understanding from that of Portugal as to the categories of legal disputes which the two States are mutually bound to submit to the Court in virtue of their Declarations under the Optional Clause.

33. Nor is it possible to overlook the fact that the Portuguese reservation is open to the interpretation that Portugal reserved to herself the right *at any time* to exclude from her Declaration any given category of dispute *with the purpose of withdrawing altogether from the Court*, as from the date of the notification to the Secretary-General, any dispute falling within that category. A reservation having that effect, in the view of the Government of India, would not only render the professed acceptance of compulsory jurisdiction illusory but would also be incompatible with Article 36 (6) of the Statute, under which it is for the Court to decide disputes as to its jurisdiction. Portugal, after the validity of her Declaration had been challenged by Sweden, made a communication to the Secretary-General disclaiming that the meaning of her reservation is that it empowers her to withdraw from the Court a case already submitted to it. The Government of India submits, however, that it is impossible to attach any weight to a subsequent interpretation of her own Declaration given by Portugal six months after the original Declaration was made and at a time when she had already filed with the Court an Application whose validity was wholly dependent on the Portuguese reservation being interpreted in the manner suggested by Portugal. The mere fact that the Portuguese Government felt compelled to take the unusual course of explaining the meaning which it wished to be attached to its Declaration is confirmation of the ambiguous and equivocal nature of the Portuguese adherence to the Optional Clause in December 1955, when Portugal filed her Application against India.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

34. The Government of India, for the reasons given in paragraphs 29 to 33 above, submits:

(1) That the third condition of the Portuguese Declaration of 19 December 1955 is incompatible with the provisions of the Optional Clause of the Statute of the Court, with the result that the said Declaration is totally invalid as a recognition of the compulsory jurisdiction of the Court under that clause;

(2) That the Portuguese Application of 22 December 1955, since it is expressed to found the jurisdiction of the Court in the present case upon the said Declaration, was ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause; and

(3) That, in consequence, the Court is without jurisdiction to entertain the said Application.

Second Objection

35. The Second Objection of the Government of India is that, when the Portuguese Government filed its Application on 22 December 1955, the Portuguese Declaration under the Optional Clause, even if it is assumed to be valid, had not been communicated to the Government of India with the result that the conditions necessary to entitle Portugal to invoke against India the jurisdiction of the Court under the Optional Clause did not exist at all at that date.

THE FACTS

36. On 28 February 1940, the Government of India made a Declaration accepting the compulsory jurisdiction of the Court under the Optional Clause for a period of five years and thereafter until such time as notice of termination should be given. (Annex B. No. 4.) This Declaration which was still in force in December 1955, when the Portuguese Government filed its Application in the present case, provided expressly that India had accepted compulsory jurisdiction under the Optional Clause only "on condition of reciprocity".

37. On 19 December 1955, the Portuguese representative to the United Nations made a Declaration on behalf of the Portuguese Government purporting to accept compulsory jurisdiction under the Optional Clause, and deposited the Declaration with the Secretary-General of the United Nations. (Annex B. Nos. 1 and 5.) Apparently, however, it was only on the following day, 20 December 1955, that the instrument conferring on him full powers to make the Declaration was executed by the Portuguese Government in Lisbon (Annex B. No. 6), and it was only on the 21st December that the full powers were received by the Secretary-General. (Annex B. No. 5.) Next day, that is on 22 December, the Portuguese Government filed an Application with the Court, instituting the present proceedings against India. The filing of the Portuguese

Application, as the Government of India understands, was the first intimation to the Court of a Declaration having been made by Portugal accepting the Optional Clause, and it was not until five further days had elapsed that a copy of the Portuguese Declaration reached the Court. (Annex B. No. 7.)

38. Similarly, a telegram sent by the Court on 23 December 1955, notifying the Government of India of the filing of the Portuguese Application on the previous day, was the first intimation which the Government of India received of the fact that Portugal had made a Declaration under the Optional Clause. It was also the first intimation which the Government of India received of Portugal's intention to institute proceedings before the Court against India. At no time previously did the Portuguese Government make any kind of proposal or suggestion that the dispute should be referred to the Court. Nor did the Portuguese Government even have the courtesy to inform the Government of India on 22 December 1955 that an Application had been filed against India on that day.

39. On the morning of 24 December 1955, the day before Christmas and the day following the Government of India's receipt of the telegram from the Court, the Government of India telegraphed to its Embassy at The Hague and to its Permanent Mission to the United Nations in New York, asking for the text of Portugal's Declaration. A reply was received from the Indian Mission in New York on Christmas Day, saying that the United Nations offices were closed, and that a senior official of the Secretariat who had been contacted in the country did not think that the Portuguese Declaration had yet reached the Secretary-General. (Annex B. No. 8.) On 27 December a telegram reached the Government of India from its Embassy at The Hague, stating that the Court had received the text of the Portuguese Declaration that very day, and that a copy was being obtained and dispatched by airmail. (Annex B. No. 7.) On 28 December 1955 another copy was obtained in New York by the Indian Mission to the United Nations, and this copy also was dispatched by airmail to India. (Annex B. No. 9.) On 30 December 1955, the Government of India received in New Delhi a copy of the Portuguese Declaration which had been obtained from the Court by its Embassy at The Hague. On 12 January 1956 the Government of India, in acknowledging receipt of a letter transmitting a copy of the Portuguese Application, informed the Court that it proposed to lodge a Preliminary Objection to the Court's jurisdiction with respect to the Portuguese Application. (Annex B. No. 10.) Finally, on 19 January 1956, the text of the Portuguese Declaration was officially transmitted to the Government of India by the Secretary-General in compliance with Article 36, paragraph 4, of the Statute. (Annex B. No. 5.)

THE LAW

40. The principle that States have a right to be in a position of complete equality before the Court in regard to access to the Court and to the Court's jurisdiction is fundamental. It finds particular expression in Article 35, paragraph 2, of the Statute of the Court, which expressly provides that the conditions laid down by the Security Council under which States not Parties to the Statute may have access to the Court shall in no case place the parties in a position of inequality before the Court. It also finds particular expression in Article 36, paragraph 2, which provides that a Declaration under the Optional Clause is to have effect only "in relation to any other State accepting the same obligation". In the view of the Government of India, this vital principle is manifestly infringed if a State, on making a Declaration under the Optional Clause, is permitted immediately to file an Application against the other States before the lapse of a sufficient time to enable them to be apprised of the making of the Declaration. Equality before the Court, if it is to be a real equality, must be an equality in fact as well as in law.

41. Paragraph 4 of Article 36 expressly directs the Secretary-General of the United Nations to transmit copies of all Declarations under the Optional Clause not only to the Court, but also to all the Parties to the Statute. The purpose of this provision presumably is to protect the interests of all other Parties to the Statute, and with this end in view, to insure that all States which have accepted the Optional Clause shall have an equal knowledge of the scope both of their obligations and rights under the Optional Clause. The contention of the Government of India is that a State which files an Application without waiting for the brief period necessary to allow Article 36, paragraph 4, to have its appropriate effects, and without itself notifying its opponent of the fact that it had made a Declaration under the Optional Clause, violates the principle of the equality of States before the Court, and is for this reason not entitled to rely upon the Application in question before the Court.

42. The Government of India contends that this rule applies *a fortiori* when the Declaration of the opponent State contains an express condition of reciprocity, the sole purpose of which is to make clear that the Court's compulsory jurisdiction under the Optional Clause is accepted by the State concerned only on the basis of a complete equality of rights and obligations between itself and any other State adhering to the Optional Clause.

43. The Government of India further contends that, quite apart from the principle of the equality of the Parties before the Court, the Optional Clause cannot be regarded as placing India under any obligation towards Portugal until copies of Portugal's Decla-

ration had been transmitted to the Parties to the Statute and to the Registrar of the Court in accordance with Article 36, paragraph 4, of the Statute or at least until the lapse of the brief period necessary to give the Secretary-General the possibility of communicating copies of the Declaration to Parties to the Statute and to the Registrar of the Court. The relation created between States by adherence to the Optional Clause is a consensual relation involving reciprocal rights and obligations. A State, by making a Declaration, not only imposes obligations but also confers simultaneous rights on other States. It is therefore essential to the operation of this consensual relation that the contractual nexus between any two States should only become effective in law when the action of the Secretary-General of the United Nations under Article 36, paragraph 4, of the Statute has had its appropriate effects with respect to other States which have previously adhered to the Optional Clause. This principle is of particular importance with respect to a State against which the State making the declaration already intends to file an Application. It is open to question whether such a Declaration can be effective in law at all against that other State.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

44. The Portuguese Government, as appears from the facts set out in paragraphs 37 to 39 above, filed its Application in the present dispute before either the Court or other Parties to the Statute had been notified by the Secretary-General of Portugal's Declaration accepting the Optional Clause, and without itself taking any steps to bring that Declaration to the notice of India. In these circumstances the Government of India submits:

(1) That the filing of the Application in the present case by the Portuguese Government on 22 December 1955 both violated the principle of the equality of States before the Court, and disregarded the express condition of reciprocity contained in the Declaration of the Government of India;

(2) That the Portuguese Application of 22 December 1955 was therefore ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause; and

(3) That in consequence, the Court is without jurisdiction to entertain the Portuguese Application of 22 December 1955.

Third Objection

45. The Third Objection of the Government of India is that before the Government of Portugal lodged its Application with the Court on 22 December 1955, diplomatic negotiations had not reached the point at which they could no longer be profitably pursued.

THE FACTS

46. For the detailed facts relevant to this Objection, the Court is asked to refer to the facts set out in the Second and Fourth Objections of the Government of India. The Portuguese Government, having accepted the Optional Clause, immediately took the case before the International Court of Justice. It did not condescend to resume the diplomatic negotiations, previously begun with the defendant State, and continue them to the point where it was no longer profitable to pursue them. Nor, after having become a Member of the United Nations and after having accepted the compulsory jurisdiction of the Court, did it make any attempt to negotiate before addressing to the Court its unilateral Application on 22 December 1955. The last note in the diplomatic correspondence is dated the 6th of August 1955, and the previous correspondence did not indicate that the point had been reached when it was no longer profitable to pursue the negotiations. It discussed the questions in issue on a purely political basis. In order to bring the correspondence to a head, the Portuguese Government should at least have outlined the legal claims which have now been made before the Court. In fact, however, as already mentioned, no reference was ever made to the legal rights now claimed by Portugal. After an interval of four and a half months, without any further communication of any kind, the Portuguese Application was addressed to the Court.

THE LAW

47. In every case which has been brought before the Court in consequence of a unilateral Application, the applicant State has undertaken diplomatic negotiations with the defendant State. The reason is that under international law it is only after diplomatic methods have been fully tried that the case can be brought before the International Court. This opinion has been expressed by the Court itself on various occasions, and especially in the case of *Mavrommatis* (1924, Series A, No. 2, p. 15):

“The Court realizes to the full the importance of the rule laying down that only disputes which cannot be settled by negotiations should be brought before it. It recognizes, in fact, that before a dispute can be made the subject of an action at law, its subject-matter should have been clearly defined by means of diplomatic negotiations. Nevertheless, in applying this rule, the Court cannot disregard, among other considerations, the views of the States concerned who are in the best position to judge as to political reasons which may prevent settlement of a given dispute by diplomatic negotiations.”

In an earlier passage the Court said (p. 13):

“Negotiations do not of necessity always presuppose a more or less lengthy series of notes and despatches; it may suffice that a

discussion should have been commenced, and the discussion may have been very short; this will be the case if a deadlock is reached, or if finally a point is reached at which one of the parties definitively declares himself unable, or refuses, to give way, and there can be therefore no doubt that the dispute cannot be settled by diplomatic negotiations."

This point has also been discussed in other cases. The last authoritative statement was made by the International Court of Justice in its Advisory Opinion regarding the *Interpretation of the Peace Treaties with Bulgaria, Hungary and Rumania* (I.C.J. Reports 1950, p. 74):

"Whether there exists an international dispute is a matter of *objective determination* ... there has arisen a situation in which the two States hold clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations. Confronted with such a situation, the Court must conclude that an international dispute has arisen."

Again in the *Nottebohm Case*, second phase (I.C.J. Reports 1955, pp. 4 ff.), Guatemala made a preliminary objection to the jurisdiction of the Court on this ground. The Court did not find it necessary to decide the point, because it upheld another preliminary objection by Guatemala. However, it clearly appears from the pleadings that there was no disagreement between the two States on the main principle involved. This can be seen in the following words of M. Sauser-Hall, Counsel for Liechtenstein: "I accept the clear statement of M^e Rolin: 'I accept willingly that when it is shown that diplomatic negotiations cannot profitably be pursued, one must consider that the condition is fully satisfied'..." (*Nottebohm Case*, I.C.J. Reports 1955, Pleadings, Oral Arguments, Documents, Vol. II, p. 305.)

48. The Government of India therefore contends that it is a rule of customary international law that the filing of a unilateral application must be preceded by a full trial of diplomatic negotiations. The reason why customary law requires a State to undertake negotiations and continue them until they can no longer profitably be pursued is that States which accept the system of compulsory jurisdiction of the Court do not wish to be brought before the Court without first having made every reasonable effort to obtain a settlement through the diplomatic resources available to them, or to be obliged to appear before the Court in cases except those in which settlement by negotiation is not possible. It is for this reason that many treaties of compulsory jurisdiction and arbitration contain an express condition that there should be previous negotiations (see, for example, Article 1 of the Treaty of Arbitration and Conciliation between Switzerland and Germany of 3 December 1921—"the contracting parties undertake to submit to the procedure of arbitration and conciliation disputes of

any description arising between them which cannot be settled by diplomatic means within a reasonable time"). Even if there is no such express condition, both doctrine and jurisprudence require that diplomatic negotiations should be carried to the point where they can no longer be profitably pursued before recourse is had to the Court. (Institute of International Law, discussion on the model clause of compulsory jurisdiction—*Annuaire*, 1952, Vol. I, pp. 462 ff.; see also *Annuaire*, 1954, Vol. I, pp. 310 ff.; see also *Nottebohm Case, I.C.J. Reports 1955*, Pleadings, Oral Arguments, Documents, Vol. I, Counter-Memorial, p. 186; and Kaasik, *La clause des négociations diplomatiques dans le droit international positif et dans la jurisprudence de la Cour permanente de Justice internationale*, R. D. I. L. C. 1933, pp. 62 ff.)

49. The Government of India contends that Portugal has not complied with the above-mentioned rule of customary international law. She did not see fit to negotiate on a legal basis with India the question of the right of passage either before or after accepting the compulsory jurisdiction of the Court. She made her Application immediately and regardless of the obligation arising, as has been shown, from customary international law. The fact that the Government of Portugal launched its legal proceedings immediately after adhering to the Optional Clause is in itself confirmation that it had no intention of pursuing the diplomatic negotiations to their proper conclusion. In order to bring the diplomatic negotiations to a head and in order to put themselves in a position to make a valid application to the Court, the Government of Portugal should at least have outlined and communicated to the Government of India the claims which they now make. In the circumstances of the present case, it is not open to Portugal, while violating the rule which requires previous recourse to diplomatic negotiations, to assert that such negotiations must have been useless. The onus of proving that such negotiations would have been useless must rest with Portugal. In view of the long interval between the last note (that of 6 August 1955), and the Application to the Court, and the extraordinary haste with which that Application was referred to the Court after her acceptance of the Optional Clause, Portugal cannot give any such proof.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

50. Accordingly, the Government of India submits:

(1) That customary international law required Portugal, before filing an Application in the present case, to undertake diplomatic negotiations and to continue them to the point where it was no longer profitable to pursue them;

(2) That Portugal in filing her Application in the present case did not comply with the above-mentioned rule of customary international law because:

(a) she filed her Application on 22 December 1955 without ever previously having given to India the slightest indication that she made any such claims to legal rights of passage as she has since formulated in the Memorial; and

(b) she filed her Application on 22 December 1955 immediately after making her Declaration accepting the Optional Clause, and only shortly after becoming a Member of the United Nations, without attempting to pursue her diplomatic negotiations with India in the new situation created by the change in the legal relations of the Parties brought about by these events;

(3) That when Portugal filed her Application in the present case on 22 December 1955, there was not any legal dispute between the Parties, and, in addition, Portugal had not fulfilled the essential condition for the invoking of the Court's compulsory jurisdiction under the Optional Clause; and

(4) That, in consequence, the Court is without jurisdiction to entertain the said Application.

Fourth Objection

51. The Fourth Objection of the Government of India is that, having regard to the third condition in the Portuguese Declaration, and having regard, first, to the condition of reciprocity inherent in the Optional Clause, and, secondly, to the condition of reciprocity expressly stipulated in India's Declaration, the Government of Portugal was debarred from invoking the jurisdiction of the Court under the Optional Clause before the communication of the text of the Portuguese Declaration to the Government of India.

THE FACTS

52. The third condition of the Portuguese Declaration of 19 December 1955, to which the Court's attention has already been drawn in paragraph 26 above, reads as follows:—

“The Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.”

The Portuguese Government, as appears from paragraphs 37 and 38 above, filed its Application so soon after making its Declaration under the Optional Clause that the Government of India neither knew nor had any means of knowing that the Portuguese Declaration contained the above restriction.

THE LAW

53. A State adhering to the Optional Clause, by the very words of the Clause, recognizes the compulsory jurisdiction of the Court,

“in relation to any other State accepting the same obligation”. Opinion is unanimous that the words “in relation to any other State accepting the same obligation” have the effect of conferring upon each Party to the Optional Clause as against any other Party a right to invoke reciprocally in its own favour, any condition, reservation or limitation contained in the other Party’s Declaration. That this is the effect of those words is put beyond doubt by decisions of the Court itself, notably in the case of the *Phosphates in Morocco* (1938, Series A/B No. 74 at p. 22), and in the case of the *Electricity Company of Sofia and Bulgaria* (1939, Series A/B No. 77 at p. 81). In the latter case, between Belgium and Bulgaria, the Permanent Court of International Justice said, with reference to a limitation *ratione temporis* in Belgium’s Declaration:

“Although this limitation does not appear in the Bulgarian Government’s own declaration, it is common ground that in consequence of the condition of reciprocity laid down in paragraph 2 of Article 36 of the Court’s Statute and repeated in the Bulgarian declaration, it is applicable between the Parties.”

Judges Anzilotti (at p. 87), Urrutia (at p. 103), Van Eysinga (at p. 109), and Hudson (at p. 121), although dissenting from the decision of the Court on the whole case, took the same view as the Court on this point.

54. Applying the principle of these decisions to the present case, it is clear that under the terms of the Optional Clause, Portugal’s Declaration of 19 December 1955 could have effect in relation to India only on the basis that India, equally with Portugal, was entitled to rely upon the three conditions contained in the Portuguese Declaration, and in particular, to rely upon the third condition.

55. The fact that India’s Declaration, by which she accepted the Optional Clause, was made expressly on condition of reciprocity, provides an additional and special ground for applying to the present case the principle laid down in the above-mentioned decisions of the Court.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

56. The Government of Portugal, by the third condition in the Portuguese Declaration, reserved to itself the right, *at any time*, to exclude from the scope of Portugal’s acceptance of compulsory jurisdiction *any given category or categories of disputes* by mere notification to the Secretary-General of the United Nations. The whole purpose of this condition was to empower Portugal to exclude from the scope of her acceptance of compulsory jurisdiction any given category of disputes, at any time, so as to defeat any application to the Court with respect to a dispute falling in the excluded category. The principle of reciprocity enshrined in

the Optional Clause, and expressly contracted for by India in her Declaration, entitled India, as pointed out in the preceding paragraph, to rely upon the Portuguese third condition equally with Portugal; that is, entitled India to exercise equally with Portugal the right to exclude from the operation of the Optional Clause any given category or categories of disputes. The Government of India contends that the filing of an Application against India by Portugal on 22 December 1955, before India knew, or had any means of knowing, the terms of the conditions of the Portuguese Declaration, manifestly violated India's reciprocal right, with respect to the third condition in the Portuguese Declaration. The filing of an Application against India almost instantaneously after the making of the Portuguese Declaration ensured that India never would have the opportunity to exercise her reciprocal right under the Portuguese third condition in such a way as to affect the dispute referred to the Court in the Application. It ensured that India could never exercise the same full right of reservation as Portugal had reserved for herself in her Declaration. The almost instantaneous filing of the Application by Portugal in the present case, being inconsistent with India's right to reciprocity, was wholly incompatible both with the terms of the Optional Clause and with the express conditions of India's own Declaration.

57. The evident aim of the Portuguese Government in filing its Application in the present case almost instantaneously with the deposit of its Declaration under the Optional Clause, was to prevent the Government of India from having any possibility of withdrawing the present dispute from India's acceptance of compulsory jurisdiction by exercising India's right reciprocally to invoke the Portuguese third condition. In short, its aim was to make sure that India would have no opportunity of withdrawing the present case from the compulsory jurisdiction of the Court, while reserving to itself complete freedom at any time in the future to withdraw from the compulsory jurisdiction of the Court any category of disputes in regard to which Portugal might be exposed to an Application on the part of India. In the view of the Government of India the action of the Portuguese Government in filing its Application against India on 22 December 1955 constituted not only a flagrant disregard of the reciprocity to which India was entitled under the Optional Clause and under the terms of her own Declaration, but also an abuse of the Optional Clause and of the procedure of the Court.

58. Accordingly, the Government of India submits:

(1) That the filing of the Application in the present case by the Portuguese Government on 22 December 1955 was a violation of the reciprocal right conferred upon India, both by the terms of the Optional Clause and by the terms of India's

Declaration, to exercise the power to make reservations contained in the third condition of the Portuguese Declaration;

(2) That the filing of the Application in the present case on 22 December 1955, having regard to the terms of the Portuguese third condition, was an abuse of the Optional Clause and of the procedure of the Court;

(3) That for each and both of the above reasons the Portuguese Application of 22 December 1955 was ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause; and

(4) That in consequence the Court is without jurisdiction to entertain the Portuguese Application of 22 December 1955.

Fifth Objection

59. The Fifth Objection of the Government of India is that in the Declaration of 28 February 1940 by which it adhered to the Optional Clause of the Statute of the Court, it expressly excepted from India's acceptance of compulsory jurisdiction all "disputes with regard to questions which by international law fall exclusively within the jurisdiction of India", and that the dispute which is the subject-matter of the Portuguese Application falls within the terms of this exception.

THE FACTS

60. The subject-matter of the Portuguese Application is a claim that Portugal possesses a right of passage through the territory of India in order to ensure communications between the territory of Daman and the enclaves of Dadra and Nagar Aveli, and that this right extends to the transit of persons and goods as well as of representatives of the Portuguese authorities and armed forces.

61. The regulation and control of the passage of persons and goods across Indian territory, as appears from the authorities cited in paragraphs 161 to 168 below, are matters which in principle international law leaves within the sole discretion and exclusive jurisdiction of India. Accordingly, in this Preliminary Objection the burden is manifestly upon Portugal to establish grounds for holding that the present dispute is one covered by the terms of India's Declaration under the Optional Clause, notwithstanding the express exclusion from it of disputes with regard to questions which by international law fall exclusively within India's jurisdiction.

62. In paragraph 43 of the Memorial, the Portuguese Government has based its alleged right on the following grounds:

- (1) treaty;
- (2) custom;
- (3) general principles of law.

The Government of India can only suppose that, in filing a unilateral Application in the present case on the basis of India's acceptance of the Optional Clause, the Portuguese Government relied on the same grounds for the purpose of contending that the dispute is not one with regard to a question which by international law falls exclusively within the jurisdiction of India.

63. In Part I of the Memorial, the Portuguese Government, in an attempt to provide support for the grounds of claim stated in paragraph 58, has set out a number of alleged historical facts which are said to establish that ever since 1779 Portugal has possessed and continually enjoyed an international right of passage for persons and goods over Indian territory between Daman and the enclaves. This account of the historical facts, in the view of the Government of India, is highly selective and completely misrepresents the position which actually obtained in regard to the passage of persons and goods over the Indian territory in question during successive periods between 1779 and 22 December 1955, the date of the filing of the Portuguese Application. In its letter to the Court dated 10 November 1956, the Government of India, in applying for an extension of time for the delivery of its pleading, has previously had occasion to draw attention to the paucity of the evidence adduced by the Portuguese Government in support of its claim to a customary right of passage on the basis of uninterrupted user since the year 1785. The Government of India then observed that the number of historical documents relating to the status of the enclaves and to the passage of persons and goods between them and Daman is very large, and pointed out that, although Article 43 of the Rules of Court requires the applicant party to annex to its Memorial "copies of all the relevant documents", the Portuguese Government has annexed to the Memorial no more than 54 documents, of which all but seven relate to two comparatively brief periods. The two periods in question are the first nineteen years from 1779 and the five years immediately preceding the filing of the Portuguese Application, while the long period of a century and a half between 1798 and 1949 is covered by a mere seven carefully chosen documents. Numerous highly relevant documents relating to this long period have been omitted from the Portuguese pleading, and among these documents is the important Anglo-Portuguese Treaty of Commerce and Extradition of 26 December 1878. The insufficiency of the evidence adduced by the Government of Portugal in its Memorial is all the more surprising since, as previously stated, the burden of proof in the present case is manifestly upon Portugal.

64. In deciding this Preliminary Objection to jurisdiction the Court is not called on to reach a final conclusion on the merits of the Portuguese claim. Its task is only to determine whether on a summary view of the facts and the law sufficient grounds have

been established by Portugal for holding that the matters in issue are not matters which by international law fall exclusively within the jurisdiction of India. Similarly, at this stage of the proceedings the Government of India is not called upon to deal with all the facts relating to the merits of the Portuguese claim. It is concerned only to show that, on a summary view of the evidence submitted in the Memorial, the historical facts relied upon by the Portuguese Government afford no sufficient basis for holding that on 22 December 1955, the date of the filing of the Portuguese Application, the passage of persons and goods over Indian territory between Daman and the enclaves was not *prima facie* a matter exclusively within the jurisdiction of India. Accordingly, the Government of India will not in this pleading present to the Court methodically and completely all the evidence in its possession relating to the merits of the Portuguese claim. It will present only such evidence as may be relevant and necessary to correct the Portuguese version of the historical matters dealt with in the Memorial and to put beyond doubt that on 22 December 1955 the passage of persons and goods over Indian territory between Daman and the enclaves was a question within the sole discretion and exclusive jurisdiction of India.

The Maratha Period (1774-1818)

65. The Government of India, after making a careful study of the historical material available in the various archives, does not consider that the events of the Maratha period have very much bearing on the legal position today in regard to the passage of Portuguese persons and goods between Daman and the enclaves, or on the question of jurisdiction, which is the question now before the Court. These events are relevant for the purpose of showing how and when the Portuguese came to have an interest in the enclaves, and for the purpose of showing how and when the British came to be in possession of the territory lying between Daman and the enclaves. They are also relevant as showing that the grants obtained by the Portuguese from the Marathas with respect to the enclaves were essentially grants of revenue, and that the Portuguese titles to these grants were revocable titles, terminable at the will of the Maratha ruler. Otherwise, the events of the Maratha period are not of any significance in regard to the questions in issue before the Court. The reason is that in 1818, the British annexed the Maratha territories, and, as appears from paragraphs 91 to 94 below, from the first took the position that any Maratha treaties, decrees or grants from which the Portuguese might pretend to derive rights of passage had no legal force or effect as between the Portuguese and the British. Furthermore, they also from the first, and consistently afterwards, took the position that passage over British Indian territory between Daman and the enclaves was a matter exclusively within the jurisdiction of the

British Indian Government. As a result, the Maratha treaties, decrees or grants, from which Portugal now seeks to derive alleged rights of passage, are manifestly for all legal purposes dead and extinct and have long been so. Accordingly, the Government of India does not propose in the present Objection to dwell at length on the events of the Maratha period, or to go into the elaborate law relating to the grants made by the Marathas to the Portuguese. It will confine itself in the following paragraphs to demonstrating that the grants obtained by the Portuguese from the Marathas were grants of revenue and that the titles obtained by the Portuguese were revocable titles, terminable at the will of the Maratha ruler.

66. In its Application instituting proceedings against India on 22 December 1955, the Portuguese Government alleged a "treaty concluded between Portugal and the sovereign of Punem in the year 1779" as the source of a right of passage over Indian territory (paragraphs 7 and 21 (A) of the Application). In paragraphs 10 to 16 of its Memorial, the Portuguese Government alleged that it acquired sovereignty over the Maratha territory of Dadra and Nagar Aveli, under the Treaty of 1779, "thus acquiring *ipso facto* the right of access to it as an indispensable condition to the exercise of her sovereignty". Researches conducted by the Government of India in the contemporary papers of the Marathas show quite clearly that, contrary to what is alleged by Portugal, the Marathas did not, under the Treaty of 1779, or under any other instrument, cede their territories of Dadra and Nagar Aveli to the Portuguese. All that happened under the Treaty of 1779 and the connected instruments was that an annual grant of Rs. 12,000 was made to the Portuguese for maintaining friendly relations with the Maratha Government of Poona, and for this purpose, so long as the consideration of friendship held good, the revenue yield of certain villages, which continued to be under Maratha sovereignty, was assigned to the Portuguese in a tenure known as Saranjam¹. It is not the intention of the Government of India to go into the complex legal and administrative system of the Marathas. However, in order to correct the entirely erroneous account given in the Portuguese Memorial of the intent, purpose and effect of the Treaty of 1779, it would be necessary to use certain terms of the Maratha legal and administrative system. In order to assist the Court, these terms will be explained briefly in the text and in greater detail in a Glossary at Annex C. No. 1.

67. The Treaty of 1779 does not anywhere deal with passage between Daman and the enclaves of Dadra and Nagar Aveli. (Annex C. Nos. 2, 3, 4, 5.) Articles 1, 2, 3, 8 and 9 established the principle of friendly relations between the Maratha and the Por-

¹ See paragraph 71 below.

tuguese fleets when they met at sea. Article 16 provided for the return of ships wrecked on the coast of the other and for shelter to ships in distress. Article 18 provided for compensation for the goods of a Portuguese frigate captured by the Maratha fleet. Article 7 dealt with entry, subject to payment of customs duties, of merchandise brought by the trading craft of the other. Under Articles 11, 12 and 13, the parties undertook not to grant asylum to traitors, not to aid the enemies of the other and not to take advantage of the military weakness of the other. Articles 4 and 14 dealt with the return of slaves and deserters. Article 5 dealt with the non-renewal of past disputes, and Article 6 provided for the settlement of future difficulties by negotiations through the Portuguese envoy at the Poona Court. Article 15 prohibited the Portuguese from building fortifications in the territory of the Marathas *and obliged them to allow passage to the Marathas through Portuguese ports.* (If the Treaty of 1779 were alive and in force between Portugal and India, it is obvious that India would have the right of passage to Indian territory through Portuguese ports and harbours in Diu, Daman and Goa.) Article 17 dealt with the assignment by the Marathas of an annual grant of Rs. 12,000 in consideration of Portuguese friendship with the Poona Court.

68. The origin of the Treaty of 1779 lay in the conflict between the Maratha and the Portuguese fleets on the Indian seas and in the civil war which broke out among the Marathas in 1774. In 1774, Camara, Governor and Captain-General of Goa, deputed his envoy, Narayan Vithal Dhume, to the Poona Court for the ostensible purpose of opening negotiations relating to compensation for Portuguese vessels destroyed or captured by the Maratha fleet. Later, the envoy also offered on behalf of the Portuguese to abandon the cause of the dissident Maratha chief, Dada Saheb Raghoba, in favour of the rightful Maratha ruler, Peshwa¹ Rajeshri Madhav Rao Pandit Pradhan, in consideration of a monetary compensation of Rs. 12,000 per annum. Various drafts and memoranda were followed by a Portuguese Treaty, in the Portuguese language, executed by Camara at Goa on 4 May 1779. (Annex C. No. 2.) This was followed by the Maratha Treaty, in the Marathi language, and executed by the Maratha ruler, Peshwa Rajeshri Madhav Rao Pandit Pradhan, at Poona, on 17 December 1779. (Annex C. No. 3.) The Portuguese Treaty was thereupon confirmed by Camara's successor, De Souza, on 11 January 1780. (Annex C. No. 2.) The Maratha Treaty was translated into Portuguese by the official translator to the Portuguese Government at Goa, Anant Kamodi Wagh, on 6 January 1780. (Annex C. No. 4; and Annex 1 to the Portuguese Memorial.) The papers of the Marathas have

¹ The Peshwa was in name the Chief Minister of the Maratha Raja of Satara. In fact he was the Maratha ruler and the head of the Maratha Confederation. His capital was at Poona.

also revealed a Marathi translation of the Portuguese Treaty of 4 May 1779, as confirmed on 11 January 1780. (Annex C. No. 5.) It appears that this translation was carried out by Narayan Vithal Dhume, the Portuguese envoy at the Poona Court. Thus, it will be seen that there were two treaties—the Portuguese Treaty executed by the Portuguese in the Portuguese language, and the Maratha Treaty executed by the Marathas in the Marathi language; and that both these treaties were translated into the other language by two Portuguese officials, namely, Anant Kamodi Wagh, the official translator to the Portuguese Government, and Narayan Vithal Dhume, the Portuguese envoy at the Poona Court. If the four texts—the two treaties and the two contemporary translations—are kept side by side, it emerges that (a) the two treaties differed in the text, and (b) what purported to be a contemporary translation of, for example, the Maratha Treaty was in fact not a translation at all, but a repetition of the text of the Portuguese Treaty with certain alterations. That is, Anant Kamodi Wagh and Narayan Vithal Dhume, both belonging to the same community, both Portuguese agents, probably in collusion with each other, presented to the Portuguese Government an altered text of the Portuguese Treaty as a Portuguese translation of the Maratha Treaty, and to the Maratha Government an altered text of the Maratha Treaty as a Marathi translation of the Portuguese Treaty.

69. The Government of India would wish to observe that Portugal has not annexed to its Memorial the text of the Portuguese Treaty, nor has it annexed a modern translation of the Maratha Treaty. All it has annexed as the Treaty of 1779 is a French translation from Anant Kamodi Wagh's mistranslation in Portuguese of the Maratha Treaty (see Annex 1 to the Portuguese Memorial; and paragraph 68 above).

70. A reading of modern translations¹ of the Portuguese Treaty, the Maratha Treaty, and Narayan Vithal Dhume's translation of the Portuguese Treaty would make it abundantly clear that under Article 17 of the Treaty, the Marathas did not intend to grant to the Portuguese anything more than the annual revenue of Rs. 12,000 from villages within the sovereignty of the Marathas:

Portuguese Treaty: Article 17.

"As the Majestic State has evinced the greatest friendship towards this Sarkar², as proved by the Attorney, *Pandit Pradhan* has agreed to make a contribution in Daman of 12,000 rupees starting from this year through his Daman jurisdiction by virtue of which

¹ The Government of India has had the treaties translated into English directly from the original text. All translations quoted in the text of the Preliminary Objection or given in the Annexes, unless indicated to the contrary, have been made directly from the original.

² That is, the Maratha Government of Poona. See Glossary at Annex C. No. 1.

he shall specifically give to the State the Sanad¹ or the confirmatory order of the villages." (Annex C. No. 2.)

Maratha Treaty: Article 17.

"Narayan Vithal Dhume conveyed assurances that the Firangee² had evinced friendly sentiments towards the Sarkar and would in future be more friendly. In response, *it is agreed that villages yielding revenue of twelve thousand rupees where the authority of the Sarkar is unimpeded would be assigned towards Daman from the current year. The Firangee will not raise any Imarat³ in the same. Such villages will be specified.*" (Annex C. No. 3.)

Narayan Vithal Dhume's Marathi translation of the Portuguese Treaty: Article 17.

"The Firangee State entertains friendly sentiments towards Pandit Pradhan; the envoy conveyed assurances. *Therefore it is agreed that the Pandit Pradhan should assign towards Daman from the current year a Jagir of the revenue of twelve thousand rupees in Prant Daman.* Accordingly a sanad listing the villages be given to the Firangee State by making a separate agreement." (Annex C. No. 5.)

71. It will be noticed that Narayan Vithal Dhume's translation expressly used the word *Jagir*. Saranjam or Jagir (the two terms being interchangeable, Saranjam being the Maratha equivalent of the Moghul term Jagir) was the temporary assignment by a Sovereign grantor of a share of the public revenue from villages or lands. A Saranjam was neither transferable nor hereditary. It was enjoyed at the pleasure of the Sovereign and was terminable at any time. This tenure is well-known in India and originated in the Moghul times when it was known as Jagir. In Maratha country it was known as Saranjam. The revocable nature of the grant known as Saranjam or Jagir was consistently stressed by the British Government which did, in fact, "resume" many saranjams and jagirs. There is considerable jurisprudence on the subject and it appears clearly from numerous decisions of British Indian Courts and of the Judicial Committee of the Privy Council that a Saranjam was (a) a grant only of the royal share of revenue, and unless expressly provided for did not give property in the soil, and (b) in either case, the grant was revocable at the pleasure of the Government. The British Government made several rules and regulations for termination of saranjams or jagirs. Section 38 of the Bombay Regulation 7 of 1827 provided that a Jagir was liable to resumption at the pleasure of the Government. This principle was repeated in Section I (3) of the Bombay Regulation 6 of 1833, and in the

¹ A Sanad is an order or a command issued by a sovereign authority, and in that sense an instrument or a charter. See Glossary at Annex C. No. 1.

² Maratha term for Portuguese. See Glossary at Annex C. No. 1.

³ Meaning building structure, fortification, etc. See Glossary at Annex C. No. 1.

Saranjam Rules of 1898. In *Daulatrao v. Province of Bombay* (49 Bombay Law Reports (1947), p. 270) the full bench of the Bombay High Court described these Rules as rules of convenience only. It observed that "the whole structure of the Saranjam tenure is founded in the sovereign right, which can only be changed by conquest or treaty. So founded, jagirs or saranjams, with the feudal incidents connected with them, are granted or withheld at the will or pleasure of the sovereign power, and, if granted, the fixity of the tenure is always subject to interruption or revocation by resumption, be it temporary or absolute in character." Under the Bombay Saranjam Rules, 1952, all saranjams were resumed by the Government with effect from 1 November 1952.

72. The nature of the interest granted by the Marathas to the Portuguese is further brought out in the negotiations leading to the Treaty, the Maratha documents relating to the grant, and the subsequent conduct of the Parties. A Maratha memorandum of 1776 on the Portuguese draft of 1775 of the proposed treaty contained the following additional clause:—

"The Sarkar and the Firangee entered into friendship. Therefore the Firangee should be assigned villages of the total revenue yield of Rs. 15,000 useful to Daman. *Care should be taken that after the assignment the authority of the Sarkar will meet with no obstruction.* Accordingly without interruption of Sarkar's authority they should be assigned. Imarat should not be erected in villages so granted. According to this, agreement be made." (Annex C. No. 6.)

It has already been seen above (see paragraph 70) that Article 17 of the Maratha Treaty spoke of the assignment "from the current year" of villages of the revenue yield of Rs. 12,000, and it also provided that no Imarat would be raised by the Portuguese in such villages.

73. On 19 December 1779, two days after the execution of the treaty by the Marathas, the memorandum of the Poona Court directed the issue of sanads or orders for the implementation of the treaty. Among other things, the memorandum directed the issue of a sanad to the Subedar of Bassein that he should select villages adjoining Daman of the total revenue of Rs. 12,000 for the Portuguese and of the total revenue of Rs. 3,000 for the Portuguese envoy, Narayan Vithal Dhume. (Annex C. No. 7.) In accordance with the above resolution, sanads were issued to the Subedar of Bassein, on 10 February 1780 in respect of the revenue grant to the Portuguese, and on 11 February 1780 in respect of the revenue grant to the Portuguese envoy. The relevant Marathi documents are entitled: "Saranjam to the Firangee of Goa." (Annex C. No. 8.)

74. In compliance with the above sanads, the Subedar of Bassein selected from Pargana Khaladi Pawadi (a district contiguous to

Daman) nine villages of the total revenue of Rs. 12,015 for the Portuguese and two villages of the total revenue of Rs. 3,000 for the Portuguese envoy, Narayan Vithal Dhume. (Annex C. No. 9.)

75. An entry in the day book of the Peshwa made on 3 June 1780 reproduced the sanad issued on 31 May 1780. This said:

“Therefore from these villages excluding Sarkar’s Watans¹ and Zakat² the rest of the right of share in the revenue has been so made over to the Firangee that it may revert on the termination of the grant. Revenue of these villages may be shown on the debit side in the accounts of the Prant³. Construction of Imarat in the village should not be permitted. Sanad to Visaji Keshav accordingly. Sanad to Mukadams⁴ of nine villages to the effect that they should make themselves amenable to the Firangee and pay him the revenue of said villages exclusive of Sarkar’s Watans and Zakat. Agreement has been made that no Imarat is to be raised in the said villages. Therefore no Imarat may be permitted to be raised.” (Annex C. No. 10.)

76. A memorandum of the Peshwa’s Court of 3 June 1780 gave the details of the grant; enumerated the revenue which could be collected by the Portuguese, such as land revenue, house tax, fowl tax, cart tax, vegetable tax, profession tax, etc.; reserved the Watans of Deshmukh⁵, Deshpande⁵, Kulkarni⁵ and Patel⁵, as well as the Zakat, for the Maratha State; and it described the grant as *Dumala*. (Annex C. No. 11.) *Dumala* signifies the reversionary nature of a grant. It describes a revenue grant made for service, or through favour, subject to resumption at pleasure. (See Glossary at Annex C. No. 1.) The memorandum shows clearly that the Portuguese were to be granted a terminable right of collecting certain revenues; that certain dues were to be reserved for the Maratha government; that the Portuguese were not to raise any building in the assigned villages; and that there was no question of sovereignty being granted to the Portuguese over any part of Maratha territory.

77. However, as a result of military activity on the part of the British in the districts surrounding Daman, the grant of revenue villages from Pargana Khaladi Pawadi, contiguous to Daman, could not be made, and no assignment was made for three years after the execution of the Treaty. A memorandum of the Poona Court of 30 January 1783 explained the circumstances and directed the selection of new villages of the total value of Rs. 12,000. (Annex C. No. 12.) An identical memorandum was made the same day

¹ Dues attached to hereditary offices. See Glossary at Annex C. No. 1.

² Transit duties and taxes on market produce, etc. See Glossary at Annex C. No. 1.

³ Province.

⁴ Village headmen charged with collection of revenue. See Glossary at Annex C. No. 1.

⁵ See Glossary at Annex C. No. 1.

in respect of the grant to the Portuguese envoy, Narayan Vithal Dhume. (Annex C. No. 13.) In accordance with the above resolutions sanads appear to have been issued by the Peshwa to the Subedars of Bassein. (Annex C. Nos. 14 and 15.)

78. Although Pargana Khaladi Pawadi was then free from British occupation or military activity, it was nonetheless decided to assign revenue villages away from Daman, in Pargana Nagar Aveli. In 1783, the entire Mahal¹, that is, the revenue of the district, except that of six villages of Pargana Nagar Aveli, was assigned to the Portuguese. The Maratha Government reserved the Zakat of the entire Pargana of Nagar Aveli to themselves. (Annex C. No. 16.) The documents again make it clear that what was assigned was the *mahal* of the *Pargana*² and not the Pargana itself. The word *mahal* refers not to territory but to a grouping of villages for revenue purposes.

79. That the grant intended in Article 17 of the Treaty of 1779 was of a fiscal nature is clearly confirmed by the fact that, for the three years that the revenue-villages could not be assigned, the Marathas paid to the Portuguese equivalent compensation in cash. A memorandum of the Peshwa's Court of 1 March 1784 suggests that the arrears of cash compensations were compounded after negotiations with the Portuguese envoy. (Annex C. No. 17.)

80. Further, the assignment in 1783 having proved to be short of the annual yield of Rs. 12,000, the Portuguese envoy made representations to the Peshwa, and in consequence a fresh assignment was made in 1785. The revenues of six remaining villages of the mahal of Pargana Nagar Aveli were assigned to the Portuguese. In addition, the "Zakat of Pargana Nagar Aveli", that is the Zakat of Dadra and Naroli, was also assigned. (Annex C. Nos. 18 and 24.) (As will be seen below in paragraphs 83 and 84, the Marathas continued to reserve to themselves what was known as "Ramnagar Zakat".)

81. The fiscal character of the grant is further brought out in the account papers of the Marathas, from the year 1783, when the first assignment of villages was made, to the year 1818 when the Marathas were conquered by the British. These papers describe the mahal of Pargana Nagar Aveli as having been given to the Portuguese in Saranjam, and show the amount annually realized from the mahal as "Par Darbar Kharch Nisbat Firangee Goaeakar", that is, "Expenditure on Foreign Affairs concerning the Portuguese of Goa". (Annex C. Nos. 19, 20, 21.) Till the Marathas were overcome by the British, detailed accounts were maintained of the mahal of Pargana Nagar Aveli by the local administrators of

¹ Mahal means in this connection a grouping of villages for purpose of revenue assessment. See Glossary at Annex C. No. 1.

² Pargana also means Province: a division of territory for administrative purposes, smaller than Prant. See Glossary at Annex C. No. 1.

Taluka Bassein (Annex C. No. 21) of which Pargana Nagar Aveli formed part, as well as in the Peshwa Daftar¹ at Poona. (Annex C. Nos. 19 and 20.) These documents show quite clearly that the Pargana of Nagar Aveli continued to be within the sovereign jurisdiction of the Marathas, and that all the Marathas had granted to the Portuguese was a Saranjam, that is a share of the public revenue, the annual amount being considered as expenditure on friendly relations with the Portuguese.

82. On three occasions, mentioned below in paragraphs 85, 86 and 87, the Marathas exercised their sovereign rights and attached the saranjam. They did this in order to settle the debts owed to them by the Portuguese. These debts related to Ramnagar Zakat.

83. Pargana Nagar Aveli originally formed part of the territory of the Raja of Ramnagar, later known as Dharampur. In the early eighteenth century, the Marathas acquired the right to collect Zakat in Pargana Nagar Aveli. This right came to be known as Ramnagar Zakat because it was acquired from the Raja of Ramnagar². (Annex C. No. 22.) For the collection of Ramnagar Zakat the Marathas set up posts inside as well as outside the Pargana. (Annex C. Nos. 23 and 24.) In 1759, the Marathas acquired Pargana Nagar Aveli from the Raja of Ramnagar, together with all the rights therein. (Annex C. No. 25.) After acquiring the Pargana the Marathas established Zakat posts at Dadra and Naroli. Zakat collected at Dadra and Naroli was known as Zakat of Pargana Nagar Aveli in contradistinction to the older Ramnagar Zakat which continued to be known by that name. (Annex C. No. 24.)

84. After the assignment of the remaining six villages of the mahal of Pargana Nagar Aveli, and the Zakat, that is the Zakat of Dadra and Naroli, in 1785 (see paragraph 80), Ramnagar Zakat continued to be reserved to the Maratha Government. (Annex C. No. 24.) This was collected at the posts inside the Pargana from all including the Portuguese.

: 85. There were occasions when the Portuguese either failed to pay Ramnagar Zakat to the Marathas or themselves collected and appropriated Ramnagar Zakat due to the Maratha Government. In 1792, the Zakat contractor of the Marathas complained of an instance of such unauthorized collection. The emissary of the Portuguese accepted the position that the Portuguese had no right to Ramnagar Zakat and agreed to refund to the Maratha Government the unauthorized collection. However, the amount was never paid. (Annex C. No. 24.) A Maratha account paper shows that in 1794, the Portuguese having wrongly and forcibly collected Ramnagar Zakat to the extent of Rs. 3929, it was decided to recover

¹ The Central Secretariat of the Peshwa.

² It was also known as Ghambirgad Zakat since the duties collected were applied towards the maintenance of the Maratha stronghold of Ghambirgad just outside and south of Pargana Nagar Aveli.

the amount, if necessary by attachment of the revenue assigned to the Portuguese. (Annex C. No. 26.) Accordingly, the mahal of Pargana Nagar Aveli was attached by the Maratha Government in 1796/97 and a sum of Rs. 787.8.0 recovered. (Annex C. No. 27.)

86. The mahal of the Pargana was again attached in 1798 as a result of a dispute over the collection of Zakat by the Portuguese at Fatepur. However, the Portuguese having represented that what they had collected was not Ramnagar Zakat but the ordinary Zakat which had been assigned to them in 1785, the attachment was withdrawn. (Annex C. No. 28.)

87. From Annexes 11 and 13 to Portugal's Memorial and one document found in the Maratha papers it appears that in April 1798 the Maratha Government, for reasons of budget, attached, as a temporary measure, all its Saranjams, including the mahal of Pargana Nagar Aveli. Attachment of the mahal of this Pargana was withdrawn in the same year. (Annex C. No. 29.)

88. The above three instances underline the precarious nature of the interest granted to the Portuguese and the fact that the Marathas had no intention of parting with sovereignty over the Pargana to the Portuguese, and, in fact, did not do so. This is further borne out by two documents which have been found among the Maratha papers. One is a petition addressed to the Peshwa by the Zamindars¹ of Pargana Nagar Aveli, complaining of the difficulties experienced by them and the other subjects of the Peshwa as a result of the assignment of the mahal to the Portuguese. They prayed in the petition that the mahal should be resumed by the Maratha Government, the petitioners being prepared to pay direct to the Maratha Government the annual sum of Rs. 12,000 promised in the Treaty of 1779. (Annex C. No. 30.) The other document is a resolution of the Poona Court to terminate the Saranjam. It reads: "The envoy from the Firangee of Goa was always accredited to the Sarkar of Poona and the services of the Sarkar were performed by the Government of Goa. For this the mahal of Nagar Aveli in the Taluka of Bassein has been assigned by the Sarkar in Saranjam to the Firangee. Of late no services to the Sarkar are rendered by the Firangee. And the envoy does not reside at Poona. Therefore, the mahal should be resumed." (Annex C. No. 31.) This document is dated 1817. In the same year, the Marathas lost their power to the British.

89. It is thus abundantly clear from the Maratha documents that the Marathas never parted with sovereignty over Pargana Nagar Aveli, and that the Treaty of 1779 and the connected instruments did not bring about cession of territory to the Portuguese, nor did they in any way restrict the sovereignty of the Marathas over their territory.

¹ Landholders. See Glossary at Annex C. No. 1.

90. Paragraph 11 of the Portuguese Memorial suggests that the Treaty of 1779 was intended to settle territorial questions left open by the Treaty of 1739. The facts as stated above are sufficient to disprove the suggestion. But it may be mentioned by way of information that all questions left open by the Treaty of 1739 were finally settled under the Treaty of 1741. (Annex C. No. 32.) It is remarkable that the Portuguese Government should not have annexed this Treaty to its Memorial since it was in force between the Portuguese and the Marathas in 1779 and one of its articles expressly forbade the entry of Portuguese armed forces into the territory of the Marathas and of Maratha armed forces into the territory of the Portuguese.

The British Period (1818-1947)

91. Sovereignty over the territory intervening between Daman and the enclaves of Dadra and Nagar Aveli was assumed by the British after the final defeat of the Marathas in 1818. Later in that year correspondence began between the Governor of Daman and the Governor of Bombay about the levying by the British authorities of customs duties on products of Nagar Aveli exported thence to Daman. The correspondence shows the attitude taken up right at the start of the British occupation of the intervening territory. The Portuguese claimed exemption from customs duties on the ground of treaty arrangements allegedly made between them and the Peshwa during the Maratha period. They did not suggest that, apart from treaties, they enjoyed any general right of freedom of passage or transit between Daman and the enclaves. The British declined to recognize any obligation arising out of arrangements between the Portuguese and the Peshwa, and regarded the granting or withholding of the exemption as a matter of policy to be governed by considerations of local expediency alone.

92. The correspondence began with a letter of 11 November 1818 from the Governor of Daman to Sir Evan Nepean, then Governor of Bombay. (Annex C. No. 33, p. 295.) The Governor alleged that the Treaty of 1780 (strictly, the Treaty of 1779) between the Portuguese and the Marathas had provided that all produce of Nagar Aveli exported to Daman should be absolutely exempt from all duties and taxes; in consequence of breaches of this provision, the Peshwa had issued a sanad reaffirming the exemption; an arrangement had subsequently been made with the Marathas that, for the avoidance of misunderstandings, produce of Nagar Aveli imported for consumption in Daman should be certified under the hand and seal of the Governor of Daman, but this arrangement had been inconvenient in practice; and the British collectors had been levying duties and taxes on all articles exported from Nagar Aveli to Daman, whether certified by the Governor or not. The Governor asked that the treaty, exempting all articles so exported

from duties and taxes, should be confirmed. There was in fact no provision in the Treaty such as the Governor alleged, exempting from duties and taxes produce of Nagar Aveli exported to Daman. His mention of a sanad was equally inaccurate. He was referring to the document of 26 April 1799 (Annex 19 to the Portuguese Memorial), which is not a sanad but a permit issued for a single occasion.

93. On 31 December 1818 the Government of Bombay referred this letter to the Governor-General in Council at Fort William. In his covering letter (Annex C. No. 33, p. 298), the Chief Secretary to the Government of Bombay remarked that the plea that the concession was originally made by the Maratha Government appeared to the Governor of Bombay to be of little weight, and it was considered a question of policy alone. In reply (Annex C. No. 33, p. 299), the Governor-General in Council requested the Governor of Bombay to decide the matter with reference to local expediency alone. Sir Evan Nepean wrote to the Governor of Daman on 1 May 1819 (Annex C. No. 33, pp. 300-302), stating that articles grown and produced in Nagar Aveli and intended for the use of Daman would be exempt from duties and taxes if accompanied by a certificate signed by the Governor of Daman or his nominee, while the local revenue officers would be empowered to open any packages which they suspected of containing contraband goods. The Governor of Daman was asked to confirm "a similar privilege", by which the inhabitants of the Pargana of Bagwara, in British territory, north-west of Nagar Aveli, were allowed to take articles out of Nagar Aveli under notes signed by the Tannadar (a local police official). Sir Evan Nepean added that the Peshwa had told the British Government nothing of any privileges reserved to the Portuguese, so that no exemption so granted could be considered binding on the British authorities; but considering the "amicable relations" between the two Governments, there was a disposition to respect the Governor's wishes "wherever it can be done consistently with a due attention to the interests of my Hon'ble employers". The Governor of Daman replied on 30 May 1819. (Annex C. No. 33, p. 302.) He said that, disregarding arguments which might have shown that the Treaty of 1780 should be observed in spite of the silence of the Peshwa, since Sir Evan Nepean had "so generously been pleased to accede" to his request he was maintaining the practice, notwithstanding its impropriety, whereby certificates of articles imported into Daman from Nagar Aveli were signed by the Governor of Daman and only articles accompanied by such certificates were allowed to pass free of duty. He agreed that the revenue officers of both Governments might open the packages if they had cause to suspect the presence of contraband goods. He was giving orders that the privileges granted by the Treaty between the Portuguese and the Marathas to the inhabitants of the Pargana of Bagwara should continue to be observed.

These privileges were restricted to materials for the construction of the inhabitants' houses and fuel during the rains; and the Governor asked that the inhabitants should be provided with certificates that articles taken from Nagar Aveli were actually required for the construction or use of their own houses. Sir Evan Nepean acknowledged this letter on 18 June 1819 (Annex C. No. 33, p. 304), expressing gratification that "the concession which has been made to the Portuguese Government" had been gratifying to the Governor, and agreeing that the suggested certificates should be issued to the inhabitants of Bagwara.

94. It is to be noted that the whole of the correspondence discussed above related only to produce of Nagar Aveli passing to Daman, and not to any goods passing in the opposite direction. The Portuguese Government relied solely on a mis-statement of the provisions of the Treaty of 1779. The British Government refused to recognize this Treaty as imposing any obligation upon them. In spite of this, the Portuguese Government did not attempt to set up any right existing independently of the Treaty.

95. In the years immediately following this correspondence the question of these duties was again raised by the Portuguese more than once, but never with any suggestion that the exemption depended upon anything but the grace of the British authorities. Thus, on 9 June 1823 the Governor of Daman wrote (Annex C. No. 33, p. 307), alleging that duties were being exacted, and asking the Governor of Bombay to take the matter into his consideration and "order whatever you may think proper". He added that he was sure the Governor would "condescend to accede to so just a claim". On 13 December 1824 the Governor of Daman wrote (Annex C. No. 33, p. 308) complaining that the British authorities had prohibited the export of provisions, cattle, hay, etc., from British territory to Daman, and that certain duties were being levied on provisions, cattle, etc., coming into Daman from the enclaves. (As appears from the foregoing, these articles were exempt from duty only if accompanied by the Governor of Daman's certificate.) He asked the Governor of Bombay to remove these duties "in consideration of the indissoluble ties which unite the two Crowns", and added that he would consider this "a very particular favour conferred on me". The prohibition of the export of provisions from British territory had been imposed in consequence of a like prohibition of the export of provisions from Portuguese territory, and it was raised when the Portuguese prohibition was raised. The duties on produce exported from Nagar Aveli were maintained.

96. On 12 July 1833 the British Political Agent at Surat wrote to the Governor of Daman (Annex C. No. 33, p. 313), complaining that employees of the Portuguese Government had carried off some teakwood from British territory without paying duty. In

his reply (Annex C. No. 33, p. 314), the Governor stated that this timber had been bought for use on a Portuguese frigate then building at Daman; he alleged that, under "an ancient agreement", no duty was payable on any goods belonging to the King of Portugal brought into Daman through the British chowkies (customs posts), and none was charged on goods of the East India Company passing through the Portuguese chowkies. When asked for evidence of this alleged agreement, the Governor, in his letter of 11 October 1833 (Annex C. No. 33, p. 320), referred to the correspondence between Sir Evan Nepean and the Governor of Daman in 1819 (set out in paragraphs 92 and 93 above). The British Political Agent reported this in a letter of 17 October 1833 (Annex C. No. 33, p. 317) to the Secretary to the Government of Bombay. He pointed out that the Governor was claiming free transit of any goods of the King of Portugal brought into Daman, alleging that reciprocal freedom of transit through the Portuguese chowkies was allowed to all goods of the Company; whereas the correspondence cited covered only produce exported from Nagar Aveli (whoever might be the owner of it), and the counter-privilege did not refer to property of the Company, but was confined to timber for building and fuel taken from Nagar Aveli by inhabitants of Bagwara. The Governor of Bombay in Council (Annex C. No. 33, p. 321) ultimately directed the Political Agent to inform the Governor of Daman that the British Government would adhere strictly to the arrangement of 1819, but that arrangement had not been infringed by the demand for duty on the teakwood, which had not been proved to be produce of Nagar Aveli.

97. It is to be observed that in this incident also the Portuguese authorities relied on nothing but an inaccurate account of earlier events. Although trying to establish a privilege which was clearly outside the terms of the arrangement of 1819, they resorted only to mis-statements of the scope of that arrangement, and never alleged the existence of any general right going beyond the terms of that arrangement.

98. In 1848 the British authorities withdrew the concession granted to the Portuguese in 1819, and soon after terminated the arrangement. In May and June 1848 the Deputy Collector of Continental Customs and Excise submitted two reports (Annex C. No. 34, pp. 322 and 323), stating that, since a privilege granted to the Governor of Daman of receiving certain personal supplies from Nagar Aveli free of duty had been grossly abused, he had directed that no goods should be allowed on any pretext to pass the frontier of Daman free of duty. The Governor of Daman reported this (Annex C. No. 34, p. 324) to the British Political Agent at Surat on 20 May 1848. On 12 December 1848, the Governor of Daman wrote to the Governor of Bombay (Annex C. No. 34, p. 327), stating that duty was being demanded on fowls, butter, etc., brought

in for his own table; he enquired whether this was being done by the order of the Governor of Bombay, "in which case", he added, "I shall rest satisfied on the point". The Revenue Commissioner of the Northern District was then asked to report on the whole subject of exemption from duty of produce of Nagar Aveli passing through British territory, and submitted a report dated 19 April 1849 (Annex C. No. 34, p. 328). Having referred to the arrangement of 1819, he said it was conclusively shown that the Governor of Daman had "abused the indulgence of the Bombay Government". He suggested, therefore, that, as the inhabitants of Bagwara no longer needed to get building timber and fuel from Nagar Aveli free of duty, the arrangement of 1819 might be brought to a close. He did recommend, however, that articles for the Governor of Daman's own household should be passed free of duty on production of the Governor's certificate. On 25 May 1849, the British Political Agent at Surat wrote to the Governor of Daman (Annex C. No. 34, p. 331), informing him of the decision of the Governor of Bombay that, "as it has been discovered that numerous abuses (probably on both sides) have taken place", the arrangement of 1819 was to cease; but all articles for the Governor's private consumption were to be passed free of duty on production of his certificate.

99. It is very significant that this decision of the Government of Bombay appears to have been accepted in silence by the Portuguese authorities. They made no protest or complaint, and did not allege that any right enjoyed by the Portuguese Government was being infringed. They thus acquiesced in the view taken by the British Government, that the transit of any goods over British territory between Daman and the enclaves was a matter lying entirely within the domestic jurisdiction of the British Government, and to be controlled according to that Government's policy.

100. Ten years later the matter of these duties was again raised by the Portuguese. Commissioners appointed by the British and Portuguese Governments were engaged in settling certain questions in issue between the two Governments concerning the boundaries of the Portuguese territories in India. On 23 April 1859 the Portuguese Commissioner, Senhor Cunha Rivara, wrote to the Government of Bombay (Annex C. No. 35, p. 332), stating that, as the Portuguese Government had allowed free transit through Portuguese territory to all articles required for the British railway works, it appeared to them just "that there should be reciprocity on the side of the British" and duties should not be enforced on produce of Nagar Aveli passing through British territory to Daman. The Government of Bombay called for a report on the subject, and the British Commissioner, Colonel Pope, submitted a report on 23 June 1859 (Annex C. No. 35, p. 338), enclosing with it a memorandum of 26 May by Senhor Cunha Rivara. In this memo-

randum (Annex C. No. 35, p. 338), Senhor Cunha Rivara referred to the Treaty of 1779 between the Peshwa and the Portuguese, and said that it contained a clause establishing "the widest exemption and the freedom of trade". As has been seen, this assertion was quite groundless. He also referred to the document of 26 April 1799 mentioned in paragraph 92 above (Annex 19 to the Portuguese Memorial), describing it as a sanad, the arrangement of 1819, calling it a pact, the correspondence of 1833 and the withdrawal of the concession in 1848. He was equally inaccurate in referring to the document of 1799 as a sanad, and in describing the arrangement of 1819 as a pact. He then went on to express doubt whether the allegations of abuse made by the British in 1848 had been well founded. He said the Portuguese Government exempted from duty *on transit through Portuguese territory all alcoholic drinks for consumption in British territory and all British products and manufactured goods, and had recently allowed free transit to materials, owned privately and not by the British Government, for railways and telegraphs. They thought there ought to be "a well set reciprocity regarding exemption from transit duties", and hoped the British Government, "not only in view of the spirit of alliance and friendship which binds both the Nations, but also in view of their infallible justice", would restore the exemption observed up to 1848.*

101. Commenting on this memorandum in his report of 23 June 1859 (Annex C. No. 35, p. 342), Colonel Pope remarked:

"I do not suppose that the right of the British Government to levy duties on goods belonging to a foreign State, passing through its territories, can be denied, though the policy of doing so, especially considering the liberal conduct of the Portuguese Government... may be worthy of the consideration of Government..."

Since, however, a restoration of the exemption would be liable to be revoked on a subsequent occasion, Colonel Pope suggested that the best permanent settlement of the question would be by an exchange of territory, giving the Portuguese a strip of territory to form a corridor between Nagar Aveli and Daman. The Governor-General of Goa wrote to the Governor of Bombay on 12 September 1859 endorsing this suggestion (Annex C. No. 35, p. 343); but on 28 September 1860, the Governor of Bombay answered that, after full enquiry and consideration, the cession of any British territory had been found to be impracticable. (Annex C. No. 35, p. 355.) In November 1861, after correspondence with the Secretary of State for India, the Portuguese request was granted and produce of Nagar Aveli was allowed to pass through British territory free of duty for use in Daman, if accompanied by a pass from the Governor of Daman. (Annex C. No. 36.)

102. After 1861, the position of goods in transit between the Portuguese territories and that of duty levied on those goods

seem not to have been altered until the conclusion of the Treaty of 1878, mentioned below in paragraph 109.

103. It is again important to observe the presuppositions which governed the conduct of both sides. The Portuguese had been anxious in 1819 to obtain, in 1848 to preserve, and in 1859 to regain a valuable exemption from duty; yet their arguments (apart from repeated mis-statements of the effect of earlier transactions) were based solely on reciprocity, the friendship between the two countries and the British Government's sense of justice. They never claimed to be entitled to freedom of transit between their territories, or appealed to any custom, or general right existing by treaty, or principle of international law. They regarded the imposition and raising of the duties as lying entirely within the power and domestic jurisdiction of the British Government. Accordingly, when, in 1849, the British Government withdrew the concession which had been granted in 1819, the Portuguese Government acquiesced in silence (see paragraphs 98 and 99 above). The British Government, on their side, likewise regarded the matter as a purely domestic matter, which was not affected by any obligations of treaty, custom or law, but might be handled purely on considerations of policy.

104. As with the transit of goods, so with the passage of soldiers and police, there is no evidence that during this period, from the origin of British sovereignty in 1818 to the conclusion of the Treaty of 1878, either Government ever claimed any right of passage through the territory of the other. There are three incidents which show that entry of soldiers and police was regarded as lying entirely within the control of the Government of the territory to be traversed, and no reliance was placed upon any right alleged to exist by treaty, custom or any principle of law.

105. In 1851, the British authorities in Surat asked (Annex C. No. 37) the Governor of Daman to allow British police to enter Portuguese villages in order to arrest persons who had committed offences in British territory. In his reply (Annex C. No. 37), dated 17 June 1851, the Governor declined to allow this, but said that the Portuguese police would, at the request of the British Government, arrest such persons; and in the same letter the Governor asked the British authorities to arrest a certain person who was wanted by the Judge of Daman but was apparently in British territory.

106. In 1857, during the mutiny in British India, the Portuguese Government allowed a detachment of British troops to pass through Goa on their way to the Southern Maratha district. The Governor-General, in a letter of 27 November 1857 (Annex C. No. 38) to the Governor-General of Portuguese India, expressed the thanks of the British Government "for the ready and cordial assistance afforded by yourself, and the authorities under you".

107. In 1859 an incident arose in connection with the despatch of two Portuguese sepoy from Daman to Bassein, to escort thence a Portuguese judge. The British police at Dhanoo deprived the sepoy of their bayonets (apparently the only weapons they carried). The Governor-General of Goa, on 16 May 1859, protested to the Governor of Bombay against the disarming of the sepoy in spite of their having produced Government passes. (Annex C. No. 39.) He based his protest on the ground of reciprocity, claiming that English soldiers carrying arms were allowed to pass unmolested in Portuguese territory. The Governor-General mentioned, as an "additional circumstance" at Daman, the existence of Portuguese villages surrounded by British territory, but did not attempt to found any special right upon it. The Governor of Bombay apologized (Annex C. No. 39) for the "inadvertence" through which the arms had been detained.

108. From these three incidents it is clear that neither Government claimed any right of passage over the territory of the other, or conceded to the other Government any right of passage over its own territory. When either Government did allow passage to the troops or police of the other, this was done as a concession and a favour, and on the basis of reciprocity. No appeal was made to treaty, custom or any principle of law. The Portuguese Government, even when drawing attention to the peculiar position of Dadra and Nagar Aveli, did not found upon the position of these enclaves any claim to a special right.

109. In 1878 Great Britain and Portugal concluded a Treaty of Commerce and Extradition for their Indian possessions. (Annex C. No. 40.) This treaty was signed at Lisbon on 26 December 1878 and the ratifications were exchanged on 6 August 1879. Article I provided for "reciprocal freedom of commerce, navigation and transit" between the Indian dominions of the parties. Under Article II, the subjects of either party were entitled to enter into, and travel, reside and own lands and houses in, the Indian dominions of the other, and trade with perfect freedom therein. Article VII provided that:—

"All Customs duties, whether on import or export, now levied on the frontier lines between the Indian dominions of the High Contracting Parties shall be abolished, and all Customs establishments connected therewith shall be discontinued."

Article VII went on to provide that all articles of commerce which might be imported into, or exported from, the Indian dominions of either party were to cross the frontier lines without being subject to any duty. Article VIII provided for a Customs union between the Indian dominions of the parties; the laws and regulations governing the levying of Customs duties, and the administration of Customs were, so far as practicable, to be uniform, and the duties on goods imported or exported by sea were to be uniform,

subject to certain exceptions laid down in the Treaty. Under Article XII, the Government of Bombay received, on certain conditions, the exclusive privilege of regulating or undertaking the manufacture and sale of salt in Portuguese India. Article XVIII provided that the revenue, magisterial and police authorities of the Indian dominions of either party might enter the dominions of the other in pursuit of criminals and smugglers. The Article went on:

“The armed forces of one of the two High Contracting Parties shall not enter the Indian dominions of the other, except for the purposes specified in former Treaties¹, or for the rendering of mutual assistance as provided for in the present Treaty, or except in consequence of a formal request made by the party desiring such entry to the other.

The exportation of arms, ammunition or military stores from the Indian dominions of one of the High Contracting Parties into those of the other shall not be permitted, except with the consent of, and under rules approved of by, the latter.”

By Article XIX the parties engaged to enter into a separate Convention governing extradition. Article XXII provided that the Treaty should come into force three months after the exchange of ratifications, and remain in force for a period of twelve years and then, unless terminated by notice given by one party to the other twelve months before the expiration of that period, for further successive periods of twelve years until so terminated.

110. In accordance with Article XXII, the Treaty came into force on 6 November 1879. Thereafter it governed all matters of passage of persons and transit of goods between British and Portuguese India until November 1891. Between 1879 and 1891, therefore, the arrangements concerning passage and transit between Daman and the enclaves were purely conventional, being governed entirely by this Treaty. This applied to the passage of all persons, whether military, police or civilian, and the transit of all goods. In November 1891, however, the British Government having previously given notice under Article XXII, the operation of the Treaty came to an end. It seems remarkable that this Treaty, in spite of its obvious relevance, is nowhere mentioned in the Portuguese Memorial.

111. The Treaty of 1878 having thus lapsed, the question of the exaction of customs duties on goods passing between Daman and Nagar Aveli again arose. The Governor-General of Portuguese India wrote to the Governor of Bombay on 27 May 1892 (Annex C. No.

¹ No “former Treaty” between England and Portugal contained any provision under which the armed forces of either country might enter into, or pass over, the territory of the other; but these Treaties, and in particular that of 1661, gave to England a right to interfere in any case of external attack against Portugal or any Portuguese possession.

41, p. 378) stating that, before the Treaty, transit of goods between the two districts had been free, subject only to the issue of passes by the Portuguese authorities, but since the expiration of the Treaty, free transit had not been allowed at the British fiscal posts. He asked the Governor to order that all products passing from one Portuguese district to the other should pass through British territory free of duty, and offered in return an equal exemption from Portuguese duty of products passing from British territory. The Governor-General added that his request was justifiable because of the practice followed before the Treaty, and because goods from British posts passing over the Marmagao railway were not charged customs dues. The Commissioner of Customs, Salt, Opium and Abkari at Bombay pointed out, in a memorandum of 3 August 1892 (Annex C. No. 41, p. 379), that the Governor-General's account of the practice followed before the Treaty was inaccurate. The exemption had been limited to produce of Nagar Aveli brought under the Governor's pass to Daman, and no exemption had ever been allowed to goods passing from Daman to Nagar Aveli. The general and unrestricted exemption for which the Governor-General was asking would thus go far beyond any previous concession. The Commissioner urged that goods passing from Daman to Nagar Aveli be not exempted from duty, as such exemption would inevitably give rise to abuses: even the exemption of rice produced in Nagar Aveli and taken to Daman for consumption there would involve a considerable sacrifice of revenue and lead to complications. The remission of Portuguese duty on goods passing from British posts over the Marmagao Railway was, the Commissioner said, dictated by self-interest, as the application of the tariff would at once have put a stop to all goods traffic on the West of India Portuguese Guaranteed Railway. On 21 February 1893, the Government of Bombay resolved (Annex C. No. 41, p. 381) that rice produced in Nagar Aveli should be allowed to pass free of duty into Daman, whether for local consumption or for export, but no further concession should be made.

112. On 29 January 1895, the acting Collector of Salt Revenue wrote to the Commissioner of Customs, Salt, Opium and Abkari (Annex C. No. 42, pp. 388-389) reporting that it had long been suspected that rice grown in British villages was being fraudulently exported to Daman free of duty under cover of Portuguese passes, and a case had recently occurred in which two cart loads of rice, certified by the administrator of Nagar Aveli as being produce of Nagar Aveli, had been proved to have come from British territory. The acting Collector did not blame the administrator: the concession was necessarily attended by fraud, and he could suggest no precaution by which it could be prevented. Accordingly, he recommended that the concession be withdrawn. The Commissioner wrote (Annex C. No. 42, p. 388) on 8 March 1895 to the Chief Secretary of the Revenue Department of the Government of Bombay, endors-

ing this suggestion and stating there could be no reasonable doubt that the concession was abused and much British rice evaded duty by passing as Portuguese rice. In support of this he quoted figures supplied by the acting Collector. On 21 August 1895, the acting Chief Secretary to the Government of Bombay wrote (Annex C. No. 42, p. 387) to the Government of India, stating that the Bombay Government proposed to accept the Commissioner's suggestion and terminate the concession, but thought it advisable to enquire if the Government of India had any objection to this course. In reply, the Assistant Secretary to the Government of India wrote, on 29 October 1895 (Annex C. No. 42, p. 390), that the Government of Portuguese India should be informed that any practical suggestion for the prevention of the abuse would be carefully considered, but meanwhile the concession would be provisionally withdrawn. The Government of Bombay wrote in this sense to the Governor-General of Portuguese India on 17 December 1895. (Annex C. No. 42, p. 391.) The Portuguese authorities were apparently unable to make any practical suggestion for prevention of the abuse, for the concession was not restored.

113. On a number of occasions after 1895, the Portuguese authorities tried to get this concession renewed. On 2 September 1899, the Governor-General of Portuguese India wrote (Annex C. No. 43, p. 393) to the Governor of Bombay (Lord Sandhurst), pleading that, as the inhabitants of Daman had been reduced by plague and drought to "a very miserable condition", products of Nagar Aveli, except country liquor, should be allowed to be carried to Daman and vice versa free from duties. He suggested various precautions which might be taken to prevent frauds, and remarked that the Portuguese Government did not levy any tax on goods passing through Marmagao harbour and the Goa territory either to or from British districts. On this letter, the Collector of Salt Revenue commented (Annex C. No. 43, p. 394) on 11 October 1899 that imports into Nagar Aveli and exports therefrom were absolutely unrestricted, and, in respect of exports to Daman, Nagar Aveli was treated exactly as though it was British territory. All trade between the two districts was, therefore, free already, except that in rice. The concession formerly accorded to rice produced in Nagar Aveli had been withdrawn in consequence of abuse, and the Collector could not recommend that it be renewed. The Acting Commissioner of Customs, Salt, Opium and Abkari concurred in this view. (Annex C. No. 43, p. 395.) On 6 March 1900, Lord Northcote having meanwhile succeeded Lord Sandhurst as Governor of Bombay, the Governor-General of Portuguese India renewed his request. (Annex C. No. 43, p. 396.) He said it seemed to him unfair that rice produced in Nagar Aveli should be allowed to be exported free into British territory, but should be liable to British taxes when intended for Portuguese territory, and referred again to the freedom from duty of traffic passing over the Marmagao

railway. He asked the Governor, "if it should be impossible to allow free transit to all goods between Nagar Aveli and Daman and vice versa", to allow rice produced in Nagar Aveli and exported to Daman, and fish exported from Daman to Nagar Aveli, to pass free. Commenting on this request on 29 April 1900 (Annex C. No. 43, p. 398), the Collector of Salt Revenue said it had been proved that fraud was "the necessary concomitant" of any exemption from duty of rice purporting to be produce of Nagar Aveli. He described how, between 1893 and 1895, large quantities of rice grown in British districts had been exported "under fraudulent certificates obtained from the Portuguese authorities". Free and unrestricted traffic with British territory was, he said, far more important to Nagar Aveli than export of rice to Daman, and receipt of goods from Daman, free of duty. It was unreasonable to expect that Nagar Aveli, while treated for purposes of British customs as a British district, should receive special concessions as being part of Portuguese India. On 21 July 1900, the Governor of Bombay wrote to the Governor-General of Portuguese India (Annex C. No. 43, p. 399), declining, on the grounds suggested by the Collector of Salt Revenue, to grant the Governor-General's request.

114. The subject was raised again in 1906, in the course of negotiations for the prevention of the smuggling of liquor from Daman and Nagar Aveli into the adjoining British districts. The British Government had asked the Portuguese Government to fix a minimum price for the sale of liquor, and to limit the number of liquor shops, in these territories. The Portuguese Government offered to do so if, as a compensation for the loss of revenue, the British Government would permit free passage through their territory of salt, rice and other dutiable products from Daman to Nagar Aveli and vice versa. The Government of India submitted this proposal to the Government of Bombay. In his answer, dated 1 November 1906 (Annex C. No. 44, p. 410), the Secretary to the Government of Bombay wrote that this particular form of compensation, "in the opinion of the Governor in Council, should most emphatically not be granted". Regarding rice, he referred to the withdrawal of the concession in 1895, and added that, although every effort had been made, it had never been possible to guard the concession from abuse. The Government of India, accordingly, wrote in a despatch of 28 February 1907 to the Secretary of State for India (Annex C. No. 44, p. 414) that they were "entirely opposed to the acceptance of the proposal of the Portuguese Government".

115. Strenuous efforts to obtain the renewal of the concession were made by various Portuguese authorities between 1933 and 1935. On 15 December 1933, the Portuguese Consul-General at Bombay wrote (Annex C. No. 45, p. 417) to the Chief Secretary of the Political and Reforms Department of the Government of

Bombay, pointing out that rice grown in Nagar Aveli could not enter Daman without passing through British territory, and alleging (wrongly, as it proved) that goods from British territory passing in transit through the Dabel district of Daman were exempted from customs duty. He asked that rice despatched from Nagar Aveli to Daman might be allowed free transit. The Chief Secretary wrote in reply on 15 March 1934. (Annex C. No. 45, p. 422.) He referred to the withdrawal of the concession in 1895 and the correspondence of 1900, and stated that, as the conditions which necessitated the withdrawal of the concession had not changed, the Governor in Council regretted that he could not permit free transit. On 3 August 1934, the Governor of Daman renewed the request, in a "private and personal" letter to the Collector of Surat. (Annex C. No. 45, p. 425.) He suggested certain safeguards which might prevent frauds, and hoped that "the ever proved good sense and spirit of justice of the British administration" would lead them to grant his request, thus easing a little the "enormous difficulties" of the population of Daman. The Governor's suggestions were carefully considered, but on 10 January 1935 the Collector was instructed (Annex C. No. 45, p. 429) to inform him that the Government of Bombay could not reconsider their previous decision. A third attempt was made on 6 June 1935, when the Governor-General of Portuguese India made the same request to the Government of Bombay (Annex C. No. 45, p. 432), expressing the hope that it might be "considered just and deserving of consideration". The reply, dated 28 June 1935 (Annex C. No. 45, p. 433), stated that the Governor in Council regretted that it was not possible to allow the concession for the reasons set out in the letter of 15 March 1934 to the Portuguese Consul-General at Bombay (Annex C. No. 45, p. 422.)

116. It appears from the foregoing that the exaction of customs duty on rice grown in Nagar Aveli and exported to Daman was a matter to which the Portuguese authorities attached much importance. They agitated it repeatedly over a period of many years, and tried every means available to them of obtaining the concession which they desired. Yet, although they made this concession a matter of petition and a matter of bargaining and sought to obtain it on grounds of reciprocity, they never suggested it was a matter of right. The correspondence contains no reference to any right in international law. The British authorities regarded the matter throughout as one to be governed solely by considerations of policy and lying entirely within their domestic jurisdiction. This attitude the Portuguese authorities never challenged.

117. The view taken, alike by the British and Portuguese Governments, of the unrestricted right of the British Government to control the transit of goods through British territory is further illustrated by the action taken about salt manufactured in Daman.

On 25 January 1895, the Government of India, in consequence of the illicit importation of salt into the British districts adjacent to Daman, prohibited the importation by land of Daman salt into British India. (Annex C. No. 46.) It is to be noted that in this case the British Government imposed, not merely a duty, but a complete embargo upon the import of salt from Daman into British territory. The Portuguese Government never alleged that this infringed any right enjoyed by them, although clearly the embargo was not to their liking. The free passage of salt through British territory from Daman to Nagar Aveli and vice versa was one of the concessions demanded by the Portuguese Government in the negotiations in 1906, mentioned in paragraph 114 above. The Secretary to the Government of Bombay, in his letter of 1 November 1906, there mentioned (Annex C. No. 44. p. 410), referred to the prohibition of 1895, and said that the removal of that prohibition would lead to a revival of the difficulties and loss of revenue. As set out in paragraph 114 above, the Government of India informed the Secretary of State (Annex C. No. 44, p. 414), that they were "entirely opposed to the acceptance of the proposal of the Portuguese Government". This prohibition of the import of Daman salt was never removed during the rest of the period of British rule in India, yet the Portuguese Government never suggested that it infringed any right possessed by them.

118. A number of other incidents testify to the recognition by the Portuguese Government of the right of the British authorities to regulate, solely on grounds of policy, the transit of goods through British territory. Thus, on 1 March 1904, the acting Governor of Daman wrote to the Collector of Salt Revenue at Bombay (Annex C. No. 47, p. 435), complaining about the closing on public holidays of the British customs house at Kunta. This, he alleged, had caused a good deal of inconvenience, medicines urgently required in Nagar Aveli having sometimes been detained at the customs house. The acting Governor did not suggest that the Government of Bombay were exceeding their rights in charging duty upon, or even detaining, goods consigned from Daman to Nagar Aveli, but merely wrote that he would "esteem it a great favour" if arrangements could be made for passing goods through the customs house on public holidays. The Collector of Salt Revenue wrote back on 21 July 1904 (Annex C. No. 47, p. 439), stating that on such days stores of the Portuguese Government would be passed, provided they were covered by a pass signed by the Governor or some responsible official. Again, on 4 January, 22 February and 15 March 1915 (Annex C. No. 48, pp. 441-443), the Government of Bombay, acting on requests of the Portuguese Consul-General at Bombay, allowed certain specified articles of food, drink and tobacco to pass from Daman to Nagar Aveli, free of duty, for the use of certain Portuguese officers. At the same period the Military Commandant of Nagar Aveli was allowed (Annex C. No. 48, p. 446), "as a matter of personal

courtesy" to import from Daman without payment of duty specified quantities of wines, spirits, tobacco and other provisions, for his own use and that of his family. In the autumn of 1915, however, a consignment for the Commandant was found, when opened at the frontier, to contain articles not covered by the permit. Consequently, the Government of Bombay ordered (Annex C. No. 48, p. 447) on 23 December 1916 that the Commandant be allowed free passage each year of 60 dozen Portuguese wine for himself alone; the concession was not to be allowed other officials, nor was it to extend to other stores.

119. Two more incidents may be cited, to show how the absolute right to control transit of all goods was assumed by the British authorities and accepted without question or complaint by the Portuguese. In 1912, in order to prevent the import into Nagar Aveli of dates to be used in distillation, the export of dates from British India to Nagar Aveli was absolutely prohibited. Here, as in the case of Daman salt (see paragraph 117 above), a complete embargo, not a mere customs duty, was imposed. Here again, as in the case of the salt, no protest or complaint appears to have been made by the Portuguese authorities. However, in order to avoid unnecessary inconvenience to travellers the Government of Bombay ordered, on 9 June 1916 (Annex C. No. 49), that travellers from Daman to Nagar Aveli be allowed to take with them one pound of dates each for their personal consumption on the journey. The second incident occurred in 1936. On 9 June, the Portuguese authorities asked (Annex C. No. 50) to be allowed to send from Daman free of duty some iron rails to replace the wooden posts of the telegraph lines in Nagar Aveli. They pointed out in their letter that the rails belonged to the Portuguese Government and the Government of Bombay was interested in these lines, which formed part of the telegraph communication between Bombay and the native state of Dharampur. The Government of India, as stated in their letter of 10 August 1936 to the Government of Bombay (Annex C. No. 50), were "pleased to sanction, as a special case", the transport of the rails through British territory free of customs duty.

120. The attitude thus consistently adopted by the Portuguese Government is further reflected in the views expressed by its delegate to the First General Conference on Freedom of Communications and Transit held at Barcelona in 1921. The Portuguese delegate wrote a letter to the delegate of the Government of India (Annex C. No. 89), suggesting that, since the proposed Transit Convention would not be applicable to transit between Daman and Nagar Aveli, a "fair arrangement" dealing with such transit between Daman and Nagar Aveli be negotiated between the two Governments. This letter emphasizes once more the view held

by both the Governments, that such transit was a matter for negotiation and not a matter affected by any right.

121. While the Treaty of 1878 (Annex C. No. 40) was in force, the entry of police and armed forces of one party into the territory of the other was governed by Article XVIII. That Article permitted the revenue, magisterial and police authorities of either party to cross the frontier and enter the dominions of the other in pursuit of criminals or smugglers. The clear inference from this provision is that those authorities had no right to cross the frontier for any other purpose. The Article went on to provide expressly that the armed forces of either party "shall not enter the Indian dominions of the other", except for purposes specified in that treaty or in former treaties or "in consequence of a formal request". It will appear from incidents occurring after the lapse of the Treaty in 1891, that exactly the same procedure of request and permission continued to be followed, both the British and the Portuguese Governments clearly accepting the view that, quite apart from Article XVIII, no right of passage over the other's territory existed.

122. The Treaty of 1878 lapsed in November 1891, so that the treaty obligation itself contained in Article XVIII no longer applied. Nevertheless, neither Government ever regarded itself as possessing any right of such entry. Thus, on 26 November 1901, the Portuguese Consul-General in British India applied to the Government of Bombay by telegram (Annex C. No. 51) for urgent permission for a Portuguese military detachment to proceed from Daman to Bombay by land with arms. The Government of Bombay answered on the same day (Annex C. No. 51) that entry of armed troops into British territory could not be permitted until the orders of the Government had been obtained. Permission for this detachment was sent to the Consul-General on 30 November (Annex C. No. 51), with a request that in the future sufficient notice might be given to enable these orders to be obtained and instructions to be given to the local authorities. The Consul-General acknowledged this request (Annex C. No. 51) and thanked the Government of Bombay for their "prompt and kind concession". In 1912, there was a rebellion in Goa against the Portuguese Government. In connection with this, the Portuguese Government asked permission (Annex C. No. 52) to send a detachment of soldiers across British territory close to the border, and on 6 August 1912 the Government of India gave this permission by telegram (Annex C. No. 52) "as a special case". The Portuguese Government subsequently abandoned this plan, but in October asked permission (Annex C. No. 52) to send the detachment about thirty miles into British territory by train, and then to march them nine miles to the Portuguese border. On 11 October 1912, the Government of India refused to allow the transport of the troops by train (Annex C. No. 52). The detachment eventually passed through British

territory on foot and on 25 November 1912 the Portuguese Consul-General at Bombay sent to the Government of Bombay (Annex C. No. 52), the Governor General of Portuguese India's "sincere thanks to the British Government for having graciously allowed the passage of Portuguese armed force in the British territories". On 1 October 1912, four armed British police escorting two prisoners passed through Goa on their way from Ratnagiri to Dharwar, no previous intimation having been given to the Portuguese Government. The Portuguese Consul-General wrote to the Government of Bombay on the following day (Annex C. No. 53, p. 459), stating that in such cases the Portuguese Government should be informed. The Acting Secretary to the Government wrote back on 7 December 1912 (Annex C. No. 53, p. 462), apologizing for the incident and stating that officers of the Government would be instructed to communicate directly with the Chief Secretary to the Portuguese Government, or the local authorities, before sending armed police through Portuguese territory. The Consul-General replied (Annex C. No. 53, p. 462) on 21 January 1913 that there was no objection to the passage of British police on duty through Portuguese territory, provided there was "the same reciprocity under similar conditions", in which case previous notice would be given to the Government of Bombay. That Government by their letter of 20 February 1913 (Annex C. No. 53, p. 463) accepted this arrangement, but made it clear that it was not to apply to armed troops. On 7 August 1913, the Portuguese Consul-General at Bombay, Sen. Alfredo Casanova, wrote to the Secretary to the Government of Bombay (Annex C. No. 54), informing him that a detachment of Portuguese soldiers had arrived in Bombay that day from Goa. He met the Secretary to the Government the same day, and apologized for having forgotten to give information beforehand about the passage of the troops through British territory. On 15 September 1913, the Secretary to the Government of Bombay wrote to the Secretary-General to the Government of Portuguese India (Annex C. No. 54), drawing his attention to this incident and asking that orders be given to ensure that Portuguese troops did not cross the frontier of British territory until permission had been received from the Government. A similar incident occurred on 12 January 1916 (Annex C. No. 55), when a detachment of Portuguese soldiers arrived in Bombay from Daman on their way to Diu, having passed through British territory without permission from the Government of Bombay. In consequence the Portuguese Consul-General (Sen. Casanova) sent them back to Daman. On 12 February 1916, Sen. Casanova received a telegram (Annex C. No. 55) from the Governor of Diu informing him that a detachment of Portuguese soldiers would arrive in Bombay the following day and go on to Goa. Sen. Casanova at once sent a telegram in reply (Annex C. No. 55), telling the Governor of Diu that when soldiers had to cross British territory he should always "communicate

beforehand" for the "indispensable authorization", after receipt of which the soldiers could proceed. Permission was asked in this way not only for the passage of detachments, but even for the passage of individuals. Thus, on 6 May 1916, the Portuguese Consul-General applied (Annex C. No. 55) to the Government of Bombay for permission for one officer and his family to travel from Bombay to Nagar Aveli, and on 9 May (Annex C. No. 55) for one musician to travel from Bombay to Daman. It is particularly to be observed that the Portuguese Consul-General's own statement, in his telegram of 12 February 1916 quoted above (Annex C. No. 55), was quite unqualified. Before any Portuguese troops could cross any British territory, the "authorization" of the British Government was "indispensable".

123. It is clear from these incidents that neither Government possessed a right of passage for armed men over any part of the territory of the other. This is confirmed by an agreement (Annex C. No. 56) made on 25 September 1920, between the Government of Bombay and the Government of Portuguese India. This agreement provided that armed police of either party might enter the territory of the other in actual pursuit of an offender, and might arrest the offender if the pursuit had not been interrupted; they had to report themselves as soon as possible to the authority of the territory entered, and hand over the person arrested to the police of that territory. Subject to this, armed police of either party below the rank of sub-inspector, and officers of, or above, that rank were not to enter the territory of the other escorting prisoners without consent previously obtained. The agreement also laid down conditions on which unarmed police of either party, and officers of, or above, the rank of sub-inspector, might enter the territory of the other; and special provisions for British police escorts travelling by rail from British India to Marmagao and vice versa.

124. For the period from 1926 to 1953, eighty-eight instances are recorded of application by the Portuguese authorities for permission for their troops to pass through territory of British India or (latterly) of the Indian Union. Of these instances, twenty-two relate to passage between Daman and Nagar Aveli. Two particular incidents from the last years of British rule may be cited. On 11 April 1940, the Government of Portuguese India wrote (Annex C. No. 57, p. 473) to the Government of Bombay, mentioning an occasion on which a German missionary travelling on a bus from Nagar Aveli had been arrested by British troops at the customs post of Lavacha. The Portuguese Government suggested that, as the road from Daman to Nagar Aveli passed "several times" through British territory, it might be possible for armed police of both Governments to travel freely, on this road alone, without previous authorization. The Government of Bombay

answered, on 30 July 1940 (Annex C. No. 57, p. 479), that they were prepared to enter into such arrangements, provided that not more than ten armed police travelled across British territory at once, and intimation of their passage was given to the local authorities within twenty-four hours. If more than ten were required to travel at once, previous permission was to be obtained in accordance with existing practice. The Portuguese Government accepted this proposal. (Annex C. No. 57, p. 480.) On 17 October 1941, the Portuguese Vice-Consul at Bombay wrote (Annex C. No. 58, p. 484) to the Chief Secretary to the Government of Bombay, asking that permanent instructions might be issued allowing free transit to the armed soldiers accompanying the shroff (treasurer) whenever public funds had to be transferred from Nagar Aveli to Daman. The Chief Secretary answered on 11 November 1941 (Annex C. No. 58, p. 484), referring to the agreement of 1920, and stating that the Government of Bombay anticipated no difficulty in issuing the necessary orders on each occasion, and suggested that the existing practice be continued. The Portuguese authorities did not then pursue the matter further. It may be observed that an incident of April 1943 is wrongly quoted in the Portuguese Memorial (paragraph 23 and Annex 18) as an example of armed men being allowed by the Government of Bombay to escort public funds from Nagar Aveli to Daman. That incident related to a transfer of funds from Nagar Aveli to Bombay, not to Daman.

125. It may here be observed further that the Portuguese Government, in support of their claim that, from the acquisition of the enclaves to 1954, they never ceased to exercise a right of passage between the enclaves and Daman, cite only two more incidents. Both belong to the distant past, and neither supports the claim. There is first the incident of 1826, mentioned in paragraph 21 of the Memorial. That incident has no significance, for the object of the Portuguese expedition was to punish the Raja of Dharampur, and the British Government was no less anxious than the Portuguese Government that he should be punished. Furthermore, the Governor of Daman thought it necessary immediately to report his proceedings against the Raja to the British Political Agent at Surat. The second incident is that of 1849, mentioned in paragraph 22 of the Memorial. In this case there is no evidence that the permission of the British Government was not sought and obtained before any Portuguese troops passed through British territory.

126. From the foregoing it is clear that after the lapse of the Treaty of 1878 the British authorities in India always regarded the passage through any part of their territory of armed Portuguese soldiers or police as a matter lying entirely within their jurisdiction, to be permitted or prohibited as they chose. The Portuguese authorities shared this view and (except in cases covered by special

agreements) applied for permission whenever such passage was desired. There was never any suggestion of the existence, by treaty, custom or any principle of law, of a general right of passage for armed men.

127. Other questions, closely related to those concerning the admission to British territory of armed Portuguese troops and police, arose in connection with the introduction by the Portuguese into British territory of arms. Here again, both in cases of individuals bearing arms and in cases of consignments of arms sent by the Portuguese Government across British territory, it is clear from what happened that neither side regarded the Portuguese as possessing any peculiar rights. The ordinary municipal law of British India was applied to these cases, subject to one or two special concessions made by the British Government from time to time.

128. The Indian Arms Act, 1878 (Annex C. No. 59), extended to the whole of British India (and still extends to the whole of the Indian Union). Section 6 provides that no person shall bring or take by sea or land into or out of British India any arms, ammunition or military stores, except under a license (but this does not apply to arms, other than cannon, or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess them). Sections 8 and 9 provide for the imposition of duties on arms brought into British India. Section 10 empowers the Governor General in Council to regulate or prohibit the transport of any description of arms, ammunition or military stores. The Indian Arms Rules, 1879 (Annex C. No. 60), made under the powers contained in this Act, provided for the issue of licenses for the import and export of arms, ammunition and military stores. In April 1880, the Governor General in Council added to these Rules Rule 7A. (Annex C. No. 61.) Rule 7A (a) provided that nothing in the Rules should be deemed to authorize the grant of a license to import arms, ammunition or military stores from Portuguese India. Rule 7A (b) provided that nothing in the Rules should be deemed to authorize the grant of a license to export to Portuguese India any arms, ammunition or military stores, unless they were exported for the exclusive use of, or covered by a special import license issued by, the Government of Portuguese India. Rule 7A (b) was made in compliance with Article XVIII of the Treaty of 1878. In 1895, the Treaty having lapsed, Rule 7A (b) was repealed. (Annex C. No. 62.) Rule 7A (a) remained in force, and was re-enacted in new Rules made in 1909 and in subsequent re-enactments. (Annex C. No. 66.) The effect of Rule 7A (a) was to make it impossible for any arms, ammunition or military stores to be sent from Daman to Nagar Aveli or vice versa or from any other part of Portuguese India into British India, without the special dispensation of the Government of India. As will appear,

the Portuguese Government recognized this operation of the rule by applying for such dispensation whenever they wanted to send a consignment of arms across British territory. They never claimed to be entitled to send arms, ammunition or military stores across any part of British territory, or complained that Rule 7A (a) infringed any right possessed by them.

129. Three instances may be cited of such application by the Portuguese Government. On 3 November 1898, the Governor General of Portuguese India wrote to the Governor of Bombay (Annex C. No. 63), asking that the British police be directed to offer no objection to the carriage of certain rifles, bandoliers and ammunition from Daman to Nagar Aveli. The necessary instructions were given to the district officers, and on 2 December 1898 the Governor General wrote (Annex C. No. 63) to thank the Governor for "the readiness and goodwill" with which he had granted the request. The second of these three instances arose at the end of 1914. On 21 December, the Portuguese Consul-General at Bombay wrote to the Secretary to the Government of Bombay (Annex C. No. 64, p. 496), asking for permission to send certain rifles and cartridges from Goa to Nagar Aveli and certain guns and cartridges back from Nagar Aveli to Goa. On 30 December, he wrote (Annex C. No. 64, p. 498) saying that permission was required for passage between Daman (not Goa) and Nagar Aveli. A minute (Annex C. No. 64, p. 497) written in the office of the Secretary to the Government pointed out that the Government of Bombay could grant a license for the export of the arms, but the import, since importation of arms and ammunition from Portuguese India was prohibited under the Indian Arms Rules, 1909, Rule 7, could be sanctioned only by the Government of India. The Government of Bombay wrote to the Government of India about this on 31 December 1914 (Annex C. No. 64, p. 510), and the latter Government on 28 January 1915 (Annex C. No. 64, p. 500) sanctioned the importation of the arms and ammunition from Daman to Nagar Aveli. Import and export licenses (Annex C. No. 64, pp. 503-506) were accordingly issued to the Portuguese Consul-General. A similar instance occurred in 1917. On 10 September the Secretary-General to the Government of Portuguese India wrote to the Secretary of the Government of Bombay (Annex C. No. 65, p. 512), asking for an authorization for the sending of certain arms, equipment and ammunition from Daman to Nagar Aveli. The same procedure was followed as in the last instance. The Government of India having, on 1 October 1917, sanctioned the importation (Annex C. No. 65, p. 514) import and export licenses (Annex C. No. 65, pp. 519-520) were issued to the Governor of Daman.

130. Sections 13 to 15 of the Indian Arms Act, 1878, prohibit the possession of arms, ammunition or military stores by any person, except under a license. By notification of 6 March 1879

(Annex C. No. 60), the Governor-General in Council exempted from the operation of these sections a number of classes of persons, including Europeans, other than British-born subjects of the Queen-Empress, who were temporarily residing or travelling in India. All Portuguese officers and officials not covered by this exemption were always regarded by both British and Portuguese Governments as obliged, under the Indian Arms Act and Rules, both to obtain licenses for their arms and to pay duty on them. This appears from the special concessions which were sometimes made, and the Portuguese Government never protested against the operation of the Act or complained of the infringement of any right.

131. Thus, in 1893 the Government of Bombay proposed to exempt from the operation of the Arms Act all non-European civil officials entitled to wear a uniform and sword, and all military officers, of the Government of Portuguese India. The Government of India did not consent to this (Annex C. No. 67, p. 527) but offered no objection to executive orders by the Government of Bombay that Chapter IV of the Act (which included Sections 13 to 15) should not be enforced against such officials, and the arms which they were entitled to carry in Portuguese India should be exempt from duty, in specified districts of the Bombay Presidency. Accordingly, the Governor in Council ordered on 28 December 1893 (Annex C. No. 67, p. 528) that, "as a special case" and "as a matter of courtesy", Chapter IV of the Act should not be enforced against these officials and officers "when travelling through Districts through which the ordinary routes by land or sea from Goa to Daman pass"; and an order of 22 February 1894 (Annex C. No. 67, p. 528) exempted from customs duty in the same districts the arms which these officials and officers were entitled to carry in Portuguese India. It is to be noted that these privileges applied only between Goa and Daman, and not between Daman and Nagar Aveli. The Governor General of Portuguese India, writing on 20 March 1894 to the Governor of Bombay (Annex C. No. 67, p. 526), promised in return "equal privileges to British functionaries who may pass through Portuguese India".

132. On 1 March 1904, the acting Governor of Daman wrote to the Collector of Salt Revenue at Bombay (Annex C. No. 47, p. 435), asking that officials of his district crossing the frontier for sporting purposes might not be required to get licenses for their guns. In his answer of 21 July 1904 (Annex C. No. 47, p. 439), the Collector referred to the order of 22 February 1894 (Annex C. No. 67, p. 528), and regretted that he could not make any concession beyond those already granted. By an order of 4 March 1907 (Annex C. No. 68), the Government of Bombay extended the exemption from customs duty, granted by the order of 1894, to the weapons belonging to Portuguese officers passing through Bombay en route

to Goa or other Portuguese possessions. The exemption still did not apply to officers travelling between Daman and Nagar Aveli.

133. On 11 April 1908, the Commissioner of Customs, Salt, Opium and Abkari wrote to the Secretary to the Government of Bombay (Annex C. No. 69, p. 532), referring to the orders of 1894 and 1907 and suggesting that, as British officers from time to time had occasion to pass through Castle Rock to Marmagoa, the Portuguese authorities might be asked in return to allow British officers to carry their personal firearms by rail across Portuguese territory without restriction. This suggestion was communicated to the Governor General of Portuguese India; he answered on 14 July 1908 (Annex C. No. 69, p. 533), offering to allow British civil or military officers travelling by the Marmagoa railway to carry a revolver or a gun free, and asking for "a similar concession" for Portuguese civil or military officers. The Commissioner pointed out, in a letter of 15 October 1908 to the Secretary to the Government (Annex C. No. 69, p. 535), that the only return the Portuguese could claim was the same concession for the firearms of Portuguese officers passing from Goa via Castle Rock direct to Daman. The Governor of Bombay wrote to the Governor General on 13 November 1908 (Annex C. No. 69, p. 536), stating that if British officers passing through Goa on their way to British territory were allowed to transport their firearms without let or hindrance, a similar concession would be made to Portuguese officers passing through British territory direct from one part of Portuguese territory to another. The Governor General, by his letter of 21 November 1908 (Annex C. No. 69, p. 536), accepted this proposal.

134. It is thus clear that the Portuguese never conceived themselves to possess any right to send or to carry arms across British territory. They never alleged that any treaty, custom or principle of law entitled them to ignore the ordinary municipal law of British India. They never contended that any special rules applied to the enclaves of Dadra and Nagar Aveli. Both Governments regarded all matters of the carriage or consignment of arms within, or across, any British territory as lying exclusively within the domestic jurisdiction of the British Government.

The Post-British Period (1947 to date)

135. After the withdrawal of the British Government from India in 1947, the Portuguese authorities seized the opportunity to address anew to the Government of Bombay requests which they had previously made without success in the days of British rule. On neither side, however, was there any change in the fundamental attitudes and pre-suppositions which have already been illustrated. In making requests concerning transit of goods and passage of persons between Daman and Nagar Aveli, the Portuguese authorities still made no attempt to rely on any right, whether existing

by treaty, custom or principle of law. In dealing with such requests, the Indian authorities guided themselves purely by considerations of policy, and regarded the transit and the passage as matters lying wholly within the domestic jurisdiction of India.

136. Thus, on 30 December 1947 the Portuguese Consul at Bombay wrote to the Government of Bombay (Annex C. No. 58, p. 485), repeating the request which had been made in 1941 (see paragraph 124 above). He asked for general permission for armed soldiers to accompany the shroff (treasurer) of Daman whenever he transferred money to Bombay, and to use their firearms in case of any surprise attempt. The Chief Secretary to the Government of Bombay answered on 23 February 1948 (Annex C. No. 58, p. 486), referring to the letter of 11 November 1941 (Annex C. No. 58, p. 484) and stating that the existing procedure should continue, unless there were special reason for a change. This existing procedure continued to be followed until October 1952, when escorts provided by the Indian Government took the place of the Portuguese escorts. (Annex C. No. 58, p. 486.)

137. On 27 November 1947, the Portuguese Consul at Bombay wrote to the Government of Bombay (Annex C. No. 70, p. 538), complaining that a temporary customs house had been opened at Pimpolia, for the purpose of preventing certain goods from entering Nagar Aveli. He also complained that even such things as wheat, flour and sugar were subject to duty when passing from Daman to Nagar Aveli, and there were other things (such as salt) the entry of which into Indian territory was prohibited altogether. He proposed that the Portuguese and Indian Governments should agree that no duty be demanded on goods, other than goods of local production, transported from Daman to Nagar Aveli. The Assistant Collector at Anand stated, in a letter of 20 February 1948 (Annex C. No. 70, p. 542), that the post at Pimpolia had been established by the Civil Supplies Department, in order to prevent more than specified quantities of rationed and controlled commodities passing into Nagar Aveli. The Collector of Central Excise passed this information on to the Chief Secretary to the Government of Bombay in his letter of 5 March 1948. (Annex C. No. 70, p. 541.) He added that, for all customs purposes Nagar Aveli was considered Indian territory; so that imports from Daman, whether for consumption in Indian territory or in Nagar Aveli, were liable to duty.

138. On 17 May 1949, the Governor of Daman wrote to the Collector of Central Excise at Bombay (Annex C. No. 71), asking that the import of Daman salt into Nagar Aveli for local consumption be permitted. The Collector, reporting this to the Secretary of the Central Board of Revenue in a letter of 4 June 1949 (Annex C. No. 71), stated that the prohibition of the import of Daman salt dating from 1895 (see paragraph 117 above) had been imposed

to safeguard the salt revenue of the Government of India. The central excise duty on salt had been abolished in 1947, so there was, in his opinion, no point in maintaining the embargo on Daman salt. The Government of India accepted this view, and removed the prohibition of the entry of Daman salt into Indian territory.

139. In 1950, the Government of India made a considerable concession, allowing all stores of the Portuguese Government to pass from Daman to Nagar Aveli free of duty, if accompanied by the Governor of Daman's certificate. Information of this is contained in the letter of 14 June 1950¹ from the Ministry of External Affairs to the Portuguese Legation in India (Annex C. No. 72). The concession was withdrawn in 1954.

140. However, the most striking proof of the attitudes maintained by the parties, up to the very eve of this litigation, is provided by the diplomatic correspondence consequent upon the popular risings which took place in Dadra and Nagar Aveli in the summer of 1954. All the Portuguese officials were obliged by these risings to withdraw from the enclaves. The Portuguese Government, not being able to reconcile themselves to the liberation of the enclaves, wished to send troops from Daman to suppress the risings and reduce the inhabitants again to submission to their authority. A study of the diplomatic correspondence reveals that, even in the face of this crisis, the Portuguese Government continued simply to ask for permission for the passage of their representatives, and never sought to rely upon the rights which they now claim to possess. It seems inconceivable that, if they had possessed such rights of passage over Indian territory, they would not in those circumstances have insisted upon them.

141. On 23 July 1954, the Portuguese Legation at New Delhi sent a note to the Ministry of External Affairs (Annex C. No. 73), referring to the visas which the Governor of Daman held for travelling to Nagar Aveli, and protesting against the action of the Indian authorities, taken on what the Legation described as "the pretext" that they had no instructions from their superiors, in obliging him to return to Dadra on his journey from Dadra to Daman on 21 July. It is to be observed that the only protest made in this note was against the turning back of the Governor. There was no suggestion that the Governor, any more than any other alien, had a right to enter Indian territory, or was above the ordinary law requiring the production of passports and visas.

142. On 24 July 1954, the Legation sent a note to the Ministry (Annex C. No. 74) protesting against what they described as "armed aggression" against Dadra. They alleged that the Indian Government had hindered communications between Daman and the enclaves, and also that the Portuguese Government had protested that these hindrances were "offensive to the most elementary principles

¹ See Annex 22 to Memorial, p. 55. [*Note by the Registry.*]

of good relationship and neighbourliness between states". There was no reference, be it noted, to any right infringed by these alleged hindrances. Likewise, the Legation did not threaten to exercise any right of sending troops across Indian territory, but, in this same note, asked for "the grant of the necessary transit facilities to the Portuguese armed forces and authorities". In a further note of 26 July 1954 (Annex No. 75), the Legation renewed this request, and asked also that delegates of the Governor of Daman should be allowed to visit Nagar Aveli and Dadra. The Legation referred in this note to "rights of others, which support passage of delegates of the legitimate Government". Nevertheless, they described that for which they were asking as a "concession"; asked separately that the delegates might be allowed to take a wireless set with them; and, so far from insisting upon any right, offered to limit the number of the delegates to three and to send them unarmed. The Ministry answered both these notes on 28 July 1954. (Annex C. No. 76.) They rejected the demand for passage of Portuguese troops and police, saying that they did not, and could not, permit the movement of foreign troops and police on Indian soil. They also were unable, in view of the tension and strong feelings created by Portuguese repression, to allow a delegation to be sent to the enclaves.

143. In a subsequent note, the Legation said nothing even of the request to be allowed to send either troops or delegates of the Governor of Daman into Indian territory. Instead they suggested that both Governments should cooperate in the appointment of foreign observers. The Ministry suggested in reply that representatives be appointed to discuss this proposal. The Legation answered this in a note of 13 August 1954, which did contain a reference to transit. So far from relying upon, or even suggesting, any right of passage or transit, the Legation wrote merely that, if negotiations were to take place, "it is naturally assumed that the Indian Government will not fail to assure the indispensable transit facilities".

144. The Legation, although addressing notes to the Ministry almost daily, did not refer again, even indirectly, to the matter of transit between Daman and Nagar Aveli until sending their note of 22 August 1954. (Annex C. No. 77.) In this note, the Legation alleged that the Indian Government was keeping Dadra and Nagar Aveli "completely isolated", so that the inhabitants were "deprived of the protection due from lawful authority". In the same note, the Legation referred expressly to international law and international obligations in connection with postal traffic and an alleged state of "economic blockade". It is specially noteworthy, therefore, that in referring to the supposed isolation of Dadra and Nagar Aveli the Legation said nothing of international law or obligations, and laid no claim to a right of passage. The Ministry, in their note of 24 August 1954 (Annex C. No. 78),

described the allegations made in the Legation's note as "totally unfounded".

145. In a note of 30 August 1954 (Annex C. No. 79), the Ministry replied to the Legation's note of 23 July 1954 (Annex C. No. 73), and denied the allegations made by the Legation in that note.

146. The Legation also, on 30 August 1954, sent a note to the Ministry asking for information about the situation of some nuns in Nagar Aveli. (Annex C. No. 80.) In this note the Legation alleged that the Indian Government had produced a situation "which unables [*sic*] the Portuguese authorities to enter in communication" with Nagar Aveli. There was, once more, no claim to any right of passage, nor, on this occasion, any request for permission to pass.

147. Of much greater significance, however, was another note addressed by the Legation to the Ministry on the same day (30 August 1954—Annex C. No. 81). This note was devoted solely to the one matter of access to Dadra and Nagar Aveli. According to a statement made to the press by the Portuguese Minister of Foreign Affairs, Dr. Paulo Cunha, on 30 August 1954, the Portuguese Government decided "to concentrate its whole attention" on this "single, very concrete and limited point, where there is a crying need for immediate steps". In view of the great importance thus attached to the matter by the Portuguese Government, it may be supposed that they set out in their note every argument available to them in connection with access to the enclaves. Yet the note says nothing of any treaty, custom or principle of law, and lays no claim to any right. It is simply another request for permission for access, and Dr. Cunha, in the statement already mentioned, described the granting of such permission, not as the fulfilment of any right enjoyed by Portugal, but as "this minimum of international collaboration".

148. In an answering note of 1 September 1954 (Annex C. No. 82), the Ministry stated that, in view of the existing situation, they could not grant facilities for Portuguese authorities to cross Indian territory. The Legation sent a further note on 6 September 1954. (Annex C. No. 83.) In this note they alleged that the Indian Government was refusing to cooperate in any way with the Portuguese Government to remedy a "manifestly illegitimate state of affairs" in Dadra and Nagar Aveli; and went on to claim that "such a refusal is contrary to the obligations of international law and the standards of coexistence between States". It is to be observed that, when "the obligations of international law" are at last mentioned in the correspondence, they are mentioned only in connection with a vague allegation of "refusal to cooperate in any way with the Portuguese Government" and with reference to "coexistence between States". There is no allegation of the exist-

ence of any particular obligation relevant to the question of passage over Indian territory, and no reference to any of the so-called rights, supposed to exist by treaty, custom or principles of law, upon which the Portuguese application is now based. Furthermore, in this very note of 6 September 1954, the Legation went on to refer to passage through Indian territory, abandoning their request that Portuguese delegates be granted access to Dadra and Nagar Aveli and asking instead that delegates of third countries chosen by Portugal be allowed to go thither. In thus dealing with the very matter of passage the Legation once more merely requested the Indian Government to "authorize the access" and made no suggestion that access was secured to them by right. The Legation's abandonment, as a result of the Indian objections, of their request to be allowed to send Portuguese delegates across Indian territory is also absolutely inconsistent with the existence of any right of passage. The Ministry answered this note on 9 September 1954 (Annex C. No. 84), pointing out that all foreign nationals wishing to cross Indian territory had to comply with ordinary passport regulations.

149. On 13 September 1954, the Legation sent to the Ministry a copy of a communiqué released by the Portuguese Ministry of External Affairs in Lisbon on the previous day (Annex C. No. 85). This communiqué referred to the Indian Government's refusal to allow Portuguese officials to travel to Dadra and Nagar Aveli. The arguments used in support of that refusal did not, according to the communiqué, "adjust themselves neither [*sic*] to the rights of Portugal nor to the international duties of the Indian Union, who, in this way and by their own attitude, place themselves in a position of connivance with the acts committed in those territories". It is difficult to believe that these words, contained in a mere statement to the press, were intended by the Portuguese Government to be a serious exposition of international law, when no such exposition had been made in the many formal notes addressed by them to the Indian Government. It is also to be observed that the reference to "rights" and "international duties" is again absolutely vague and undefined; no specific right of passage is even claimed; and from the following words it appears that, if it can be supposed that the author of the communiqué had any particular rights in mind, those were rights arising inside the enclaves and not in Indian territory.

150. After this, although correspondence between the Legation and the Ministry about Dadra and Nagar Aveli continued until 6 August 1955, the Legation never again made any request (much less any demand) to be allowed to send Portuguese officials, or any one else, through Indian territory to those enclaves.

151. The subsequent correspondence did, however, refer to one matter of some significance. The Portuguese police and other

officials in Dadra and Nagar Aveli had in August 1954 sought asylum in India. They were taken to Bombay, and there applied for visas to enable them to return to Daman. On 24 September 1954, the Ministry sent a note (Annex C. No. 86) to the Legation, stating that these applications had revealed that thirty-two of the officials had been recruited in Goa and sent to the enclaves in May and June 1954, without the permits required by Portuguese officials for crossing Indian territory; the Indian regulations had thus been violated. The Legation replied on 16 November 1954 (Annex C. No. 87), impliedly admitting that the officials had travelled from Goa and Daman to Nagar Aveli without permits, but offering the excuse that they had not been recruited, and so had not become officials, until they reached Nagar Aveli. The Legation did not seek in any way to deny that Portuguese officials crossing Indian territory needed to bear permits in accordance with the Indian regulations; thus once more admitting tacitly the right of the Indian Government to regulate all passage across Indian territory as a matter within its domestic jurisdiction. Furthermore, the Legation referred in this same note to the "request" which the Portuguese Government had previously made "that facilities of transit be granted", and although they included in the note a number of unfounded accusations against the Indian Government which they characterized as "most serious violations of the Law of Nations", they did not suggest that the refusal of the Portuguese request for facilities of transit constituted any violation of international law.

152. The final note about the enclaves in the correspondence was sent by the Legation to the Ministry on 6 August 1955. (Annex C. No. 88.) In it the Legation gave a general description of what they alleged to be the state of affairs in Dadra and Nagar Aveli, repeating a number of old and groundless accusations. These included the accusation of "offence against international law"; but, once more, this referred to the alleged situation in the enclaves, and not to any matter of passage over Indian territory. At the end of the note, the Legation expressed the hope that the Indian Government would end by "permitting the Portuguese authorities to have access to these territories". This they described as "a right of the Portuguese State", but the phrase does not appear to have been used as a serious description of the legal position. There was no attempt to show any grounds on which the right was claimed, nor any indication whether what was asserted was a right in law or merely a "right" to which the Portuguese Government considered themselves to be morally entitled.

153. In another note of the same date (6 August 1955) the Legation informed the Ministry that, in accordance with the request from the Government of India, the Legation was to be closed. With this note the diplomatic correspondence ended. Another four

and a half months passed before the Portuguese Government made their application to the Court. During these months, the Portuguese Government (then represented in New Delhi by the Brazilian Embassy) addressed to the Indian Government no request, no complaint, no communication of any kind whatsoever on the subject of access to Dadra and Nagar Aveli. When previous requests (mentioned in the foregoing paragraphs) had been made for permission to send Portuguese delegates thither over Indian territory, the Indian Government had refused them on account of the situation then existing. The Portuguese Government did not trouble, before addressing their Application to the Court, to make any enquiry whether the situation had changed so that access could be allowed. In the course of the correspondence, the two Governments had reached a measure of agreement about negotiation and neutral observation. The Portuguese Government did not see fit to take up either of these possibilities before addressing their Application to the Court. The note of 6 August 1955 does not appear from its terms to have been intended to conclude the correspondence, nor does it contain any indication of a deadlock. Yet the Portuguese Government never pursued the correspondence further. Four and a half months of silence followed. On 16 December 1955, Portugal was admitted to the United Nations, India voting in support of her application for membership. Thereupon, without any communication or notice of any kind to the Government of India, the Government of Portugal launched the present proceedings.

154. Between 22 July 1954 and 6 August 1955, the Portuguese Legation at New Delhi addressed to the Indian Ministry of External Affairs on the subject of Dadra and Nagar Aveli more than forty notes. In all these notes, there was no reference to passage over Indian territory except those mentioned in the foregoing paragraphs. Even in these few references, the discussion of the matter is always upon a political, rather than a legal, basis. Nowhere in the correspondence is there any serious and reasoned attempt to claim a right of passage or any discussion of international law. As appears from the summary of the correspondence in paragraphs 141 to 153 above, the Government of Portugal never attempted a legal formulation of any claim of right. The claims made by the Portuguese Government in their Application to the Court were never put forward at all before that Application was lodged.

CONCLUSIONS

155. From this summary of the story of Dadra and Nagar Aveli in the Maratha period, the British period and the post-British period the following facts emerge:

- (i) the Marathas never ceded to the Portuguese any part of the territory of the enclaves;

(ii) the Portuguese never received from the Marathas sovereignty over any part of the territory of the enclaves;

(iii) the rights connected with the enclaves granted by the Marathas to the Portuguese were purely rights to receive revenue;

(iv) these rights were revocable at the will of the Peshwa;

(v) the British Government entirely declined to recognize as binding upon them any privileges which might have been granted by the Marathas to the Portuguese affecting territory which subsequently became British (in fact, there had never been any such privileges);

(vi) throughout the period of British rule, the Portuguese never claimed any right either of passage for persons or of transit for goods over any British territory (except under the Treaty of 1878, and special agreements of very limited scope mentioned above);

(vii) throughout the period of British rule, the Portuguese frequently acknowledged, by making applications, by seeking concessions and in other ways, that they had no right either of passage or of transit over British territory;

(viii) throughout the period of British rule, the British regarded passage of Portuguese persons and transit of Portuguese goods over British territory as matters lying entirely within their domestic jurisdiction, to be allowed, forbidden or controlled according to considerations of policy;

(ix) the Portuguese acquiesced in this view held by the British;

(x) after the transfer of power in 1947, the Portuguese did not (until making their Application to the Court) claim any right either of passage or of transit over Indian territory;

(xi) the Indian Government, like the British Government before them, regarded such passage and transit as lying entirely within their domestic jurisdiction, to be allowed, forbidden or controlled according to considerations of policy;

(xii) the Portuguese continued to acquiesce in this view;

(xiii) there was much diplomatic correspondence about the enclaves on a political basis without, however, any discussion of the legal issues;

(xiv) this correspondence thus never reached a point at which it could properly be said that it was not profitable to pursue it;

(xv) before lodging their Application to the Court the Portuguese never put forward, either in this diplomatic correspondence or anywhere else, any of the claims which they now make.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA CONCERNING THE
ATTITUDE OF THE PARTIES ON THE QUESTION OF PASSAGE OVER
INDIAN TERRITORY BETWEEN DAMAN AND THE ENCLAVES

156. The Government of India founds this Fifth Objection on the fact that India, in her Declaration of 28 February 1940, stated in the most express manner that she did not accept the compulsory jurisdiction of the Court for disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of India. In principle, as appears from the authorities cited in paragraphs 161-169 below, the passage of Portuguese persons and goods over any part of Indian territory is a question which, under international law, falls exclusively within the jurisdiction of India. In principle also, as appears from the same authorities, the particular question of passage of Portuguese persons and goods over Indian territory between Daman and the enclaves must equally be held to be a question falling exclusively within the jurisdiction of India, unless there is clear evidence before the Court either of an express grant of permanent rights of passage by the territorial sovereign to Portugal or of the specific consent of the territorial sovereign to the enjoyment by Portugal of permanent rights of passage.

157. In fact, as appears from paragraphs 111-154 above, the evidence before the Court shows clearly that during a long period preceding the filing of the Application by Portugal, the Government of India and its predecessor in sovereignty, the British Government, consistently maintained that the passage of Portuguese persons and goods over Indian territory between Daman and the enclaves were questions falling exclusively within the jurisdiction of the territorial sovereign. In other words, so far from the evidence before the Court providing proof of an express grant by India of permanent rights of passage to Portugal, or of the specific consent of India to Portuguese enjoyment of permanent rights of passage, it shows the exact opposite, namely, that India, and before India, the British Government, persistently claimed and exercised the normal right of a territorial sovereign to treat the question of the passage of Portuguese persons and goods as one exclusively within its jurisdiction.

158. Moreover, the evidence further shows that for a very long time past the Portuguese Government itself has consistently and unequivocally recognized that the passage of Portuguese persons and goods between Daman and the enclaves is a question falling exclusively within the jurisdiction of India. After the lapse of the Treaty of Commerce and Extradition in 1891, passage between Daman and the enclaves, whether of persons or goods, was dealt with between the Portuguese and British/Indian authorities again and again and year after year on the basis that it was a matter within the sole discretion and exclusive jurisdiction of India.

Portugal again and again and year after year recognized the exclusive competence of the territorial sovereign to regulate passage over its territory and this attitude on the part of the Portuguese Government continued until the time of the filing of the Portuguese Application.

159. Accordingly, the Government of India submits:

1. (a) That a summary view of the historical facts leads inevitably to the conclusion that the matters now in dispute have for a long time past been treated by each of the interested States as relating to a question falling exclusively within the jurisdiction of India; and

(b) That, since the matters in dispute relate to a question which is, in principle, a question falling exclusively within the jurisdiction of India, the attitude of the interested States referred to in (a) above is conclusive to establish that the present dispute is one relating to a question which, by international law, falls exclusively within the jurisdiction of India;

2. (a) That a summary view of the historical facts leads inevitably to the conclusion that Portugal has unequivocally recognized that the matters now in dispute relate to a question falling exclusively within the jurisdiction of India; and

(b) That Portugal's past recognition of India's exclusive competence in the matters now in dispute is conclusive to establish that the present dispute is one relating to a question which, by international law, falls exclusively within the jurisdiction of India;

3. That the present dispute for each and both of the above reasons is one which is excepted from India's acceptance of compulsory jurisdiction under the Optional Clause by the express terms of her Declaration of 28 February 1940; and

4. That, in consequence, the Court is without any jurisdiction to entertain the Portuguese Application of 22 December 1955.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA IN REGARD TO
THE LAW DETERMINING THE NATURE OF THE DISPUTE FOR THE
PURPOSES OF THE FIFTH OBJECTION

160. In addition, the Government of India contends that simply as a matter of law the present dispute is a dispute relating to a question which falls exclusively within the jurisdiction of India and, as such, is excepted from India's acceptance of the Optional Clause by the express terms of her Declaration. This contention is founded upon four propositions. First, passage over Indian territory, whether of persons or goods, is a question which falls exclusively within the jurisdiction of India. Secondly, in consequence of this principle and by reason of the express exception in India's

Declaration under the Optional Clause, the burden of proof is upon Portugal to establish that the matters in dispute do not fall exclusively within the jurisdiction of India. Thirdly, this means that Portugal must establish that a summary view of the relevant facts and the applicable law justifies the provisional conclusion that the matters in dispute raise points of international law which are of real importance juridically for determining India's legal position *vis-à-vis* Portugal with respect to them. Fourthly, the points relating to treaties, local and general custom and general principles of law mentioned in the Portuguese Memorial do not, on a summary view of the relevant facts and applicable law, justify the provisional conclusion that they are of any real importance juridically for determining India's legal position *vis-à-vis* Portugal with respect to the matters in dispute.

The Exclusive Jurisdiction of the Territorial Sovereign

161. As a matter of law the regulation and control of all persons and goods in Indian territory are necessarily matters which in principle fall exclusively within the jurisdiction of India. The exclusive right of every State by reason of its sovereignty to regulate and control persons and things within its own boundaries is a fundamental doctrine of international law. As was said by Judge Huber in the *Island of Palmas* case (1928, 2 *Reports of International Arbitral Awards* 829, at p. 838):

"Sovereignty in the relations between States signifies independence. Independence in regard to a portion of the globe is a right to exercise therein, to the exclusion of any other State, the functions of a government. The development of the national organization of States during the last few centuries and, as a corollary, the development of international law, have established this principle of the exclusive competence of the State in regard to its own territory in such a way as to make it the point of departure in settling most questions that concern international relations."

It is not disputed that a State may consent, especially by treaty, to some restriction upon its territorial sovereignty. But the general rule is clear that a State has complete power and discretion to deal with matters within its boundaries as it alone thinks fit.

162. In the well-known case of the *Schooner Exchange* in the Supreme Court of the United States (1812, 7 Cranch 116) concerning the status of a foreign warship in United States waters, Chief Justice Marshall emphasized that it is only with its agreement that the exclusive competence of a State in its own territory may become subject to legal restrictions:

"The jurisdiction of the nation within its own territory is necessarily exclusive and absolute. It is susceptible of no limitation not imposed by itself. Any restriction upon it, deriving validity from an external source, would imply a diminution of its sovereignty to the extent

of the restriction, and an investment of that sovereignty to the same extent in that power which could impose such restriction.

All exceptions, therefore, to the full and complete power of a nation within its own territories, must be traced up to the consent of the nation itself. They can flow from no other legitimate source."

The regulation and control of persons and goods within the territory of India are thus matters with respect to which it could only be shown that they are not in the exclusive jurisdiction of India by clear proof that India had specifically consented to some particular restriction upon her territorial sovereignty.

163. In paragraph 42 of the Memorial the Portuguese Government solemnly declares that it has no wish to rest its claims on the theory of servitudes and represents that any incursion into this field would merely confuse the situation "by introducing notions which are not relevant to the juridical reality involved in the dispute". It then proceeds to emphasize that the right of passage claimed by Portugal is based on treaty, custom and general principles of law. The Government of India equally has no desire to embark in the present pleading on an elaborate discussion of the controversial theory of servitudes. It cannot fail, however, to observe that the anxiety of the Portuguese Government to avoid any consideration of the theory of servitudes by the Court is due to the fact that there is a great weight of authority in favour of the view that in international law a right in the territory of another State of the nature of a servitude must originally have been derived from the express agreement of the territorial sovereign. Once originally created by the agreement of the territorial sovereign, the right may in some circumstances become binding upon a successor State without its agreement. No doubt, the Portuguese Government may disclaim the theory of servitudes as a basis for its alleged rights. But it cannot by that simple means get rid of the difficulty that rights in the territory of another State of the nature of those which it claims in the present case can only be derived from the express grant or specific consent of the territorial sovereign. For the rights which Portugal claims over Indian territory would constitute permanent restrictions on the territorial sovereignty of India analogous to servitudes and are rights which in international law could only arise from the express grant or specific consent of the territorial sovereign.

164. The opinion of Oppenheim and Lauterpacht (Vol. I, 8th ed., 1955, Section 203) is clear that rights of passage and other rights analogous to servitudes in or over another State's territory are only to be derived from the specific agreement of the territorial sovereign:

"State servitudes are those exceptional restrictions *made by treaty* on the territorial supremacy of a State by which a part or the whole of its territory is in a limited way made perpetually to serve

a certain purpose or interest of another State. Thus a State may by a convention be obliged to allow the passage of troops of a neighbouring State, or may in the interest of a neighbouring State be prevented from fortifying a certain town near the frontier."

Similarly, Professor Sibert (*Traité de droit international public*, Vol. I, p. 383) says:

"Dans tous les cas, les servitudes du droit des gens, parce qu'elles constituent des restrictions à la souveraineté des États, ne peuvent être que conventionnelles. La volonté expresse des parties les établit."

Again, Dr. G. Crusen, in his lectures at The Hague Academy on "*Les servitudes internationales*" (*Recueil des Cours*, 1928, Vol. II, p. 30), after examining the views of writers concerning servitudes, concluded:

"En résumé, nous n'avons pas trouvé, jusqu'à présent, de rapports juridiques entre États souverains qu'il faut caractériser comme servitudes d'après les lois de la logique ou les règles du droit international positif. Comme cependant ces rapports ont été, de nos jours, multipliés par les événements et sont analysés par la science juridique, il faut chercher un critérium de classification. Cette recherche nous montrera que rien ne nous empêche d'appliquer à ces restrictions de la souveraineté les règles générales dégagées pour les conventions internationales. Il s'agit en fait de droits contractuels entre les États."

F. A. Vali, another writer who made a special study of the subject (*Servitudes of International Law*, 1933, p. 227), took much the same view:

"According to writers of the later part of the 19th century, there were two sources of international servitudes: treaties and acquisitive prescription. The latter method was supposed to operate when there has been use or possession from time immemorial.

Whereas the old German writers on international servitudes had occasion to refer to cases in which servitudes were created by acquisitive prescription, based on rules derived from German Public Law, hardly any modern writer has succeeded in finding a case where a right in foreign territory has actually been established in such a manner. Therefore, it seems quite unnecessary to distinguish this other method of creating an international servitude."

Professor H. D. Reid, who also wrote a monograph on international servitudes (*International Servitudes in Law and Practice*, 1932, p. 16), expressed the opinion that "No right can be legitimately classified as a servitude unless it rests fundamentally upon international agreement, tacit or express". Professor Reid then continued:

"Consequently, most servitudes are created by formal international compact, although the possible existence of 'natural' servitudes is still a moot question, and some writers assert the possibility of their establishment by prescription or immemorial

usage. In case of doubt, the presumption is always against the existence of the servitude and it is always necessary to prove the consent of the servient State. For this reason, although there have been prescriptive rights of some importance, *modern practice has tended to claim the benefit of a servitude only on the ground of a treaty grant*, except for certain rights of innocent use, such as the passage of merchant vessels through the coastal waters of another State."

165. The principle that rights of passage and other rights analogous to servitudes in another State's territory are only to be derived from the express grant or specific consent of the territorial sovereign receives confirmation from the jurisprudence of international tribunals. In the well-known *North Atlantic Fisheries Arbitration* (1910, Wilson, *The Hague Arbitration Cases*, p. 134), a Treaty of 1818 between Great Britain and the United States had granted to the United States fishermen the right to fish in Canadian bays, and the United States claimed that its fishermen could not be subjected to the fishery regulations of Great Britain in Canadian waters without its consent. The United States contended that the Treaty constituted the grant of an international servitude derogating from the sovereignty of Great Britain and limiting her right to regulate independently fishing within her waters. The tribunal, *inter alia*, held:

(1) There was no evidence that the doctrine of international servitudes was known either to American or British statesmen in 1818 (p. 158).

(2) A servitude in international law predicates *an express grant* of a sovereign right, whereas a right of fishery in the opinion of the tribunal was merely an economic right (p. 158).

(3) The doctrine of servitudes is little suited to the principle of sovereignty in the modern State system, and for that reason has found little support among modern publicists. In consequence, the doctrine could only be affirmed by the tribunal *on the express evidence of an international contract* (p. 159).

In the present case, the rights of passage claimed by Portugal across Indian territory clearly impinge directly on India's sovereign power to regulate the movements of persons and goods within Indian territory, and it is manifest that the tribunal in the *North Atlantic Fisheries Arbitration* considered that such rights can only be obtained by express grant or international agreement.

166. In the *North Atlantic Fisheries Arbitration*, the United States also contended that in consequence of the 1818 Treaty, there was somewhere a line beyond which Great Britain, in making regulations for the fishery, was not competent to go, or could not rightly go without invading the rights of the United States under the Treaty. As to this contention, the tribunal said (p. 168):

"A line which would limit the exercise of the sovereignty of a State within the limits of its own territory *can be drawn only on the ground of express stipulation*, and not by implication from stipulations concerning a different subject matter."

Thus the tribunal here again emphasized that a restriction on the sovereignty of a State within its own territory must have as its basis the express agreement of the territorial sovereign.

167. In the Advisory Opinion on *Railway Traffic between Lithuania and Poland* (1931, Series A/B No. 42, p. 108), the Permanent Court of International Justice was asked whether the international engagements in force obliged Lithuania to take the necessary measures to open for traffic a damaged section of a railway in Lithuania which also ran through Polish territory. One of the relevant international instruments in force was Article 23 (e) of the Covenant of the League, which read as follows:

"Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

(e) will make provision to secure and maintain freedom of communications and of transit and equitable freedom for the commerce of all Members of the League."

The Court held that under this text, specific obligations to provide for freedom of communications and transit could only arise from "international conventions existing or hereafter to be agreed upon". It then added (p. 113):

"If this interpretation is correct, it is impossible to deduce from the general rule contained in Article 23 (e) of the Covenant an obligation for Lithuania to open Landwarow-Kaisiadorys railway sector for international traffic or for part of such traffic; *such obligation could only result from a special agreement.*"

It is true that owing to the way in which the request for the Advisory Opinion had been formulated, the Court was only concerned with the international *contractual* engagements of Lithuania in regard to the particular railway sector. Nevertheless, the Court's view that an obligation for Lithuania to provide for freedom of communications and transit within Lithuanian territory could only arise from a *special agreement* is in line with the attitude of the tribunal in the *North Atlantic Fisheries Arbitration*, and with the opinions of writers which have been cited in paragraph 164 above.

168. The jurisprudence of international tribunals also makes clear that restrictions upon the sovereignty of a State within its own territory are not to be inferred except from clear evidence of the intention of the territorial sovereign to submit to the restric-

tion. The general rule was stated by the Permanent Court of International Justice in the *S.S. Lotus* Case (1927, Series A, No. 10, p. 18), where it said that restrictions upon the independence of States are not to be presumed. Applied to treaties, this rule means that in case of doubt the treaty is to be interpreted as not imposing a limitation upon sovereignty. Thus, in the *Free Zones* Case (1930, Series A, No. 24, p. 12), dealing with the contention of Switzerland that the establishment by treaty of a free zone precluded France from collecting taxes at the political frontier of the zone, the Court said:

“Whereas, though the settlement to be prescribed by the Court with regard to all the questions involved by the execution of paragraph 2 of Article 435 of the Treaty of Versailles must respect the rights which Switzerland derives from the provisions of the treaties of 1815 and other supplementary instruments relating to the free zones, this settlement must also respect the sovereignty of France over the territories in question; *as this sovereignty is complete and unimpaired in so far as it is not limited by the aforesaid treaties; as no obligation going beyond these treaties can be imposed on France without her consent;*

Whereas it is in the light of the foregoing considerations that the question of the so-called “control cordon” (*cordon de surveillance*) must be envisaged; as France’s right to have a police cordon at the political frontier of the zones has hardly been questioned by the Swiss Government; as, on the other hand, the latter disputes the right of France to collect duties and taxes at this frontier, even if these charges are not duties on the importation or exportation of goods, but are duties and taxes which are also levied on the same articles produced or manufactured in France; as such a restriction does not necessarily follow from the obligation contracted by France under the provisions of the treaties of 1815 and the other supplementary instruments relating to the free zones, *and as, in case of doubt, a limitation of sovereignty must be construed restrictively.*”

The Government of India, as has previously been emphasized, does not dispute that a restriction upon a State’s sovereignty, even within its own territory, may result from an express and clear agreement imposing the restriction. But it is entitled to insist in the light of the above international jurisprudence that any such restriction could only result from the clearest evidence. In this connection, it draws attention particularly to the case of the *S.S. Wimbledon* (1923, Series A, No. 1), where the Court was called on to consider whether Germany’s sovereign rights as a neutral in time of war in regard to passage through the Kiel Canal had been limited by the terms of Article 380 of the Treaty of Versailles. The Court held that the clear meaning of the Treaty was to grant free passage to the vessels of all flags, both in time of peace and war, but it went out of its way to intimate that it would not have felt itself entitled to infer any such restriction upon German sovereignty *in the absence of a plain indication in the Treaty*. For it said (p. 24):

“The Court is not called upon to take a definite attitude with regard to the question, which is moreover of a very controversial nature, whether in the domain of international law, there really exists servitudes analogous to the servitudes of private law. Whether the German Government is bound by virtue of a servitude or by virtue of a contractual obligation undertaken towards the Powers entitled to benefit by the terms of the Treaty of Versailles, to allow free access to the Kiel Canal in time of war as in time of peace to the vessels of all nations, the fact remains that Germany has to submit to an important limitation of the exercise of the sovereign rights which no one disputes that she possesses over the Kiel Canal. *This fact constitutes a sufficient reason for the restrictive interpretation, in case of doubt, of the clause which produces such a limitation.* But the Court feels obliged to stop at the point where the so-called restrictive interpretation would be contrary to the plain terms of the article and would destroy what has been clearly granted.”

169. The Government of India contends that the consistent and weighty authorities cited in paragraphs 161 to 168 above show conclusively:

(1) That in principle the passage of Portuguese persons and goods over Indian territory between Damian and the enclaves is a question which, by international law, falls exclusively within the jurisdiction of India;

(2) That the burden is upon Portugal to establish the contrary;

(3) That it is open to Portugal to establish the contrary only by proof of an express grant of permanent rights of passage by the territorial sovereign to Portugal or by proof of the specific consent of the territorial sovereign to the enjoyment by Portugal of permanent rights of passage; and

(4) That any such express grant or specific consent must be proved by clear and unequivocal evidence of the intention of the territorial sovereign to submit to permanent restrictions on its exclusive competence within its own territory.

Portugal has to establish legal grounds of real juridical importance for determining the dispute

170. Portugal, in order to establish that the matters in dispute do not fall exclusively within the jurisdiction of India, has to put forward legal grounds requiring the Court to hold that in international law the matters in dispute are not exclusively within the jurisdiction of India. The Government of India contends, however, that it is not open to Portugal to circumvent and evade India's express exception from her Declaration of disputes with regard to questions which, by international law, fall exclusively within the jurisdiction of India merely by the process of dressing-up some pretended grounds of claim, and then alleging that the subject-matter of the dispute does not fall exclusively within the jurisdic-

tion of India. The Portuguese Government, in the view of the Government of India, must at least establish legal grounds of claim which, on a summary view of the facts, justify the provisional conclusion that they are of real importance juridically for determining the rights of the parties. Authority for this proposition is to be found in the Court's Advisory Opinion on the *Nationality Decrees in Tunis and Morocco* (1923, Series B, No. 4, pp. 25-26), where the Court was dealing with a question—nationality law—which, like passage of persons and goods, is considered by international law to be in principle within the exclusive jurisdiction of the territorial sovereign. The Court there held that the matter in dispute would cease to be exclusively (solely) within the jurisdiction of France, the territorial sovereign, only

“when once it appears that the legal grounds relied on are such as to justify the provisional conclusion that they are of juridical importance for the dispute submitted to the Council (of the League), and that the question whether it is competent for one State to take certain measures is subordinated to the formation of an opinion with regard to the validity and construction of these legal grounds”.

In the above passage the Court clearly envisaged that the legal grounds put forward by France must, on a summary view of the case, appear to have a real importance juridically for the determination of the dispute.

171. The specific legal grounds of claim put forward by Portugal in paragraphs 53-58 of the Memorial are certain restrictions upon India's exclusive jurisdiction alleged to arise from (a) treaty, (b) custom, and (c) general principles of law. The first comment to be made upon these pretended legal grounds of claim is that nothing was heard of them before Portugal began the proceedings in the present case. One treaty there certainly was, which imposed a few restrictions upon the Indian authorities in regard to the passage of Portuguese persons and goods, namely, the Treaty of Commerce and Extradition of 1878. This Treaty, however, was brought to an end in 1891, and from 1891 to 19 December 1955 there is no trace whatever of any Portuguese claim of right in regard to the passage of persons and goods, either in the diplomatic correspondence between the Governments or in the official correspondence between their respective local authorities. Even after the liberation of the enclaves by the Goans in July 1954, when she began insistently to ask for transit facilities for her armed forces and officials, Portugal did not invoke the legal grounds which she now puts forward as entitling her to permanent rights of passage for Portuguese persons and goods in derogation of the exclusive jurisdiction of India in her own territory.

172. The attitude of the Portuguese Government and local authorities, which is revealed in the diplomatic and official correspondence, shows quite clearly that they did not regard themselves as entitled

to claim transit facilities across Indian territory as a matter of legal right and obligation, but only as a matter of comity and discretion. This fact by itself, in the view of the Government of India, justifies the Court in reaching the conclusion that the legal grounds of claim put forward in the Memorial lack any solid basis and are not juridically of importance in determining the legal position of the Parties with respect to the passage of Portuguese persons and goods over Indian territory between Daman and the enclaves. The same conclusion results from the examination of each and every legal ground of claim, put forward by Portugal in the Memorial, which is undertaken in the following paragraphs.

Treaty

173. The claim of the Portuguese to be entitled to rights of passage implied from the Treaty of 1779, when read in conjunction with certain grants made by the Maratha ruler with respect to Dadra and Nagar Aveli, is extremely far-fetched. The Treaty itself contained no reference to any rights of passage in favour of the Portuguese. On the contrary, it is a striking fact that the only right of passage mentioned in the Treaty was one reserved in favour of the Marathas by which they were to be entitled to passage into their territories through the ports in the Portuguese possessions on the coast. The Portuguese Government is therefore driven to argue that the permanent rights of passage between Daman and the enclaves, to which it now pretends, are derived by implication from certain grants with respect to the enclaves made to the Portuguese by the Maratha ruler in 1783 in pursuance of Article 17 of the Treaty of 1779. But the grant to the Portuguese was a grant of the revenues of the villages of the enclaves, not of the sovereignty of the territory, and the villages first assigned to the Portuguese in 1780 in Saranjam tenure in order to provide the promised revenue were not the villages of Dadra and Nagar Aveli. The latter were substituted for the original villages in 1783 by a Sanad granting to the Portuguese Saranjam tenure of the villages of these two districts. Moreover, Saranjam tenure is a revenue tenure *which is terminable at will* and the evidence is clear that the Marathas were in fact contemplating the revocation of the Saranjam grants of the villages of the enclaves when their territories were conquered and annexed by the British in 1818 (paragraph 88 above).

174. Thus, the claim now being made by Portugal is that, *by mere implication, from revocable revenue grants* made in pursuance of the Treaty of 1779, she obtained *permanent* rights of passage for Portuguese persons and goods, including representatives of her authorities and armed forces, over Indian territory. The Government of India submits that this claim to a permanent servitude—for such it would be—over Indian territory on the basis of grants revocable at will made 174 years ago is completely fantastic, quite

apart from the fact that the Treaty of 1779 itself and the Sanads made under it are, legally, as dead and extinct as the Maratha Ruler who executed them.

175. As to the legal status to-day of the Treaty of 1779 and the Sanads made under it, the evidence is clear that the British authorities, after their annexation of the Maratha territories in 1818, declined to regard these acts of the Marathas as in any way binding upon the British Government. Whatever view Portugal may have held on the matter in 1818, the Treaty and the Sanads were never once applied between the Portuguese and the British and nothing at all was heard of any Portuguese claims to rights under those instruments for nearly a century before the commencement of the present proceedings.

176. In these circumstances, the Government of India submits that there can be no possible question of the Treaty of 1779 or the grants of the Marathas being of any juridical importance to-day for determining the legal position of the Parties with respect to the passage of Portuguese persons and goods between Daman and the enclaves.

177. Furthermore, if the Portuguese Government were successful in raising these ghostly instruments of the Maratha period from the dead, despite two changes in the Sovereignty of the territory, it would be faced with the embarrassing fact that its claims to the enclaves themselves were founded on Saranjam grants terminable at will.

Custom

178. The Portuguese Government in paragraphs 49-51 of the Memorial bases its claim to rights of passage also on custom, alleging that there is a local custom in regard to passage between Daman and the enclaves and that this local custom is simply an application of a general rule of customary international law concerning transit facilities with respect to enclaves. It contends that "transit between Damão and the enclaves or between the enclaves themselves corresponds to an ancient, continuous and uniform usage, observed as a right of the Portuguese State and as an obligation of the bordering State".

179. The establishment of customary rights, such as Portugal claims, requires proof not merely of a usage but of a usage accompanied by an *opinio juris*, that is, accompanied by a conviction that the usage is an expression of a legal right on one side and a legal obligation on the other side; *the Asylum Case (I.C.J. Reports 1950, p. 266, at p. 276)*. This is true of the establishment of a local no less than of general custom, as the Portuguese Government itself recognizes when it refers to a "usage observed as a right of the Portuguese State and as an obligation of the bordering State".

Accordingly, in order to show that the question of passage between Daman and the enclaves is not a question exclusively within the jurisdiction of India by reason of a local or general custom, Portugal has to establish both a usage in regard to passage and an *opinio juris* with respect to that usage on the part of Portugal and the territorial sovereign.

180. The Portuguese claim to enjoy a right of passage over Indian territory by virtue of a local custom depends upon the history of the dealings between the Portuguese and the successive sovereigns of the territory lying between Daman and the enclaves. This history is set out in detail in paragraphs 65 to 155 above. The inevitable conclusion to be drawn from that history is that no local custom either of passage or of transit has ever existed.

181. In so far as Portuguese armed forces or police were ever allowed passage over British (or, later, Indian) territory between Daman and the enclaves, it was always, except between 1879 and 1891, in pursuance of specific local arrangements made from time to time and subject to unilateral termination or modification by the State granting the passage. Between 1879 and 1891, the question was governed by the provisions of the Anglo-Portuguese Treaty of Commerce and Extradition. On occasions not covered by any special administrative arrangements, passage of armed forces or police took place only if the Portuguese had first asked for, and obtained, the authorization of the British Government. The repeated recognition by the Portuguese, both explicit (see paragraph 122 above) and implicit in their actions, of the necessity of such authorization on each occasion shows that no binding local custom existed.

182. The same is true of transit of goods. Whenever the Portuguese authorities wished to send goods through British territory without complying with the ordinary municipal law and regulations of that territory (for example, without paying customs duties), they sought permission. When their requests were refused, they never claimed any customary right, or attempted to send the goods without payment of duty in spite of the refusal. Even complete embargoes imposed by the British Government were accepted by the Portuguese Government without complaint. The British Government, on its side, made, terminated and modified any particular arrangements for the passage of goods as circumstances or its policy dictated. This is wholly inconsistent with the existence of any binding local custom.

183. Furthermore, it is established that no custom has binding force in international law unless supported by an *opinio juris*. From the whole history of the Portuguese occupation of Dadra and Nagar Aveli, it is clear that no *opinio juris* has ever existed. Whatever may be the precise meaning of *opinio juris*, it is transparently clear that neither of the two Parties had any sense of

legal right and obligation on the occasions when passage took place other than those covered from time to time by express agreements. Right up to August 1955, the language and the behaviour of the Portuguese on the questions of passage and transit showed that they never conceived themselves to possess a right to either. Similarly, the British Government, and subsequently the Indian Government, quite clearly never regarded themselves as being in this matter under any obligations. This absence of *opinio juris*, no less than the absence on the Portuguese side of any attempt ever to assert a right to passage or to transit not based upon explicit agreement, is fatal to the Portuguese assertion of a local custom.

184. A summary view of the relevant facts and the applicable principles of law also leads inevitably to the conclusion that the Portuguese claim to rights of passage under general customary law is equally of no juridical importance for determining the legal position of the Parties with respect to passage between Daman and the enclaves. In the first place, the jurisprudence of the Court itself has established the principle that, even where a general custom can be proved, a State which has persistently adopted a different attitude in its own practice is not bound by the general custom; *Anglo-Norwegian Fisheries Case (I.C.J. Reports 1951, p. 116, at p. 131)*. In the present case the evidence is clear that the British and, after them, the Indian authorities persistently adopted the attitude that the passage of Portuguese persons or goods between Daman and the enclaves was a matter exclusively within their discretion and jurisdiction. Consequently, the question whether general customary law does or does not recognize a right of passage to and from enclaves across intervening territory is altogether beside the point. Even if the Portuguese Government were able to establish such a general customary rule, the Government of India would not be bound by it with respect to the Indian territory lying between Daman and the enclaves.

185. In the second place, there is no basis for the Portuguese contention that there exists in international law a general custom recognizing a right of passage to and from enclaves across intervening territory. Indeed, the Portuguese Government makes no attempt in paragraph 51 of the Memorial to provide the Court with any authority for the existence of such a general custom. All that it does is to list seven enclaves, in addition to Dadra and Nagar Aveli, and to assert that "access to these enclaves by the States possessing sovereignty over them has always been admitted". There is not the slightest information provided either in the Memorial or in the annexes to the Memorial concerning the regimes actually applied in regard to access to these seven enclaves. Nor has the Portuguese Government thought fit to tell the Court whether the "access" that it asserts "has always been admitted" to these enclaves, includes the passage of goods, officials, police and armed

forces which is the "access" that it claims with respect to Dadra and Nagar Aveli. There is, in short, an almost total lack of seriousness in the presentation of Portugal's claim to rights of passage in virtue of an alleged general rule of customary international law. This being so, the Government of India submits that this ground of claim, simply on the evidence of the way in which it has been presented in the Memorial, does not justify the provisional conclusion that it is of any real importance juridically for determining the legal position of the Parties with respect to the passage of Portuguese persons and goods between Daman and the enclaves.

186. The same conclusion is reached if the regimes of the enclaves, which are named in the Memorial as providing the basis of the alleged general custom, are summarily examined. Two of the eight examples of alleged customary rights of access to enclaves are taken from the present case. The first example is the enclaves of Dadra and Nagar Aveli themselves as to which the evidence is clear that passage over Indian territory has always been a matter resting exclusively within the discretion and jurisdiction of India. The second example is the minute enclave of Meghwal which itself lies within the enclave of Nagar Aveli. Nothing, however, can be deduced in favour of a general custom from this curious anomaly, because neither the British nor the Indian authorities have ever claimed rights of passage with respect to Meghwal. This village which was a possession of the Raja of Dharampur is one of those rare places which are happy in having had no history. In truth, the British, and, afterwards, Indian sovereignty of Meghwal seems to have been rather nominal and the village was largely left to its own devices. No doubt, the Indian inhabitants of the village moved in and out as they wished in the same way as did the inhabitants of Dadra and Nagar Aveli into surrounding British/Indian territory. But there is no record of any problem being raised in connection with the visit of officials, police or armed forces or of any question ever having been raised concerning the passage of goods. The customs frontier between British/Indian territory and Portuguese territory was always at Daman and Goa and movement of persons and goods between the enclaves and British/Indian territory was unrestricted and this applied equally to Meghwal. None of the enclaves in the present case, therefore, provide the slightest basis for the Portuguese contention that international law recognizes a general customary right of access to enclaves. On the contrary, they point to an exactly opposite conclusion.

187. The Government of India does not think it necessary to examine the regime of every one of the other six enclaves mentioned in the Memorial. In order to negative the existence of the general custom which is alleged by the Portuguese Government, it will suffice to examine briefly the regimes of the enclaves of (a) Baarle-Duc and Baarle-Nassau, (b) Büsingen, (c) Llivia, and (d) Campione,

which are in some measure comparable with Dadra and Nagar Aveli (the geographical and other circumstances of Basutoland are somewhat different):

(a) *Baarle-Duc and Baarle-Nassau*. These enclaves owe their existence to the Partition Treaty of 1833 between Belgium and Holland. The international rights of passage with respect to the enclaves derive from Article 14 of the Boundary Convention of 1842 between the two countries. It is true that Article 14 is expressed as confirming existing customary rights of passage enjoyed by the inhabitants. But these customary rights were rights previously existing under municipal law and the purpose and effect of Article 14 was to convert these municipal law rights into international rights of passage binding upon the two States concerned. The international régime of passage with respect to these enclaves, therefore, has an essentially conventional basis, though the conventional régime established by Article 14 is, doubtless, supplemented in practice by local understandings and usages.

(b) *Büdingen*. This is a German enclave in the Swiss Canton of Schaffhouse and its relations with Switzerland have equally been made the subject of a conventional régime. First, there is the Treaty of 1895 between Germany and Switzerland relating specifically to the Baden commune of Büdingen, Articles 1 and 2 of which deal respectively with customs matters and with the transport of criminals across Swiss territory. Secondly, there is an Exchange of Notes of 13/14 November 1928, concerning the passage of military and police, on certain railways and frontier roads, between Baden and Switzerland. As no railway passes through Büdingen itself, the only pertinent provisions are those in Chapters 3-7 which authorize passage of military and police across foreign territory in the case of single individuals. (An interpretative note to Chapter 4 emphasizes that the purposes for which this authorization is given do not include the suppression of disorder.) In other respects, the enclave of Büdingen is treated as part of the general frontier zone between Switzerland and Germany and is subjected to the special conventional régime established for this zone, special identity papers (frontier cards) being required, for example, by persons benefiting from the frontier arrangements. It is important to note that even under this conventional régime commerce between Büdingen and Germany enjoys no particular exemptions or facilities. Büdingen, indeed, is treated as outside the German customs frontier, although not formally within the Swiss customs frontier. In practice, however, customs control between Switzerland and Büdingen has been lifted. The conclusion, therefore, concerning the régime applicable to Büdingen is that it is essentially a conventional régime and that local usage only plays a subsidiary and supplementary part in the régime of Büdingen. It is particularly significant that, just as Dadra and Nagar Aveli

have in practice been treated for customs purposes as part of British/Indian territory, so also Büsingen has been treated as part of Switzerland. This shows that so far from the tendency in practice being to recognize special transit rights as between the enclave and its parent State, the tendency is rather to allow special transit rights as between the enclave and the surrounding territory.

(c) *Llivia*. The régime applicable to the small Spanish enclave of Llivia, situated inside French territory, is also conventional. This enclave dates back to the Treaty of the Pyrenées of 1659 between France and Spain. The Treaty of Llivia, dated 12 November 1660, which was concluded for the purpose of putting the provisions of the Treaty of the Pyrenées into effect with respect to Llivia, established a régime under which there was to be (a) free transit of goods between Llivia and the Spanish town of Puycerda with exemption from customs duties and between the enclave and the surrounding French territory, and (b) similar rights of passage for persons of French and Spanish nationality. A later Treaty of 1866 dealing with the reorganization of the frontiers between France and Spain confirmed the transit rights previously granted in 1660, while at the same time specifying the routes on which they were exercisable. Another Article of this same Treaty (Article 23) confirmed the right of private persons to use the paths in this mountainous region but expressly excluded from this privilege members of the armed forces and the police. Here again, therefore, the régime governing passage to and from the enclave is an essentially conventional régime.

(d) *Campione*. A Treaty of 5 October 1861 between Italy and Switzerland, settling disputed questions concerning the frontier between Lombardie and the Canton of Tessin, fixed definitively the boundaries of this small Italian enclave. A Treaty of 22 October 1923, regulating navigation on Lake Maggiore and Lake Lugano, provided in Article 2, paragraph 6, for the maintenance of "the existing position" in regard to the passage of customs officials and members of the armed forces. The effect was to continue the existing prohibition on the passage of Italian customs officials and members of the Italian armed forces (see Becker, *Die Rechtsverhältnisse an der Schweizergrenze*, thèse de Zürich, 1931, p. 23). In addition, the Swiss authorities, as a matter of grace, permit the inhabitants of Campione to cross Swiss territory with a frontier card. Other matters, such as customs, transport, posts, taxes, application of criminal law, etc., are regulated on the basis of particular administrative arrangements agreed locally between the Swiss and Italian authorities and not having any connexion with any supposed general rule of international law. Any local usages existing with respect to Campione are exclusively applicable to the peculiar circumstances of Campione and do not constitute any manifestations of a general rule of customary law.

188. The régimes of these five enclaves, which are comparable in size and situation with the enclaves of Dadra and Nagar Aveli, do not, therefore, provide any foundation for the general rule of customary law of which they are alleged by Portugal to constitute examples. On the contrary, these five instances show clearly that the régimes applicable to enclaves are normally determined by express agreements between the interested States, supplemented by detailed arrangements and usages worked out by their respective local officials. In short, the régimes of these enclaves are entirely in accord with the general principle laid down in the authorities cited above, that rights of the nature of servitudes over another State's territory must have as their basis the express grant or specific consent of the territorial sovereign. It also clearly appears from the examples of these enclaves that the part played by usage and, notably local usage, in the régimes of enclaves is merely as a supplement to a conventional régime, providing practical detailed arrangements for working its more general provisions.

189. The Government of India accordingly submits that, on a summary view of the relevant facts and the applicable law, neither local nor general custom affords any basis for saying that the question of passage over Indian territory between Daman and the enclaves is not a question exclusively within the jurisdiction of India.

General Principles of Law

190. The Portuguese Government, in paragraphs 52-57 of the Memorial, invokes three alleged general principles of law as legal bases for the rights of passage which it claims over Indian territory. The first of these is referred to by the Portuguese Government as the State's fundamental right to existence, a right said in the Memorial not to be "created by custom" but to "go beyond treaty and custom". The right is also said to "find in treaties and custom confirmations, definitions and developments but to be rooted in a general principle which has of itself binding force". This so-called "general principle of law", in the view of the Government of India, has nothing at all to do with the "general principles of law" mentioned in Article 38 (1) (c) of the Statute of the Court as one of the sources of law to be applied by the Court. Whatever differences of opinion there may be as to the actual content of these "general principles of law", the majority of writers agree that the "general principles of law" mentioned in Article 38 are to be understood as comprising the principles generally adopted by civilized States within their domestic law (see for example, Oppenheim-Lauterpacht, Vol. I, 8th ed., 1955, Section 29). In other words, it is principles expressing legal ideas common to the legal systems of civilized States which the Court is authorized to apply in Article 38 of the Statute.

191. Since the so-called right to existence cannot be regarded as a "general principle of law" for the purposes of Article 38 (1) (c) of the Statute, it can only be considered by the Court as a general principle of positive international law. This brings the discussion back to the question whether positive international law recognizes the right of passage over another State's land territory which Portugal now claims. The answer, which has already been given above, is that positive international law recognizes no such right of passage, unless it has either been expressly granted or specifically consented to by the territorial State.

192. Portugal, however, invokes the doctrine of the fundamental rights of States, which is controversial and has never become part of positive international law. The notion of the fundamental rights of States has been used by some writers to provide a philosophical or sociological explanation for international law and especially for the concept of State sovereignty, but even as a philosophical or sociological theory the doctrine of fundamental rights is controversial. (Gidel, *Droits et devoirs des nations; La théorie classique des droits fondamentaux des États, Recueil des Cours*, 1925, Vol. V, pp. 541 and following. Duguit, *Traité de droit constitutionnel*, Second Ed., 1921, Vol. 1, pp. 515 and following.)

193. The doctrine of fundamental rights cannot, therefore, be relied upon as a justification for applying a principle not recognized by positive international law. Moreover, the particular principle relied upon by the Portuguese, namely, self-preservation, cannot, in any event, be put forward as a legal basis for the permanent rights of passage between Daman and the enclaves which Portugal now claims.

194. The second of the alleged "general principles of law" invoked by the Portuguese Government is the principle of respect for the rights of other States, which India is said to have violated in refusing to allow passage to Portuguese goods, officials, police and armed forces across Indian territory. This principle also is not strictly speaking a "general principle of law" within the meaning of Article 38 (1) (c) of the Statute. It is an undisputed rule of positive international law. But Portugal, by invoking this principle, does not advance her case one inch, because it leaves completely unanswered the question what are the rights of Portugal *vis-à-vis* India with respect to passage between Daman and the enclaves. The answer to this question has to be found in positive international law, and positive international law, as already emphasized, recognizes no such rights of passage as Portugal claims. The principle invoked by Portugal is incontestable but it simply does not touch the question whether the matters in dispute are or are not exclusively within the jurisdiction of India.

195. The third and last of the alleged "general principles of law" invoked by the Portuguese Government is the principle that a

State has an obligation "not to allow knowingly its territory to be used for acts contrary to the rights of other States". Again, this principle is not, strictly, a "general principle of law" within the meaning of Article 38 (1) (c) of the Statute. It is rather a rule of positive international law, and, as such, was applied by the Court in the particular circumstances of the *Corfu Channel Case*. But this principle has nothing whatever to do with the subject-matter of the Portuguese Application of 22 December 1955, which is limited to "the right of Portuguese officials and nationals, as well as foreigners authorized by Portugal, to cross India on their way between the Portuguese territory of Damão (littoral Damão) and the Portuguese enclaved territories of Dadra and Nagar Aveli". The general principle invoked by the Portuguese Government is unrelated to the legal rights of passage which it claims between Daman and the enclaves and cannot afford any ground for reaching a conclusion that passage of Portuguese persons and goods between Daman and the enclaves is not a question falling exclusively within the jurisdiction of the territorial Sovereign. The general principle relied on by Portugal adds nothing to the point on the question of Portugal's legal claims to rights of passage between Daman and the enclaves and does not, therefore, assist at all in establishing that the dispute submitted to the Court is not one with regard to a question falling exclusively within the jurisdiction of India.

196. Indeed, the Portuguese allegation that the Government of India failed to carry out its obligations towards the Portuguese Government "by tolerating the organization on its territory of the armed expeditions which were directed against the Portuguese enclaves" raises an issue which is quite different from the issue submitted to the Court in the Application. This being so, the Government of India feels bound to reserve its right to object to Portugal's attempt to bring into the present case an issue not referred to the Court in the Portuguese Application of 22 December 1955.

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

197. Accordingly, quite apart from its previous submissions that passage between Daman and the enclaves is definitely established as a question falling exclusively within the jurisdiction of India by reason of (a) its treatment as such by both Parties and (b) its clear recognition as such by Portugal (see paragraph 159 above), the Government of India submits:

(1) That, on a summary view of the relevant facts and the applicable law, none of the legal grounds of claim, based on treaties, custom and general principles of law, which are invoked by the Government of Portugal in the Memorial, justify the provisional conclusion that they are of real importance juridically for determining the legal position of the Parties with respect

to the passage of Portuguese persons and goods between Daman and the enclaves;

(2) That the legal grounds of claim, based on treaties, custom and general principles of law, which are invoked by the Government of Portugal in the Memorial, do not therefore afford any basis for holding that the present dispute is not one relating to a question which, by international law, falls exclusively within the jurisdiction of India;

(3) That a summary view of the relevant facts and applicable law does nothing to negative the normal rule of international law under which passage over Indian territory is a question falling exclusively within the jurisdiction of India; and

(4) That, in consequence, the present dispute relates to a question which, by international law, falls exclusively within the jurisdiction of India and is excepted from India's acceptance of compulsory jurisdiction under the Optional Clause by the express terms of her Declaration of 28 February 1940.

Sixth Objection

198. The Sixth Objection of the Government of India is that, even if Portugal were able to adduce evidence of claims to rights of passage made by her for a long period of years prior to the filing of the Application, the evidence submitted by India shows that any such claims were continually and for a long period prior to 5 February 1930, rejected by the British/Indian Government with the result that the Portuguese Application would have to be held to relate to a dispute excluded from India's acceptance of the Optional Clause, *ratione temporis*.

THE FACTS

199. India, in her Declaration of 28 February 1940, limited her acceptance of the compulsory jurisdiction of the Court to "disputes arising after February 5th, 1930, with regard to situations or facts subsequent to that date".

THE SUBMISSIONS OF THE GOVERNMENT OF INDIA

200. The Government of India, in setting out the facts relating to the Fifth Objection, has contended that the facts show clearly that during the period from 1891 until the filing of the Application Portugal never asserted any claim of right with respect to the passage of Portuguese persons and goods between Daman and the enclaves. In formulating its present Objection, the Government of India does not in any way retract or modify that contention. If that contention is upheld by the Court, the Portuguese Govern-

ment, as the Government of India has said in its submissions on the Fifth Objection, has no basis whatever for saying that the matters in dispute are not matters falling exclusively within the jurisdiction of India. In the event, however, of Portugal adducing evidence that she was asserting some claim of right during the period between 1891 and the filing of the Application, the Government of India reiterates its contention that during the whole of this period the British/Indian Government was continuously asserting a right to treat passage over Indian territory between Daman and the enclaves as a question falling exclusively within the jurisdiction of the territorial State; and it relies on that fact, together with any possible evidence of a Portuguese claim of right, as establishing that the dispute submitted to the Court is one with regard to a situation antecedent to 5 February 1930.

201. Accordingly, in the event of Portugal adducing evidence that she was asserting some claim of right during the period between 1891 and the filing of the Application, the Government of India submits:

(1) That the dispute submitted to the Court in the Portuguese Application of 22 December 1955 is one with regard to a situation antecedent to 5 February 1930; and

(2) That, in consequence, it is excluded *ratione temporis* from India's acceptance of compulsory jurisdiction by the express terms of her Declaration of 28 February 1940.

PART III

Conclusions

202. The Government of India, accordingly, asks the Court to adjudge and declare that it is without jurisdiction to entertain the Portuguese Application, dated 22 December 1955, on one or more of the following grounds:—

A. (1) The third condition of the Portuguese Declaration of 19 December 1955 is incompatible with the provisions of the Optional Clause of the Statute of the Court so that the said Declaration is totally invalid as a recognition of the compulsory jurisdiction of the Court under that Clause; and, in consequence,

(2) The Portuguese Application of 22 December 1955, which is expressed to found the jurisdiction of the Court in the present case upon the said Declaration, was ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause (paragraphs 25-34).

B. (1) The filing of the Application in the present case by the Portuguese Government on 22 December 1955 both violated the principle of equality of States before the Court, and disregarded

the express condition of reciprocity contained in the Declaration of the Government of India, dated 28 February 1940; and, in consequence,

(2) The Portuguese Application of 22 December 1955 was ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause (paragraphs 35-44).

C. (1) Portugal, before filing her Application in the present case, did not comply with the rule of customary international law requiring her to undertake diplomatic negotiations and continue them to the point where it was no longer profitable to pursue them, because—

(a) She filed her Application on 22 December 1955 without ever previously having given to India the slightest indication that she made any such claims to legal rights of passage as she has since formulated in the Memorial; and

(b) She filed her Application on 22 December 1955 immediately after making her Declaration accepting the Optional Clause, and only shortly after becoming a Member of the United Nations without attempting to pursue her diplomatic negotiations with India in the new situation created by the change in the legal relations of the Parties brought about by these events; and, in consequence,

(2) When Portugal filed her Application in the present case on 22 December 1955, there was not any legal dispute between the Parties and, in addition, Portugal had not fulfilled an essential condition for the invoking of the Court's compulsory jurisdiction under the Optional Clause (paragraphs 45-50).

D. (1) The filing of the Application in the present case by the Portuguese Government on 22 December 1955 was a violation of the reciprocal right conferred upon India, both by the terms of the Optional Clause, and by the terms of India's Declaration, to exercise the power to make reservations contained in the third condition of the Portuguese Declaration, dated 19 December 1955;

(2) The filing of the Application on 22 December 1955, having regard to the terms of the Portuguese third condition, was also an abuse of the Optional Clause and of the procedure of the Court; and, in consequence,

(3) For each and both of the above reasons the Portuguese Application of 22 December 1955 was ineffective to establish the compulsory jurisdiction of the Court under the Optional Clause (paragraphs 51-58).

E. (1) The dispute relates to a question which under international law is, in principle, a question falling exclusively within the jurisdiction of India (paragraphs 161-168).

(2) A summary view of the facts shows that each of the interested States has for a long time past treated the matters now in dispute

as falling exclusively within the jurisdiction of the territorial sovereign and, in view of the principle in E (1) above, this suffices to establish conclusively that the present dispute is one relating to a question which, by international law, falls exclusively within the jurisdiction of India (paragraphs 156-159).

(3) A summary view of the facts shows that in the past Portugal has unequivocally recognized that the matters now in dispute relate to a question falling exclusively within the jurisdiction of the territorial sovereign and the recognition of this by Portugal suffices to establish conclusively that the present dispute is one relating to a question which by international law falls exclusively within the jurisdiction of India (paragraphs 158-159).

(4) Independently of the attitude of the Parties, a summary view of the relevant facts and applicable law shows that none of the legal grounds of claim based on treaties, custom or general principles of law, which are invoked by the Government of Portugal in the Memorial, justify the provisional conclusion that they are of real importance judicially for determining the legal position of the Parties with respect to the passage of Portuguese persons and goods between Daman and the enclaves, with the result that these legal grounds of claim do not afford any basis for holding that the present dispute is not one relating to a question which by international law falls exclusively within the jurisdiction of India (paragraphs 160-197).

(5) Having regard to the principle in E (1) above, the present dispute, for each of the several reasons given in E (2), E (3) and E (4) above, is a dispute relating to a question which by international law falls exclusively within the jurisdiction of India and, as such, is excepted from India's acceptance of compulsory jurisdiction under the Optional Clause by the express terms of her Declaration dated 28 February 1940 (paragraphs 159 and 197).

F. (1) If, contrary to the contentions of the Government of India, Portugal establishes that she was asserting some claim to rights of passage between Daman and the enclaves during the period from 1891 to the filing of the Application in the present case, the facts show that this claim was disputed by the British/Indian Government; and, in consequence,

(2) The dispute submitted to the Court in the Portuguese Application of 22 December 1955 is in that event a dispute with regard to a situation antecedent to 5 February 1930 and, as such, is excluded *ratione temporis* from India's acceptance of compulsory jurisdiction by the express terms of her Declaration dated 28 February 1940 (paragraphs 198-201).

(Signed) Balraj KRISHNA KAPUR,
Agent of the Government of India.

April, 1957.

Annexes to Preliminary Objection

ANNEX A¹

EVIDENCE IN SUPPORT OF THE INTRODUCTION TO THE PRELIMINARY OBJECTION OF THE GOVERNMENT OF INDIA

¹ In the pleadings as filed, Annexes A, B and C appeared first as annexes to the Preliminary Objections and were subsequently reprinted, with slight amendments, among the annexes to the Counter-Memorial. The present edition of Annexes A, B and C reproduces the text of the Annexes to the Counter-Memorial. [*Note by the Registry.*]

Annex A. No. 1

ANTERO DE QUENTAL (1842-1891)

Portuguese poet and philosopher. Author, among other things, of the "Causes of the Downfall of the Peninsular Peoples in the Last Three Centuries." In "*Prosas*," Edited by the Imprensa da Universidade de Coimbra, 1926, Volume II, referring to Portuguese conquests in India, he said:

"How would it have been possible with hands full of blood and hearts full of pride to civilise backward people ... we estranged the people, terrorised the inhabitants, opened up by our religious and aristocratic spirit an abyss between the minority of conquerors and the majority of the vanquished. One of our first benefits, which we gave to those people, was the Inquisition ..." (Page 134.)

OLIVEIRA MARTINS (1845-1894)

Portuguese historian, publicist and politician; a member of the Portuguese Cortes. In his "*Historia de Portugal*," Fourth Edition, Livraria de Antonio Maria Pereira, Lisbon, speaking of the Portuguese in India, he said:

"... the Portuguese Empire in the East was a mountain of ignominy (page x) ... From the beginning the Portuguese dominion had two characteristics which were never wiped out despite all the attempts at later dates for regularization and order. On the sea prevailed an 'anarchy of robbery,' and on the land a series of bloody depredations. Vasco da Gama taught the method of ruling with fire and blood; Sodre showed the way of harvesting in the sea, boarding the ships coming from Mecca. The piracy and the blood were the two fundamental bases of the Portuguese dominion, whose nerve was the cannon, and whose Soul the Spice." (Page 233.)

EÇA DE QUEIROZ (1845-1900)

Perhaps the greatest Portuguese novelist. His books were translated in many European languages. He wrote in *The Times* of London that "our Empire in the East was a monument of ignominy" which phrase is repeated in his "*Notas Contemporaneas*," Livraria Chardon de Lello e Irmao, Porto, 1909, at pages 57 and 72.

Annex A. No. 2

THE GOAN POLITICAL CONFERENCE MANIFESTO

Humanity has hardly emerged out of the untold ravages of a total world war lasting over six years and spread over five continents. She is groping towards a way which will lead her out of the present chaos into an era of restitution and ordered progress. The defeat of leading Dictator-

ships has inspired the peoples throughout the world to assert and realise the principles of self-determination and democracy. International charters and other instruments are being fashioned to assure the human beings their fundamental liberties and usher in an order of society which will lay the foundations of an ordered existence both for the individual and the nation. The struggle for the liberation of Asia has already begun and the principles of self-determination and democracy are henceforth to be applied to subject peoples. In British India too the same principles have been most solemnly recognised by the British Government and elections are being held to pave the way for the formation of a Constitution-Making Body. Even in the Indian States a new democratic order is sought to be established with the consent of their rulers.

The conditions in Goa, however, present a completely different picture. Goa, with Daman and Diu, are lying prostrate in their helplessness, unable to march even a step towards progress, chained as they are to the provisions of "Acto Colonial," the basic law of the Portuguese Empire. While people are marching towards representative institutions as opposed to arbitrary and dictatorial rule, the Colonial Act of Salazar emphatically asserts the right of Portugal to "possess" Colonies. The unchecked sway of the Portuguese imperialism over us, implemented by an indifferent and callous bureaucracy, takes no account of people's voice and needs, and represents an anachronism in the midst of progress and emancipation.

Our rulers themselves could not refuse to read the signs of new times and felt the necessity of demonstrating to the world that their system too was going to be democratically re-shaped, by holding elections. This attempt, however, failed completely. The manipulation of voting results may be gauged from the fact that at several polling centres, despite known and open opposition, the "Uniao Nacional," the political party of the Dictatorship, was declared to have secured all the votes and the opposition none. In Portugal itself the big democratic and republican parties boycotted the bogus elections.

We in Goa are denied the most elementary civil liberties. A rigorous pre-censorship makes it impossible for us to ventilate our grievances in the press. Freedom of speech and association are denied to us in order to keep people ignorant and to tighten all the more the bonds of our slavery and servitude. There is no guarantee for freedom of conscience and sanctity of precincts.

Under the present authoritarian and arbitrary regime, Goa has gone through the worst sufferings recorded in her long and unfortunate history. Famine conditions prevailing in war time have led to higher mortality and forced enlistment of Goans in the War services in British India despite the so-much boasted policy of Portuguese neutrality. The vitality of the people is sapped and the already emasculated people have suffered uncounted casualties during the war, which are not even recorded in the Portuguese defective mortality registers.

The Policy of discrediting the British Indian Currency, pursued in Goa under the pretext of neutrality, deprived our emigrants of hundreds of lakhs of rupees of their remittances and at the same time strained our trade relations with British India on which we depend for our main supplies. Hoarders and speculators took advantage of the situation to enrich themselves at the cost of the starving population. And with the suppression of all representative bodies and of a free press the people found

itself deprived of the least democratic control over the authorities, who, as usual, acted with all arbitrariness.

Even with the end of the war, food conditions in Goa continue to be worse than in other parts of India. Acute scarcity unchecked by rationing or control of prices, is playing havoc in the once fertile lands of Goa. The black market is rampant everywhere and prospers under the protection of the authorities. Hordes of Arab smugglers freely buy at high prices articles of prime necessity which are imported on quota basis from British India and take them to Basra, thus provoking greater scarcity and an unbearably high cost of living against which we are helpless.

The Portuguese Government has never given thought to harness industrial resources of Goa and secure for it an economic existence worthy of the genius of the people and commensurate with the minimum needs of its inhabitants. Goa remains in a primitive state of economy and has to live on the hard earned money of her emigrants because she lacks the most essential industries that could provide them work and food within the country. Far from providing a normal economic life, the government has created tariff barriers between Goa and the Indian mainland. The only prosperous industry is that of alcoholic drinks which has poisoned the vitals of our race.

It would take us too long to describe here all the sufferings and hardships that an autocratic rule imposes upon us. One may, nevertheless, mention in passing the existence of indifference and incompetence of our public administration, and the colossal illiteracy of the people. But the worst feature of this intolerable system is the complete inability to which it condemns us to raise and make our voice felt. This is why we propose to hold our first Political Conference in Bombay, where thanks to the persistent struggle for freedom, we enjoy more rights than in our own native land.

The Bombay High Court, in pronouncing its judgment in the case of the book "Denationalisation of Goans" and while removing its ban, clearly recognised our rights to ventilate in British India our home grievances and to enlist sympathy for the advancement of our demand for political freedom. We are assured besides of the support of our brothers in British India with whom we align ourselves in demanding freedom for our common motherland.

The present demands of the Goan Political Conference are: Immediate civil liberties—freedom of Press, speech, association and conscience; representative system and a government responsible to a freely elected body. It is our aim to carry on a systematic, vigorous and unrelenting propaganda in order to create a public opinion in favour of our demands and to bring pressure upon the Portuguese Government by all means in our Power. Our agitation will not cease until we have reached our goal.

We call upon our countrymen irrespective of class or creed to join hands with us in our efforts, and we summon them to march hand in hand with us to the glorious end which unceasingly beckons us. We seek our way from the present state of humiliation and degradation to a condition of freedom and self-rule which is our birthright. When the political will of our people to achieve freedom is determined by their free and willing choice and reinforced by their readiness to sacrifice and suffer, it will in due course of time snatch even from oppressive hands what is our due and what alone can lend dignity to our lives and justify our existence.

Brothers from Goa, Daman & Diu:—

We seek your help in every way. We call upon you to join us and participate in the Political Conference and in all activities that will follow. Help us to devise a plan together to attain our objectives. We know that the same ideas and ideals move your hearts as they move ours. If you wish to join in our efforts to forge a new order worthy of us and of our succeeding generations, if you believe that an organised and disciplined movement based upon willing and free co-operation of the masses cannot but force its way against all the odds; You are welcome. Nay, we call upon you to join us. Let us march together and the world knows no force which can stop us.

35, Hamam Street, Fort, Bombay. March, 1946.

Massillon Almeida	Prof. G. N. Lavande
Peter J. Alvares	J. P. Lobo
S. R. Bharne	Lambert Mascarenhas, Journalist
V. P. Borkar	V. N. Mayenkar
Tristao Braganza-Cunha	O. C. Mendes
Janardana Camotim	Beatriz Menezes Braganza
A. Piedade Da Cruz	Berta Menezes Braganza
Dr. Juliet Mary De Sa e Souza	R. V. Mudras
Govinda Poi Hegdo Dessai	V. V. Neurenkar
Luis Jose De Souza	Datatraya Venketesh Pai,
(Food Technologist)	Journalist
Elphistone Dias	G. G. Palekar
Joachim Dias (advocate)	Prof. Loximona Rau Sardessai
Dr. Amarante Ferreira	Yeshvantrao S. Sardessai
Dr. Jose Maria Furtado	Ernest Siqueria
Gangorau Goundolkar	J. S. Sukhtankar
D. Kakodkar	Dr. A. G. Tendulkar
Damodar A. Kare	Angela Trindade
S. S. Kavalekar	George Vaz
K. S. Laud	Principal L. N. Velingkar

Annex A. No. 3

RESOLUTION PASSED UNANIMOUSLY AT THE GENERAL MEETING OF THE
GOA CONGRESS COMMITTEE ON 3 MARCH 1946

“Although Goa cannot have any destiny of its own except that of our common motherland India, of which it is an integral part, it finds itself chained today by bonds of political and spiritual slavery to the bankrupt Portuguese Imperialism. We Goans are separated from the rest of Indians by artificial barriers created by an alien Portuguese rule which is incompetent, corrupt and callous to the needs and interests of Goa's inhabitants. An inglorious rule of 435 years has systematically attempted to make us forget our culture and traditions and has landed us in complete economic ruin. The Portuguese have robbed and exploited us and have forced upon us a costly bureaucracy and an alien civilisation against which we revolt.

"We are determined to end this rule which has forfeited all confidence, is devoid of all moral sanctions and public support and to align ourselves with our brothers in India in common struggle for national liberation. Only a free India can look after and promote the national progress of her children. The Goa Congress Committee adhere to the national call of 'Quit India' demand of the Indian National Congress and call upon the Portuguese to leave the shores of Goa, Damaun and Diu so that we can achieve our destiny in common with the rest of India.

"The Goa Congress Committee calls upon all the Goans in India and abroad to co-operate with us and lend us their active support for the liberation of our common motherland."

GOA CONGRESS COMMITTEE.

Published by Sj. Massillon Almeida, General Secretary, Goa Congress Committee.

Annex A. No. 4

From "Diario Da Noite," Goa, July 1946

AN HISTORIC LETTER

Letter from His Excellency the Governor General to Mahatma Gandhi

Dear Mr. M. K. Gandhi,

Some days ago, I learnt through the press the attention you drew of this Government.

Besides the dictators whom the people have condemned, I do not know the political leader who has permitted to interfere, in this manner, in the home rule of other nation.

Presuming that you have been deceived by false and maleficent information, I wish to clarify the situation in order that no moral breakdown takes place in this city, which I presume is the foundation of your political ideology.

Since a long time, I am aware of your high legal culture and therefore I hope you will understand me better after knowing that I too have got the legal education course and that I belong to the Judicial Department of my country.

Can you believe that I, as a Judge, would be able to ignore or deny the civil rights of the people I govern?

If I do so, it would mean to deny the value of the legal science which both of us are cultivating and would prejudice the historic truth of the Portuguese administration, in this part of India, for more than four centuries.

I understand that you hardly know the history and character of the Portuguese people, but taking into consideration the regime in 188 years of what is called "Subjection of the inhabitants in Goa against their will," you show your ignorance not only in the present facts but also in the very Indian History.

The Portuguese did not come to India merely in subjection and economic exploitation, which do not exist here, but they came here guided by a high ideal of fraternity; and therefore we always considered the Indians as our brothers and not subjects. Since the time of Albuquerque till today, the Portuguese have always sacrificed themselves to free the Indians from that, which according to your opinion you consider as a stain (curse) in the Indian civilization, and much success has been gained thus, that the people of Goa free from the oppression and unjust regime of cast discrimination and untouchability distinguished among the people of the Indian Sub-Continent.

The people of Goa, honest and sane, recognise and want the benefits of this work of real civil liberties. But only the anarchist element do not recognise it.

Considering your high spirit and great political responsibilities, I can hardly believe that you are sympathising with the anarchist element of the country as we can conclude from the fact that you have unconditionally accepted *Dr. Lohia's information*.

What rights has a stranger like Dr. Lohia got to enter this country and excite the people abusing their hospitality?

Is there in any country a principal of civil liberty to allow the rebels to cheat the humble people twisting the facts and offending the real civil liberty which these people enjoy in peace, labour and progress?

Under the punishment of self-denial no constituted authority would accept such abuse of the civil liberty which a small fraction wants to impose on the majority at the cost of the real liberty of the latter.

Portugal is a pacific and non-oppressing country as it was shown during the war and it is so because it is a country where there is order. There is order in the administration, order in the spirits, order in the roads. Her laws are naturally adequate to her traditions, customs and character of the people, but they give them the same rights as are given to the people in other civilized countries.

You know very well that an absolute liberty is an utopia. In the civil life there cannot be absolute rights because the rights of one should give place to the rights of the other specially those of the authority.

The first right and the duty of the authority is to look after the welfare of the people, to guard them against any disease. So it is also up to this authority to look after the health of the spirits in not letting them loose to the corruption of the ideas.

I do not believe that there is little liberty in the benevolent and educative censorship than the other forms of the censorship in which the State intervenes in large scale and which I can see even in the so-called democratic countries. For a specific instance I may state that we have not got any control over the consumer goods, as price list has been published by the Government of India in the *Bombay Chronicle* of the 5th July. In my country only prices of some essential commodities are controlled by the State and the remaining prices are fixed by the Commercial organisation without the least interference of the State. Considering this, where is the liberty of Commerce?

I can assure you in my capacity of a jurist and Governor that the liberties of the Goan people are not threatened. Only rebels threaten them either on account of bribery or coercion intending to cheat the people and divert them from the pacific labour.

I hope you will revise your position and will not allow them to do so under the invocation of your name.

Yours truly,

(Signed) José Bossa,
Governor General for Portuguese India.
Nova Goa, the 18th July, 1946.

From "The Harijan," Ahmedabad, of 11 August 1946

Dear Friend,

It was kind of you to write to me in reply to what I had written in Harijan about Goa affairs. I suppose you know that I have visited Mossambique, Delagoa and Inhambano. I did not notice there any Government for philanthropic purposes. Indeed, I was astonished to see the distinction that the Government made between Indians and the Portuguese and between the Africans and themselves. Nor does the history of the Portuguese Settlement in India prove the claim set forth by you. Indeed, what I see and know of the condition of things in Goa, is hardly edifying. That the Indians in Goa have been speechless is proof, not of the innocence or the philanthropic nature of the Portuguese Government but of the rule of terror. You will forgive me for not subscribing to your statement that there is full liberty in Goa and that the agitation is confined only to a few malcontents.

Every account, received by me personally and seen in the papers here in this part of India, confirms the contrary view. I suppose, the report of the sentence by your Court Martial of eight years on Dr. Braganza and his contemplated exile to a far off Portuguese Settlement, is by itself a striking corroboration of the fact, that civil liberty is a rare article in Goa. Why should a law-abiding citizen like Dr. Braganza be considered so dangerous as to be singled out for exile?

Though the politics of Dr. Lohia probably differ from mine, he has commanded my admiration for his having gone to Goa and put his finger on its black spot. Inhabitants of Goa can afford to wait for independence until much greater India has regained it. But no person or group can thus remain without civil liberty without losing self-respect. He has lighted a torch which the inhabitants of Goa cannot, except at their peril, allow to be extinguished. Both you and the inhabitants of Goa should feel thankful to the Doctor for lighting that torch. Therefore, your description of him as "stranger" would excite laughter, if it was not so tragic. Surely the truth is that the Portuguese coming from Portugal are strangers, whether they come as philanthropists or as Governors exploiting the so-called weaker races of the earth.

You have talked of the abolition of caste distinctions. What I see has happened is that not only no caste distinction has been abolished but at least one more caste, far more terrible than the system "caste", has been added by the Portuguese rulers.

I, therefore, hope that you will revise your views on philanthropy, civil liberty and caste distinctions, withdraw all the African police, declare yourself wholeheartedly for civil liberty and if possible, even let the

inhabitants of Goa frame their own Government, and invite from greater India more experienced Indians to assist the inhabitants and even you in framing such Government.

Yours, etc.,

(Signed) M. K. GANDHI.

(P.S.—Since your letter was sent to the Press I am publishing this in Harijan. M. K. G.)

Annex A. No. 5

Translation in English of a letter "from Fernando R. Romba, Commissioner, Portuguese State of India, to Sr. Francisco Mascarenhas, Worthy President of the United Front of Goans, Bombay"

Police of the State of India
Commissariat,
Private
Daman, 7.8.53.

To

Mr. Francisco Mascarenhas.

In reply to the telegram dated the 7th, I confirm having been aware of the talks and telegrams exchanged between you and Casimiro Monteiro, and of the latter's good faith, about the aims of the United Front of Goans in Bombay, under your worthy chairmanship.

Diplomatically, I found your non-appearance very strange, and it has placed me in a very difficult position in relation to the high personages, since I have powers, which have been conferred on me by the Ministerial Act promulgated by the Overseas Ministry, for the purpose of interfering in political problems of this nature, relating to Goa, Daman, and Diu.

We have at present other matters under study, as well as other proposals, relating to your cause. But, in view of my knowledge of your character, I would not be able to do anything, without first conferring with you for the good of Goa, Daman, and Diu.

In view of the sincerity of my actions and intentions I do not understand your hesitation, unless you are disinterested in the cause, of which fact I request you the favour of informing me.

You will forgive me if I impress upon you the importance of this matter which diplomatically is rendered confidential, as is the usual case, until the legal formalities have been fulfilled.

With nothing more to add,

I am,

Sincerely yours,

(Signed) Fernando R. ROMBA,
Commissioner P.E.I. (Police of the State of India).

Annex A. No. 6

GOVERNMENT OF INDIA

MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI

No. D.1070-Eur.1/54.

March 15, 1954.

The Ministry of External Affairs present their compliments to the Legation of Portugal in India and have the honour to refer to the recent arrest and deportation of Dr. P. Gaitonde, a prominent and universally respected surgeon of Goa, for expressing nationalist sentiments.

2. The Government of India have had occasion in the past to comment on the progressive curtailment of political liberties and the summary and severe punishment, involving in many cases deportation to distant penal establishments, of many persons professing sympathy with the aim of merger with India. The Portuguese Government have, on the other hand, maintained that popular resentment against continuation of the Portuguese regime in India does not exist, despite the imposition of rigid censorship, the denial of freedom of speech and writing, the banning of public meetings, and arrests of Goans, in many cases without warrant, who have the courage to express nationalist sentiments.

3. The arrest of Dr. Gaitonde, an Indian by race, Portuguese by force of historical circumstances, educated in Portugal, married to a Portuguese lady, for exercising his democratic right of free expression in favour of reunion with his motherland is yet another indication of the existence of a powerful urge among the people of Goa for reunion with India.

4. The Government of India cannot but express their concern at the continued application of repressive measures adopted by the Portuguese Government in general, and at the arrest of Dr. Gaitonde in particular, with the evident object of stifling the expression of the patriotic sentiments of the people of Goa. The Legation will appreciate that continuance of these repressive measures resulting in the arrest and deportation of Goans professing pro-Indian sentiments is likely to have serious repercussions in India. The Government of India would like to make it clear to the Portuguese Government that they cannot remain silent spectators to this form of repression on the people of Goa who are in no way distinguishable in race, language, religion or culture from the inhabitants of this country. The Government of India therefore protest strongly against the action of the Portuguese authorities in arresting Dr. Gaitonde. They hope that the Portuguese Government will yet acknowledge the necessity of extending the normal democratic and civil liberties to the people of Goa.

The Ministry take the opportunity to renew to the Portuguese Legation the assurances of their highest consideration.

The Legation of Portugal in India,
New Delhi.

Annex A. No. 7

From "The Hindu," Madras, 3 July 1954

FUTURE OF GOA
 PORTUGUESE RULE MUST END
 DEMAND BY BOMBAY GOAN RESIDENTS

(from our correspondent)

Bombay, July 2.

"The time of decision has come. We are at the cross-roads of historical destiny. We hold that the only wise and courageous decision for us is to free ourselves from the Portuguese rule and to unite with India. Goans must cast out all fear from their heart, and claim their right to be the masters of their own destiny," say the Goan residents of Bombay under the leadership of Dr. M. U. Mascarenhas, M.L.A., former Mayor of Bombay, Dr. C. Fernandez, Principal A. Soares, Mrs. Tarabai Welinkar, Mr. Francis Mascarenhas, President, United Front of Goans, Mr. Correia Alfonse, Mr. S. S. Andrade and Dr. M. de Souza, in a manifesto issued today.

It is understood copies of this manifesto have been forwarded to Mr. Jawaharlal Nehru, Prime Minister of India, Mr. Morarji Desai, Chief Minister, Bombay and other "Goans at home and abroad".

The memorandum says: "We, Goans residing in the Indian Union, deeply concerned with the present and future political status of our motherland, conscious too of the dangers of a policy of mere drift and almost fatalistic inaction at a time which calls for clear thinking and wise and courageous decision, would place before you facts and considerations which might help you in arriving at such a decision.

(2) We know and grant that the decision about the future of Goa is primarily the responsibility of those who are living or having their homes in Goa. Had circumstances been propitious, had conditions in Goa been favourable for the exercise of your inherent right of self-determination, we would have left to you both the initiative and the decision in this matter.

POPULAR ASPIRATIONS

(3) But, the Portuguese rulers, in their many statements of policy regarding Goa, at no time have offered to put our wishes or aspirations to the test of a referendum or plebiscite. And this, for a very good reason. They know that a free and fair plebiscite, under conditions which would enable the real wishes of the people to be known, would mean the end of their centuries old Dominion. They know what value to attach to the frequent manifestations of loyalty, secured by methods which will not bear examination, methods which are well known to us. Nor are they misled by the exhibition of loyalty of a servile Press, cowed down by a rigorous and absurd censorship.

(4) Since you, whose interests are at stake in this matter, are denied the elementary rights of free expression, free Press, free assembly, and

free organisation since your voice is suppressed, and any expression of opinion, adverse to the present Colonial regime, involves savage sentences and deportation overseas, the only real and authoritative voice of Goa is, in the existing circumstances, the voice of Goan emigrants, especially in the Indian Union, where the vast majority of them reside and work. It is their voice that must count, because it is a free voice and because, by their intimate contact with the land and the people of Goa, they can truly interpret the real wishes and aspirations of Goa.

(5) We know what weight to attach to the Portuguese protestations that you are Portuguese and that Goa is an integral part of Portugal. That we are Indians, and not Portuguese, needs no argument. It is absurd to claim that a territory which is a geographic portion of India, is part of a country thousands of miles away, separated by many seas and lands—a country, too, which unlike Australia or Canada, has not been colonised by the Portuguese and which maintains its old ethnic structure. It is true that the Portuguese Government have, for their ends and in their own interest, recently written in their Constitution that their possessions overseas are an integral part of the country and are, therefore, inalienable. But Constitutions are not of divine origin. They are man-made, and what man has made, man can unmake. At any rate Goans cannot accept a constitutional doctrine, affecting their status and their future, in the making of which they had no hand nor voice.

COLONIAL STATUS

(6) Nor can we accept the Portuguese claim that Goa has no Colonial status. It is true that lately the old name of Colony has been changed into that of Overseas Province, but a mere change of name, which has been done for purely tactical reasons; involves no change in fact or reality. The fact is that Goa is ruled from Lisbon, and that the local people have no voice in determining what is good or expedient for them. The fact that there has always been a Minister of Colonies in charge of overseas possessions, not to speak of the Colonial Act of Dr. Salazar's own make, belies all these protestations that Goa is not or never has been a colony.

(7) We must take serious note of the fact that the peoples of Asia and even Africa are struggling for emancipation from Colonial rule, that several, including India, have attained complete independence, and that Colonialism is crumbling down under the impact of new ideas and forces which are revolutionising the world. The continuance of small enclaves under foreign domination, within an area which has freed itself from such domination, is not only a historical anachronism but a standing provocation to the new nations which will not tolerate such enclaves in their area. This situation creates tensions, which are bound to affect vitally the interests of Goa and Goans everywhere.

(8) We must equally take note of another fact—that while many countries and peoples, relatively more backward and immature, are progressing towards complete autonomy and independence, the Goans, for all their intelligence, culture, and capacity, should have, today, after nearly four and a half centuries of Portuguese rule, not even a glimmering of local self-Government.

(9) Unlike Portugal, where some may feel that a certain movement and progress have taken place, Goa is still stagnant. The very fact that the capital of Goa has neither pipe-water nor underground drainage is eloquent of the incompetence and supine attitude of the administration. Whatever material improvement is apparent in Goa is by no means due to the action of Government but to the sacrifices and patriotism of the emigrants who have toiled and suffered abroad to build up their homeland. Of these thousands of emigrants, on whom the economy and finances of Goa basically depend, a large majority work and earn their living in the Indian Union.

(10) In his last speech dealing with the problem of Goa, Dr. Salazar has himself cited authoritative figures to show how little the trade and economy of Goa is bound up with that of Portugal and the Portuguese Empire. For most of our food and articles of ordinary consumption we depend not on Portugal but on the Indian Union, Goa being a heavily deficit country. There is no question that economically we depend substantially on the Union.

(11) Looking at the problem from any point of view—geographic, racial, economic, financial—Goa has very little to do with Portugal and very much with the rest of India. Our future, therefore, clearly lies not with Portugal but with India. We must, therefore, repudiate with all our strength the Portuguese claim that we belong to them and that Goa is an inalienable part of the Portuguese Empire.

(12) We are aware of certain fears that if Goa merges into the Indian Union it may be submerged and lose its identity and individuality. It is on these fears that Dr. Salazar has skilfully played in his last reported address. We are fully aware that four and a half centuries of impact of Portuguese rule have left a deep impress on the socio-administrative structure of Goa, on its culture and legislation. But the fear that merger into India will involve a revolutionary change has no foundation whatever. More than once we have had authoritative statements from Prime Minister Nehru that no attempt would be made to subvert the culture or social or religious structure of Goa. We have also the assurance conveyed in the Government of India communiqué of June 10, 1953, that "The Government of India desired to maintain the cultural and other rights including language, laws and customs of the inhabitants of these territories and make no changes in such and like matters except with their consent." Above all, the Indian Constitution specially guarantees the fundamental right of religion, that every person in India shall be free to profess, practise and propagate his faith.

GOA'S INDIVIDUALITY

(13) There is no question whatever that the present legal, administrative and educational set-up of the country will suffer any sudden change, and likewise the present administrative services will be assured continuance. Any change—and change is bound to come—will be gradual, and with the consent of the people.

(14) Since it is an acknowledged fact that Goa has, owing to historical reasons, an individuality of its own, necessarily Goa, when acceding to India, will enter the Indian Union as a separate State-unit with all the powers that are vested in such States, and such other safeguards that

may be necessary. What these safeguards may be, it is for the Goans themselves through their accredited representatives to settle with the Indian Union. Goa is a viable State-unit. It has also got in the Port of Marmugao and the railway connecting it with the mainland, an asset which is of the utmost value both to itself and the Indian Union.

(15) The time of decision has come. We are at the cross-roads of historical destiny. We hold that the only wise and courageous decision for us is to free ourselves from the Portuguese rule and to unite with India. Goans must cast out all fear from their heart, and claim their right to be the masters of their own destiny."

Annex A. No. 8

Undated Open Letter from Dr. Furtado to the Governor-General for Portuguese India

To

His Excellency the Governor General,
Com. Quintanilha Mendonca Dias.

In the absence of a better means I am forced to address Your Excellency in this manner in order to justify my leaving the Village Communities Administration and Goa. The incidents that occurred deprived me of the necessary peace of mind to write while there.

When you summoned me to your office and asked me the reason of my not signing the protest against Pandit Nehru's declaration it was easy to foresee what the future held in store for me. My frank answer that I was not against Portugal but that I was also not against India and therefore found it hard to sign it, irritated Your Excellency so much, that you ordered the Director of Civil Administration to immediately dismiss me from the post of Judge of the Administrative Court and Administrator of the Village Communities. Your Excellency also let your vindictive intention transpire in the following terrible threat: "The Minister for Colonies will decide whether you shall go to Cabo Verde or some other Colony."

Answering as I did, I thought my sincerity would render Your Excellency more reasonable towards me. I could very well have said that I did not sign because according to the text this was "free" or voluntary. But I did not say so, for had I even been forced to sign I would not have done it for strong sentimental reasons which I am unable to explain to you.

There are, however, other reasons of a natural and juridical order which justify my attitude. I am above all an Indian, *jus soli* and *jus sanguinis* and an "assimilated" Portuguese according to the Colonial Act, through the mere political accident of Goa happening to be ruled by the Portuguese, just as it might have been by the French, Dutch or the British.

I can understand that as a representative of a colonial power Your Excellency should try to force me not to be against the power you represent, but I could never allow you to trample on my birthright of

being for India, in order that the most beautiful sentiment, which is second only to God's will, might not be defiled.

What would Your Excellency say, had the Spanish Govt. during the domination of 1640, forced you to vow loyalty to the King of Spain betraying your right of being loyal to Portugal? Should you hold any doubts about this, you can consult the doctrinaires and the theoreticians of the Restoration period of whom Prof. Paulo Mereia tells us in his Lessons of Portuguese Law.

The present Chief Justice of Goa declared to the Bombay press that Portugal wished to maintain the friendliest relations with India. Does Your Excellency not see that by abstaining from declaring myself either against Portugal or against India, I only assumed a neutral attitude?

If Portugal wants to uphold her centuries-old right of possessing and civilizing the territory of Goa with its *assimilated* and *indigenes*, India as a Nation invokes her right to territorial unity. Well, such problems cannot be solved by signatures and meetings. To deal with such problems we have international organizations such as the U.N.O., Arbitration Courts, plebiscites and bilateral agreements between States who are interested in a non-violent solution. Those protests moved by strings can never be of any value. Your Excellency, by dismissing me for not *freely* signing the protest, denounced certain process.

Remember, Your Excellency, that it is not the first time I have abstained from signing protests. When of the "spontaneous" protest meeting of the 22nd of Sept. 1949, my attitude was identical. Your Excellency knows it well. But at that time it was the present Governor of Beira, Dr. Gouveia Meo, who advised you. An autocrat regarding certain matters, still, his intelligence, honesty and sense of justice showed you the right way. He came to know me through a long series of false charges made against me and through my unchanging and unquestionable attitude both in the post of a Judge of the Administrative Court and administrator of the Village Communities. He was my best official defender, as was also the experienced ex-Governor General, Col. Jose Cabral.

When I was summoned to your office on the 27th Feb., two facts shocked me: the first referred to the English teacher, Mr. Nicolau Menezes. Your Excellency asked me if it was true that at nine o'clock that morning that teacher had been to my office. I replied that I did not know as it had only been possible for me to be there at 11 o'clock, but that I had requested him and others to come there at that time to help me in organizing the proposals for presidents of the Local Administrative bodies of the Village Communities. Your Excellency then pulled out of your pocket photographs taken at the house of the Indian Consul, Major Mehta, on the occasion of a party in honour of Mrs. Vijayalakshmi Pandit, and taking out one out of the pack in which were Mrs. Pandit, Mr. Menezes and myself, asked me if the person to the right of Mrs. Pandit was 'that petty teacher of English'.

I must say that this attitude of Your Excellency was more worthy of a Police chief or the administrator of a taluka than that of a Governor General. I found it hard to believe that Your Excellency went collecting photographs of happenings, to a certain extent, of a private character.

The second referred to the choice of "good" presidents of the local administrative bodies of the Village Communities as the elections for members of the Government Council were approaching.

I respectfully informed Your Excellency that I did not think it correct to carry out elections through the Village Communities as: In political elections only those who had attained the age of 21 and could read and write Portuguese had a right to vote, whereas in the Village community elections even the illiterate could vote as well as emancipated minors through their representatives.

In political elections nobody can vote by proxy. In Village Community elections it is allowed.

In political elections women have no vote. In the Village Community elections they have.

In addition, it should be noted that the Government holds guardianship over the Village Communities. Your counsellors will be able to inform your Excellency as to what extent the activities of those under guardianship are valid when practised under the coercive influence of the guardians.

All this policy of choosing "good" presidents culminated in eliminating various names proposed by me on the machiavellian basis that they had *an inclination towards the disintegration of the Empire!*

Let us go on:

By your order I was dismissed from the post of Judge of the Administrative Court and a disciplinary case was drawn up against me in order to dismiss me from that of Administrator of the Village Communities. This case was based on what took place in your office, but neither your order to dismiss me nor your threat to send me to Cabo Verde or some other colony was mentioned in the record!

In the process of taking my declarations by the Director of Civil Administration there was keen interest in showing that I was against Portugal, for he said, that was an obvious conclusion to be drawn from abstention in signing the protest against Nehru when whole Portugal and its colonial empire protested. Nevertheless, the Director pretended to ignore that I had strictly complied with his orders by sending confidential circulars to call meetings of the Local Administrative Bodies of the Village Communities in order to send in their protests, worded according to the instructions of the Administrator of the Taluka. On that occasion the Director himself had expressed to me his wonder that Goa remained silent while whole Portugal and its Empire protested on account of Goa herself. It is a fact that in the exercise of my official position, I never acted contrary to the Government's policy even though I disagreed with the same.

Another observation of the Director which deeply vexed me was that I ill-treated my daughter and my mother-in-law and that I had "compromising" relatives.

This concerned my family life and relationships which were being deliberately clouded, I do not know for what reasons.

My declarations concluded, I told the Director that in order to dismiss me Your Excellency could do without the formality of proceedings as I fully agreed with my dismissal. He replied that he would transmit that to you.

Still, I saw from the questionnaire, that the case was going to be continued and be based on a case cooked up against me in the Police Department about two years ago and which had since been put aside.

How could I defend myself against the charges brought up against me? Who would dare to bear witness in my favour knowing Your Excellency's aim was the one you had announced to me?

Abandoning the post of Administrator of the Village Communities and exiling myself from my country, I once again complied with your order issued in your office on the 13th March, 1950.

To remain in my country would only mean an empty sacrifice for I would be subjected to all manner of humiliations. I preferred to abandon it and live in poverty, but free and far away from the fear and oppression that strangles life in Goa.

Wishing Your Excellency health and fraternity,

Yours truly,

(Signed) Antonio FURTADO.

Annex A. No. 9

[See Annex 50 to Memorial, pp. 87-88.]

Annex A. No. 10

[See Annex 52 to Memorial, pp. 90-93.]

Annex A. No. II

THE LOK SABHA

PRIME MINISTER'S STATEMENT ON FOREIGN AFFAIRS

New Delhi, August 25, 1954¹.

"The House is aware that since it took into consideration the international situation and the policy of the Government of India in relation thereto on the 15th May last, events and developments of much significance have occurred. All these are, in a general way, of concern and interest to us. Some of these events and developments are of more proximate concern to us. In some of them again, our sentiments and our historic circumstances are engaged; in others we are either involved or are concerned to avoid involvement; and in some we have accepted, as part of our international obligations and concern for peace, heavy burdens and onerous responsibilities.

2. It is not my intention to refer to all these matters or to deal with any of them at great length but to make a comparatively brief statement, setting out the Government's appreciation of, and position in respect of some of these problems and developments.

PORTUGUESE SETTLEMENTS

3. The situation in respect of the Portuguese settlements in India, which has aroused much attention and concern both in the House and the country, is one which has continually engaged the study and active consideration of Government. Internally in the Portuguese settlements, the opposition and resistance to foreign and colonial rule has gathered momentum. This is an entirely Goan movement, popular and indigenous. It has been countered by the authorities by the time-honoured but discredited methods of colonial assertion, repression and authoritarian violence coupled with the denial of inherent rights of the people to their freedom and self-determination.

4. The position of the Government of India and indeed of the people of this country, is well known and hardly needs restatement. Goa and the Union of India form one country. As a result of foreign conquest, various parts of India came under colonial domination. Historical developments brought almost the entire country under British rule. But some small pockets of territory remained under the colonial rule of other foreign powers, chiefly because they were tolerated as such by the then British power. The movement for freedom in India was not confined to any part of the country, its objective was not confined to any part of the country, its objective was the freedom of the entire country from every kind of foreign domination. Inevitably the movement took shape in what was called British India, and, ultimately, resulted in the withdrawal of the

¹ Lok Sabha Debates, Part II, Vol. V, No. 3, page 230.

colonial power and the establishment of the Republic of India. That process of liberation cannot be completed till the remaining small pockets of foreign territory are also not freed from colonial control. The Government and the people of this country, therefore, fully sympathise with the aspirations of the Goan people to free themselves from alien rule and to be reunited with the motherland.

5. The policy that we have pursued has been, even as in India under British rule, one of non-violence and we have fashioned our approach and conduct accordingly. This adherence to non-violence means

(i) that we may not abandon or permit any derogation of our identification with the cause of our compatriots under Portuguese rule; and

(ii) equally we may not adopt, advocate or deliberately bring about situations of violence.

We regard and base our position on the fact that the liberation movement is Goan and spontaneous, and that its real strength lies in this fact.

6. The Government of India, and I am confident the great majority of our people, have no intention of adopting any policy or methods which depart from these principles, which are the foundations on which our very nationhood rests and which are the historic and unique legacy of Gandhiji and the pioneers of our freedom.

7. Further, we may never forget that, in our approach and endeavours for our own freedom we were enjoined to eliminate fear. I want to say in all sincerity that the Government do not and will not function in this matter on a foundation of apprehensiveness and fear of probable consequences, of threats, from whatever quarter they may come, or condone, much less approve or support, methods of conduct based on fear. Such methods are opposed to our policy and deny the basic ideas of non-violence.

8. The Portuguese Government have indulged in reckless allegations and unrestrained abuse of us. Moved by the fear characteristic of those whose strength is based on force, they have sought to amass their military strength on their possessions in India to terrorise the people. They are well aware that they constitute no terror for us.

9. It is not, however, the intention of the Government of India to be provoked into thinking and acting in military terms. The Portuguese concentrations and ship movements may well be a violation of our national and international rights. We shall examine and consider these and take such legitimate measures as may be necessary. But we have no intention of following the Portuguese Government's example in this respect.

10. The Portuguese Government have, in their representations to us and to other countries, as well as in their crude propaganda, indulged in totally untrue and reckless allegations. The purpose of all this is to arouse opinion against us by painting us as aggressive militarists, anti-Christian, particularly anti-Catholic, and hypocritical expansionists. They want others to believe that we want to make Goa an Indian colony.

11. These allegations are repudiated by the Goan people in the Portuguese possessions themselves, despite the authoritarian regime there and the repression, the censorship and State-controlled propaganda. The Goan liberation movement, however, continues to grow and may well be measured by the increase in violence and recklessness of Portuguese allegations and propaganda. Goans, outside Goa, mainly in India and East Africa, have expressed themselves in favour of this movement. They demand the end of alien rule and the reunion of Goa with the motherland.

12. The Portuguese allegations about Indian hostility to Roman Catholics and the danger to Catholics if Goa joined the Indian Union have been repudiated most emphatically by the Roman Catholics of India and, more particularly, by their eminent leaders. The Catholics in India regard these Portuguese allegations not only as false but as a slur on themselves and their country. They point to the five million Catholics in India, who have absolute religious freedom and enjoy the consideration and respect of the rest of their compatriots. They know that the guarantees of our Constitution are a reality. Recently, at a widely attended meeting of Goans in Bombay, composed of people of all shades of opinion, mostly non-sectarian and non-party, this feeling found emphatic expression and the falsity of Portuguese allegations was exposed.

13. I deeply regret that the Portuguese Government should have decided to arouse religious passions to serve their colonial ends. They have failed in this endeavour.

14. I would like to take this opportunity of stating once again some aspects of our basic approach in respect of Goa, when it becomes a part of the Indian Union:—

(A) The freedom and rights guaranteed by the Constitution of India and which specifically refer to freedom of conscience, worship and practice of religions, will extend in full measure and in all their implications to these areas.

(B) The special circumstances of cultural, social and lingual relations and the sense of a territorial group which history has created will be respected.

(C) Laws and customs which are part of the social pattern of these areas and which are consistent with fundamental human rights and freedoms, will be respected and modifications will be sought only by negotiation and consent.

(D) As we have done in the rest of India, full use will be made of the administrative, judicial and other services, confident that the return of freedom to and the unity of these areas with the motherland will enable adjustments to be made in harmony with progress and with the desires of the people.

15. The House knows that recently some Notes have been exchanged between the Portuguese Government and the Government of India. They have been placed on the table of the House. It will be evident from these Notes that the Government of India have stated their position with firmness, clarity and restraint and unprovoked by either the language or the content of the Portuguese Notes. The Government believe and are confident that the House will agree that this is and should be the way of

behaviour of Governments. I shall refrain from detailed comments on the Notes exchanged except to say that, consistent with their policy of settling differences and resolving problems by conciliation and negotiation the Government of India promptly accepted the very first offer of the Portuguese Government to cooperate with them on the issue of impartial observation. The Government of India have no objection to this and they have nothing to conceal. They have proposed that representatives of the two Governments should meet together at once and implement the principle on which they have agreed. The last Note of the Portuguese Government appears to raise some further doubts and difficulties, but the Government of India have intimated their firm desire to pursue conciliation and negotiation and urged the Portuguese Government to enable the conference to begin.

16. I would like to say on behalf of our country and Government that we have no animosity towards Portugal or her people. We believe the freedom of the Goans now subject to Portugal, would be a gain for Portugal as well. We will continue to pursue, with patience and firmness the path of conciliation and negotiation. Equally, we must declare that we would be false to our history and betray the cause of freedom itself if we did not state, without reserve, that our country and Government firmly and fully believe in the right of our compatriots in Goa to free themselves from alien rule and to be reunited with the rest of the motherland. This will serve the cause of friendship and understanding, even as freedom to India has led to friendly relations between the United Kingdom and India. We would therefore invite the Portuguese Government to cooperate in the peaceful consummation of these endeavours.

FRENCH SETTLEMENTS

17. The position in respect of the French settlements happily affords at present a different and more hopeful picture. I believe we may reasonably feel that we are nearing the consummation of our hopes of a peaceful and lasting settlement, arrived at by conciliation and consent, honourable and satisfactory to all concerned. Exchanges of views and ideas between ourselves and the Government of France have been in progress for some time and they are being pursued with goodwill on both sides. The Prime Minister of France has demonstrated to the world his patriotism and political boldness as well as his desire for peaceful settlements by negotiation. I have every hope that we shall before long witness the solution of this problem in the context of the full freedom of our people and of firmer friendship between India and France.

18. The present phase of this problem is, as I have said, hopeful, but it has not always been so. The exercise of patience and our firm desire to reach settlement by negotiation has justified itself. The House will perhaps allow me to say that this policy of acting with patience and prudence, in accordance with the principles we hold, does justice to ourselves and also yields results.

..... ”

Annex A. No. 12

No. D. 4213—A—Eur. I/52

GOVERNMENT OF INDIA

MINISTRY OF EXTERNAL AFFAIRS:

New Delhi,
the 16th October, 1952.

The Ministry of External Affairs present their compliments to the Legation of Portugal in India and have the honour to invite the Legation's attention to the following views of the Government of India on certain legislations promulgated in the Portuguese Possessions in India within the past few years:

(1) REGULATIONS REGARDING THE ENTRY OF INDIANS INTO PORTUGUESE INDIA

In accordance with the terms of Decree No. 4590, dated the 26th December, 1947, all Indians entering the Portuguese Possessions in India were required to report their place of residence to the local police authorities in case their stay in that territory exceeded 8 days. In terms of a modification of this decree as issued in Order-in-Council No. 4632, dated the 25th March, 1948, it was made compulsory for all Indian nationals to present themselves to the police authorities in the area of their residence within 24 hours of their entering these Portuguese settlements. The local authorities were further empowered to demand any document or declaration of identification such as was deemed necessary to decide the identity of an Indian national.

As a result of representations made by the Consulate General of India in Goa, the period of 24 hours was amended to 72 hours under the terms of Order-in-Council No. 5046, dated the 23rd March, 1950. Nevertheless, despite this change, the fact that all Indians are required to report their entry into the Portuguese possessions in India is an unfriendly departure from the traditional freedom of entry and residence within these territories enjoyed by Indians in the past and which ironically enough the decree of 1948 itself clearly states in Art. 9: "The regime of free transit in this territory of nationals of neighbouring India shall continue."

Reports have been received that the terms of this decree are applied rigorously to Indians entering Portuguese territories. Several instances of fines having been levied on Indian nationals for failure to comply with these regulations have been brought to the notice of the Indian Consulate General in Goa. Within the past few months cases have also been brought to the notice of the Consulate General of India in Goa of Indian nationals entering and desiring to reside in Goa for over a period of a fortnight who have, after complying with the regulations of Order-in-Council No. 5046, dated the 23rd March, 1950, been called up to the Central Police organisation at Nova Goa for further questioning. Indeed it would appear that the purpose of the original regulations, harsh as they were, is being extended still further to cause genuine inconvenience and even harassment to Indian nationals entering Portuguese territories.

(2) REGULATIONS REGARDING CONTRACTS OF ACCOMMODATION

In accordance with Legislative Act No. 1409, dated the 14th February, 1952, amending Legislative Act No. 1371, dated the 19th April, 1951, no "foreigner" in the Portuguese Possessions in India is permitted to rent properties for habitation, commerce or industry, either directly or indirectly, without prior authorisation from the Government applied for through the Revenue Services. In the event of non-observance of this procedure, imprisonment up to six months and a fine of Rs. 500/- are provided for. A condition for the approval by the Government to the conclusion of such contracts for habitation, commerce or industry, is that the "foreigner" should have *legalised* or *permanent* residence in the Portuguese Possessions in India. The principal category of "foreigners" which has been affected is Indians who have been residing in Goa for normal occupation, commerce, trade or the exercise of professions. In other words, this decree has sought to place further uncalled for restrictions on Indians living in the Portuguese Possessions in India. If the object of this Decree is, as stated in the preamble, to solve the problem of rentals and of a shortage of accommodation, there would seem to be no reason to introduce undue restrictions against a group of people who constitute less than 2 per cent. of the population of the Portuguese possessions. In fact, these regulations have resulted in placing Indians at a substantial disadvantage.

(3) REGULATION REGARDING RESIDENCE IN THE PORTUGUESE POSSESSIONS IN INDIA

Consequent on the above Decree relating to accommodation, the Government of the Portuguese Possessions in India have also brought in force the terms of a Decree No. 37196, dated the 27th November, 1948, which, though given publicity at that time, has not been made effective. In accordance with the terms of a circular issued by the Directorate of Revenue Services, dated the 29th January, 1952, to Taluka Offices, "the Government have decided that all foreigners, including Indians, would have to apply for permission to reside in the Portuguese Possessions in India in accordance with the terms of this latter decree of 1948".

The decree relating to accommodation therefore brought in two additional restrictions on Indians in the Portuguese Possessions in India—

- (1) relating to the renting of accommodation for the purpose of habitation, commerce or industry; and
- (2) relating to the residence by Indians within these territories.

Reports have been received by the Consulate General of India in Goa of refusals by the Government of Portuguese Possessions in India of permission for residence to Indian nationals residing in Goa for several years, in one case since 1934. In almost all these cases representations made by the Consulate General resulted in a revision of the decisions reached earlier by the Portuguese administrations in Goa. It was curious, however, that the Government of the Portuguese Possessions in India were not prepared to state the reasons for refusal and gave as the ground for revision the fact that "a request had been made by the Indian Consulate General". It is clearly evident that these regulations are being

applied in an unjustified and unfair manner to Indians living in the Portuguese Possessions.

(4) REGULATIONS REGARDING TRADING LICENCES

In accordance with the terms of a notification issued in the "Boletim Official" No. 42, III Series of the 19th October, 1950, certain conditions are required to be observed in respect of applications for setting up commercial establishments in the Portuguese Possessions in India. In the case of foreigners (in which Indians are included) information is required to be furnished by the applicant in regard to whether permission for residence has been obtained and whether the applicant has reported to the police authorities in accordance with the regulations relating to entry. Not only applicants but the managers of establishments are also required to furnish similar information.

Repeated requests by the Consulate General of India in Goa to the Government of the Portuguese Possessions in India for information regarding the disposal of applications received from Indians brought no replies from that Government. A similar request addressed to the Portuguese Legation produced a belated answer that in all twelve Indians have been refused trading licences. In this connection the Portuguese Legation drew attention to a Ministerial Decree No. 9355, dated the 26th October, 1939, regulating commercial establishments in Portuguese territories. As far as this Ministry are aware, this decree had not been applied to the Portuguese Possessions in India until the issue of the notification, dated the 19th October, 1950, referred to above. In other words, even though regulations were in force in other Portuguese territories, regarding the setting up of commercial establishments since 1939, the traditional regime of free commerce and trade continued to be extended to Indians in the Portuguese Possessions in India until withdrawn in October, 1950.

(5) REGULATIONS REGARDING THE OWNERSHIP OF PROPERTIES

Under the terms of a decree, No. 28228, dated the 14th November, 1937, brought into force in the Portuguese Possessions in India by a Ministerial Act No. 16, dated the 8th May, 1952, comprehensive provisions in respect of the ownership and transfer to or by foreigners of immovable properties, stocks and shares in companies engaged in exploiting land or possessing immovable properties have been brought into force in Portuguese possessions in India. The attention of the Portuguese Legation is, in this connection, invited to this Ministry's note No. D.2878-Eur. I/52, dated the 16th August, 1952.

The Government of India would observe that the cumulative effect of this wave of legislation introduced in the Portuguese Possessions in India since the advent of Indian Independence has been to destroy the traditional friendship, the community of interests in commerce, trade and industry which has characterised the common life of the peoples of Goa and of other parts of India living in these areas. In fact, the Government of those areas has attempted to demarcate and place within the boundaries of restrictive legislation a group of people who are often indistinguishable in race, language, culture or creed from the other peoples living as "nationals" of those territories.

The Government of India regret that they cannot agree to accept the argument that economic or commercial considerations as specified in

the preambles to some of the above decrees, have necessitated such legislation directed almost solely against a small group which, as stated earlier in this Note, constitutes less than two per cent. of the total population of these areas. On the other hand, the Government of India is keenly aware of the liberality with which certain classes of foreign nationals of overseas countries have been dealt with by the Portuguese authorities in India. Repeated requests addressed to the Government of the Portuguese Possessions in India to assist Indian administrators in solving such problems as smuggling and contraband traffic have proved futile.

In this context the Government of India would recall that the Government of Portugal has often declared its "traditional friendship" to and its spirit of "trustful collaboration" with the people of India. If this legislation, and the actions of the Government of the Portuguese Possessions in India, is any indication the Government of India are constrained to observe that these intentions have not been fulfilled. In the circumstances, the Government of India is obliged to request the Portuguese Government for a substantial modification of the legislation detailed above, in its effect on Indians, ensuring in general a return to the conditions of freedom of residence, commerce, trade and occupation obtaining prior to 1947.

The Ministry of External Affairs take this opportunity to renew to the Legation of Portugal the assurances of their highest consideration.

The Legation of Portugal in India,
New Delhi.

ANNEX B¹

EVIDENCE IN SUPPORT OF THE FIRST, SECOND, THIRD
AND FOURTH OBJECTIONS OF THE GOVERNMENT OF
INDIA

¹ In the pleadings as filed, Annexes A, B and C appeared first as annexes to the Preliminary Objections and were subsequently reprinted, with slight amendments, among the annexes to the Counter-Memorial. The present edition of Annexes A, B and C reproduces the text of the Annexes to the Counter-Memorial. [*Note by the Registry.*]

Annex B. No. 1

Embaixada de Portugal,
Washington.

Washington, D.C.,
19th December, 1955.

Mr. Secretary-General,

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognises the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of the Article 36 and under the following conditions:

(1) The present declaration covers disputes arising out of events both prior and subsequent to the declarations of acceptance of the "optional clause" which Portugal made on December 16, 1920, as a party to the Statute of the Permanent Court of International Justice.

(2) The present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General.

(3) The Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

I avail myself of this occasion to present to you, Mr. Secretary-General, the assurances of my highest consideration.

(Signed) L. Esteves FERNANDES.

Mr. Dag Hammarskjöld,
Secretary-General of the United Nations Organization.
Etc.

etc.

Certified true copy:

(Signed) Constantin A. STAVROPOULOS,
Legal Counsel.

Annex B. No. 2

Royal Ministry
for
Foreign Affairs

Stockholm.

February 23, 1956.

Sir,

By letter of January 19, 1956 (C.N. 127. 1955, Treaties), you have transmitted for the information of my Government a copy of the Declaration made on behalf of the Government of Portugal by the Portuguese Ambassador in Washington in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, recognizing as compulsory *ipso facto* and without special agreement the jurisdiction of the said Court.

The acceptance of the jurisdiction of the Court has, however, been made subject to i.e. the following condition:

“(3) The Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.”

The Swedish Government is compelled to state that in its opinion the cited condition in reality signifies that Portugal has not bound itself to accept the jurisdiction of the Court with regard to any dispute or any category of disputes. The condition nullifies the obligation intended by the wording of Article 36, paragraph 2, of the Statute where it is said that the recognition of the jurisdiction of the Court shall be “compulsory *ipso facto*”.

For the stated reason, the Swedish Government must consider the cited condition as incompatible with a recognition of the “Optional Clause” of the Statute of the International Court of Justice.

Accept, Sir, the assurances of my highest consideration.

For the Minister:

(Signed) K. F. ALMQVIST.

Assistant Chief of the Legal Department.

The Honourable Dag Hammarskjöld,
Secretary-General to the United Nations,
New York.

Annex B. No. 3

UNITED NATIONS

Missao Permanente de Portugal
Junto das Nacoes Unidas
New York.

July 5, 1956.

No. 126

Excellency,

At the request of the Swedish Government, the United Nations conveyed to my Government, by letter of April 19, 1956 (C.N.40.1956. Treaties), the translation of a letter from the Ministry of Foreign Affairs of Sweden, dated February 23, 1956, commenting upon the Declaration made by the Portuguese Government under Article 36 (2) of the Statute of the International Court of Justice.

2. The unequivocal wording of sub-paragraph (3) of the Declaration offers no basis for the interpretation put upon this particular proviso by the Swedish Government. As, however, the conclusion drawn by the latter is liable to raise doubts regarding the validity of the Declaration, a correction is essential.

3. In no way, indeed, does sub-paragraph (3) warrant the conclusion that the Portuguese Government would be in a position to withdraw from the jurisdiction of the Court any dispute, or category of disputes, already referred to it, for it expressly states that the reservation would only take effect from the date of its notification to the Secretary-General of the United Nations. The Portuguese Declaration thus produces all the effect provided for by article 36 as regards disputes referred to the Court prior to a possible notification. Hence, the interpretation of the Swedish Government is not in accord with the facts.

4. This material flaw would suffice to enable further comment to be dispensed with. Yet in order to show more clearly the absence of any basis for such doubts as to the validity of the Portuguese Declaration it should be mentioned that the contents of sub-paragraph (3) amount to no more than a form—attenuated be it said—of the reservation which several countries have in the past invoked (without ever having thereby given rise to any objections), of the right to abrogate at any time their declarations of acceptance. In any case, the Court alone is competent to pronounce on the validity of these declarations.

5. The Portuguese Government being anxious that no misunderstanding should subsist in regard to a matter the importance of which is such as to require that it should be dealt with in as precise a manner as possible, I should be grateful if Your Excellency would be so good as to transmit the contents of this letter to those Governments and entities to whom copies of the letter from the Ministry of Foreign Affairs of Sweden, under reference, were sent.

I avail myself of this opportunity to present to Your Excellency the assurances of my highest consideration.

(Signed) Albano NOGUEIRA,
Deputy Permanent Representative and
Chargé d'Affaires *a.i.*

His Excellency Dag Hammarskjöld,
Secretary-General of the United Nations,
New York.

Annex B. No. 4

**DECLARATION OF THE GOVERNMENT OF INDIA DATED
28 FEBRUARY 1940**

On behalf of the Government of India, I now declare that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the Court, in conformity with paragraph 2 of Article 36 of the Statute of the Court for a period of 5 years from today's date, and thereafter until such time as notice may be given to terminate the acceptance, over all disputes arising after February 5th, 1930, with regard to situations or facts subsequent to the same date, other than:

disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

disputes with the Government of any other Member of the League which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

disputes with regard to questions which by international law fall exclusively within the jurisdiction of India; and

disputes arising out of events occurring at a time when the Government of India were involved in hostilities.

And subject to the condition that the Government of India reserve the right to require that proceedings in the Court shall be suspended in respect of any dispute which has been submitted to and is under consideration by the Council of the League of Nations, provided that notice to suspend is given after the dispute has been submitted to the Council and is given within 10 days of the notification of the initiation of the proceedings in the Court, and provided also that such suspension shall be limited to a period of 12 months or such longer period as may be agreed by the Parties to the dispute or determined by a decision of all the Members of the Council other than the Parties to the dispute.

London, February 28th, 1940.

(Signed) ZETLAND,
[Secretary of State for India.]

Annex B. No. 5

UNITED NATIONS NATIONS UNIES
NEW YORK

C. No. 127. 1955. Treaties. 19 January, 1956

COMPULSORY JURISDICTION OF THE INTERNATIONAL
COURT OF JUSTICE

DECLARATION BY PORTUGAL

Sir,

I am directed by the Secretary-General to transmit herewith, in accordance with paragraph 4, Article 36, of the Statute of the International Court of Justice, a copy of the Declaration made on behalf of the Government of Portugal by the Portuguese Ambassador in Washington, recognizing as compulsory the jurisdiction of the Court. The Declaration was deposited with the Secretary-General on 19 December, 1955.

The Full Powers authorising the deposit of the said Declaration were received by the Secretary-General on 21 December, 1955. Accept, Sir, the assurances of my highest consideration.

(Signed) Constantin A. STAVROPOULOS,
Legal Counsel.

The Minister for External Affairs,
Government of India,
New Delhi 3,
India.

Annex B. No. 6

FULL POWERS

The undersigned, President of the Council of Ministers of Portugal acting as Minister for Foreign Affairs, certifies that the Portuguese Government hereby appoints Ambassador Luis Esteves Fernandes, its official representative to the United Nations, as its plenipotentiary for the purpose of making the declaration, under Article 36 (2) of the Statute of the International Court of Justice, that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said Article 36 (2) and under the following conditions:

(1) The said declaration shall cover disputes arising out of events both prior and subsequent to the declarations of acceptance of the "optional clause" which Portugal made on December 16, 1920, as a party to the Statute of the Permanent Court of International Justice.

(2) The said declaration shall enter into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General.

(3) The Portuguese Government reserves the right to exclude from the scope of the said declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Lisbon, 20th December, 1955.

(Signed) SALAZAR.

Certified true copy:

(Signed) Constantin A. STAVROPOULOS,
Legal Counsel.

Annex B. No. 7

Telegram from the Indian Ambassador at The Hague to the Ministry of External Affairs, New Delhi

IMMEDIATE
NDS 11 DLN 145 S SGRAVENHAGE 53/52 27
1310 ETAT IMP=
IMMEDIATE FOREIGN NEWDELHI =
No 69 HUSAIN FROM KAPUR Stop YOUR
TELEGRAM NUMBER 4615=JSW DECEMBER 24TH
Stop COPY OF PORTUGUESE DECLARATION MADE
TO SECRETARY GENERAL UNITED NATIONS ON
DECEMBER 19TH AND RECEIVED HERE TODAY
BY INTERNATIONAL COURT BEING AIRMAILED
Stop UNDERSTAND COPY HAS ALSO BEEN
SENT DIRECT TO YOU BY UNITED NATIONS =
INDEMBASSY + +

Annex B. No. 8

Telegram from the Permanent Delegate of India to the United Nations, New York, to the Ministry of External Affairs, New Delhi

BN/MAC 1017 NEWYORK 40 CNT PNTN INDGVT
25 107M =
FOREIGN NEWDELHI =
345 YOUR 4614 JSW UN SECRETARIAT
CLOSED TILL TUESDAY Stop WILL THEN
AIRMAIL PORTUGUESE DECLARATION IF IT
HAS BEEN MADE + CORDIER WHOM I
MANAGED CONTACT IN COUNTRY SAYS
DECLARATION HAS NOT YET REACHED
SECRETARY GENERAL + = INDIADEL +

Annex B. No. 9

*Telegram from the Permanent Delegate of India to the United Nations
to the Ministry of External Affairs, New Delhi*

BN/MAC 400 NEWYORK 45/43 28 242P

CNT PNTNS INDIAGOV =

FOREIGN NEWDELHI =

HUSAIN FROM LALL + NO+530 + CONTINUATION
MY CABLE NO+345 OF 24TH DECEMBER +
CORDIER INFORMS ME THAT PORTUGAL HAS
MADE DECLARATION UNDER ARTICLE 36
PARAGRAPH 2 OF STATUTE OF INTERNATIONAL
COURT OF JUSTICE + COPY AIRMAILED
TO YOU TODAY + + +

Annex B. No. 10

No. 47/6I-NGO

January 12, 1956.

From

The Secretary to the Govt. of India,
Ministry of External Affairs,
New Delhi.

To

The Registrar,
International Court of Justice,
The Hague.

Sir,

I have the honour, by direction of the Government of India, to acknowledge receipt of your letter No. 23118 dated the 22nd Dec., 1955, addressed to His Excellency the Minister for External Affairs, enclosing a certified true copy of the application filed in the Registry of the International Court of Justice on behalf of the Portuguese Republic instituting proceedings against the Republic of India concerning certain rights of passage over Indian territory claimed by the applicant State. This acknowledgment is, however, without prejudice to the submission that India propose to make in due course that the Court has no jurisdiction in respect of the matters mentioned in the application.

I have also the honour to inform you that the name and address of the agent to the Govt. of India will, as required by paragraphs 3 and 5 of article 35 of the Rules of Court, be communicated to you at an early date.

I have the honour to be,

Sir,

Yours faithfully,

(Signed) S. DUTT.
Foreign Secretary.

ANNEX C¹

EVIDENCE IN SUPPORT OF THE FIFTH OBJECTION OF
THE GOVERNMENT OF INDIA

¹ In the pleadings as filed, Annexes A, B and C appeared first as annexes to the Preliminary Objections and were subsequently reprinted, with slight amendments, among the annexes to the Counter-Memorial. The present edition of Annexes A, B and C reproduces the text of the Annexes to the Counter-Memorial. [*Note by the Registry.*]

Annex C. No. 1

GLOSSARY OF TERMS USED IN MARATHA DOCUMENTS

AIN	Specific sum or value; in Marathi finance Ain implies the original fixed or standard assessment of the revenue or the lands bearing such assessment.
AIN BERIJ	Actual or standard assessment.
AIN DAST	Regular cess on fields, etc., as opposed to any incidental or extra charge.
AJMAS	An anticipatory statement or estimate of the receipts, expenses and net balances of a district made up at the beginning of the revenue year.
AKAR	Estimate of revenue yield of a village or district.
AMADORAFT or AMADRAFT	Coming and going; traffic; entry and exit; import and export.
AMAL	Revenue administration; collection of revenue; the share or portion of revenue; management; authority; government.
ANTAST	Secret expenditure; sums expended on presents to official persons; an item in Court expenses of the Peshwa.
BABTI	A share of the revenue appropriated by certain officers of the Maratha State; special cess in addition to the ordinary revenue.
BERIJ	The total sum of an account; the total amount of revenue assessment; the total assessment of a district.
CHAUTH	Assessment equal to one-fourth of the original standard assessment demanded by the Marathas from the Princes of Hindustan as tribute.
DARBAR	Court; Court of the Peshwa at Poona. Par Darbar = foreign Court or Courts; foreign affairs.
DAFATA	Register. Dafata Patra = letter from Register.
DAFTAR	Office; office in which public records are kept; Secretariat. Peshwa Daftar = Secretariat of the Peshwa.
DAROBAST	Complete.
DAST	Portion of revenue actually realised; a tax.
DASTAK	Passport; permit. Also document authorising free transit of goods and their exemption from custom dues.
DESHPANDE	Hereditary accountant of a Mahal. Dues attached to this office. See WATAN.
DESHMUKH	Hereditary police and revenue officer of a district. Deshmukhi = dues attached to this office. See WATAN.
DHARMADAI	Endowment (e.g., of revenue) for religious or charitable purposes.
DUMALA	A reversionary village, or lands the revenues of which are granted for life or a term of years, after which they revert to the State; or lands granted for service, or through favour, subject to resumption at pleasure.

FIRANGEE	Maratha term for the Portuguese.
GHADNI	Ledgerbook.
HAKDAR	Holder of right; person vested with property or privilege; holder of share of revenue; village officer who claims prescriptive rights or fees.
HANDEKARI	Services of labourer or bullock.
HAZRAT ESTAD	Majestic state; term applied to the Portuguese Government of Goa.
HUZUR	The royal presence; by metonymy the person of the prince or functionary; also abstractly, the State or Government.
IMARAT	An edifice or a building, especially a large and fine building; construction of stones or of bricks and mortar; fortification.
INAM	A gift; grant of rent-free land, usually in hereditary and perpetual occupation. Adjective—Inamati.
ISAFAT	Increase of revenue from any additional source; grant of an entire village rent-free to the chief hereditary village officer.
JAGIR or JAHAGIR	Literally taking or occupying a place. A tenure common under the Moghul and other Mahomedan Governments, in which public revenues of a given tract of land were made over to a servant of the State. The assignment was either conditional or unconditional; in the former case, some public service as the levy and maintenance of troops, or other specified duty, was engaged for; the latter was left to the entire disposal of the grantee. The assignment was either for a stated term, or more usually, for the life time of the holder, lapsing, on his death, to the State, although not unusually renewed to the heir, on payment of a Nazarana, or fine, or sometimes specified to be a hereditary assignment; without which specification it was held to be a life-tenure only. A Jagir was also liable to forfeiture on failure of performance of the conditions on which it was granted, or on the holder's incurring the displeasure of the Emperor. On the other hand, in the inability of the State to vindicate its rights, a Jagir was sometimes converted into a perpetual and transferable estate; and the same consequence has resulted from the recognition of sundry Jagirs as hereditary by the British Government after the extinction of the native Governments by which they were originally granted.
JAMA	Amount; aggregate; total in general. Applied especially to the debit or receipt side of an account, and to the total amount of rent or revenue payable by a cultivator.
JAMABANDI	The general assessment of lands; the settlement of the amount to be paid annually; the amount settled, the revenue resulting; the account of the revenues.
JARAIBA	Tax on liquor.
JIRAYAT	Land fit for cultivation not requiring artificial irrigation; also cultivated lands and their produce, as distinguished from garden cultivation.
KALAMBANDI	Articles of agreement; also a document showing the state and management of a district.
KAMAL	The whole sum raised by a village to meet the total revenue demand; the largest, that is maximum, amount of revenue realisable from a village or district.

KAMAL AKAR	Total or maximum revenue yield or assessment.
KAMAL BERIJ	Total or maximum collection of revenue.
KAMAVIS	Business of collecting the revenues; also fees of the collector. Kamavisdar = collector of revenues.
KARKUNI	Office, function or fees of Karkun.
KARSAI	An impost of grass, firewood, thatching, etc., levied on dependent villages for the benefit of forts.
KAUL	Word; promise; promise of pardon or safe-conduct.
KHARABA	<i>Impost on land occupied by cultivator's house or on waste lands.</i>
KHERIJ	External or additional.
KHERIJ DAST	Extra or additional assessment.
KHERIJ JAMA	Total of miscellaneous items of revenue.
KULBAB	All items of revenue.
KULKARNI	Hereditary village accountant: dues attached to this office. See WATAN.
MAHAL	A division of a Taluka or district yielding a certain amount of revenue according to assessment. A grouping of villages for purposes of revenue assessment and collection.
MAHSUL	Realisation of revenue.
MAKTA	Contract; farm.
MAMLA	Management of a district.
MAMLATDAR	A revenue officer in charge of a district.
MAUZA	A village, understanding by that term one or more clusters of habitations and all the lands belonging to their proprietary inhabitants; a parcel or parcels of lands having a separate name in the revenue records.
MOHTARFA	Tax on shopkeepers and artisans.
MUKADAM	Headman of village charged with realisation of the revenue and of its payment to the Government or the person to whom revenue has been assigned.
NAKA	Outpost. Zakat Naka = post for collection of zakat.
NEMNUK	Allowance, stipend, appointed provision.
NISBAT	Belonging to, on the part of.
PANT PRADHAN	Prime Minister; the Peshwa, Maratha Ruler of Poona.
PAR DARBAR	Foreign Court or Courts; Foreign Affairs.
PARGANA	A large division of country with one or more towns at the head.
PATEL	Village headman charged with police functions; also dues attached to this office. See WATAN.
PRANT	Division of administration. Consisting of a number of smaller units called parganas.
RAJESHRI	Honorific term.
RAJMANDAL	King's Council; the Peshwa's Council of Ministers at Poona.
ROZKIRD	Day-book; Daily diary. The Peshwa's detailed day diary.
RYOTS	Cultivators.

SANAD	A grant, a diploma, a charter, a patent; a document conveying to an individual emoluments, titles, privileges, offices, or rights to revenue from land, etc., under the seal of the ruling authority.
SARANJAM	Temporary assignment of revenue from Maratha villages or lands for the life of the grantee; also grant made to persons appointed to civil offices of the State to enable them to maintain their dignity; such grant was neither transferable nor hereditary; and was held at the pleasure of the sovereign. Saranjamdar = Holder of such assignment.
SARDESHMUKHI	The office of head Deshmukh; the proportion of 10 per cent. exacted by the Marathas from the revenues of the Moham-medan territories of the Deccan in addition to the Chauth; it was originally claimed by Shivaji, founder of Maratha State, as head Deshmukh.
SARKAR	The Government, the State, the supreme authority or administration; the governing authority or administrator of affairs; the ruler, the King. Maratha State, Government or Sovereign; the Peshwa.
SARPATIL	The headman of a district; also dues attached to this office.
SUBEDAR	Governor of a province. Suba = a province (smaller than Prant).
TALUKA	A district; sub-division of Pargana.
TERIJ	An abstract account completed from other detailed accounts; an item in a number of items to be added together, a paper or list of items to be added together.
THALKARI	Landed proprietor, as opposed to a tenant or farmer.
THANA	The headquarters of a Taluka; also generally a post; station.
VAKIL	Advocate; envoy; emissary.
WASUL	Actual realization of the revenue; collection.
WATAN	Hereditary estate, office, privilege, property, or means of subsistence; patrimony.
YAD	A memorandum; note addressed to an equal on official business.
ZADTI	Clearance of accounts containing details of receipts and expenditure.
ZAKAT	Duties on transit, cattle, market produce, etc.

Annex C. No. 2

PORTUGUESE TREATY OF 4 MAY 1779 AND 11 JANUARY 1780¹Treaty of Agreement between the Majestic State and the Grand Madou
Rau Naraen Pandit Pradan, Regent of Poona

(Arch. da India, livro 2º de pazes, fol. 277.)

4 May 1779.



Treaty of agreement made by His Excellency the Governor and Captain General of India, Dom Jose Pedro da Camara, on behalf of the Majestic State, with the Most Happy Madou Rau Naraen Pandit Pradan. Naraen Vital Dumo was sent to the latter and, having conferred upon matters relating to friendship, made the agreement between the same Majestic State and the said Grand Pandit Pradan in following manner:—

1. Should the fleet of the State and that of Pandit Pradan meet at sea, or should single ships encounter each other, or a ship of one party meet the entire fleet of the other, they shall proceed amicably upon their way.

2. Should the fleet of the State and that of Pandit Pradan meet at sea, one fleet being in want of wood and water, and the other abundantly provided therewith, they shall provide the other fleet therewith. And in the same way should one fleet be in want of provisions and the other have abundance thereof, they shall give them of their provisions, receiving the price thereof in current rupees; and so they shall act reciprocally.

3. The ships of Chinese parts and from the ports of the State which navigate the sea for commerce putting into any port laden with merchandise, to buy and sell, shall not be impeded by the fleet of Pandit Pradan, nor shall the State impede the ships from the ports of Pandit Pradan, which may trade in those of China.

4. The male and female slaves from the dominions of the State who may fly to the lands of Pandit Pradan, shall be restored. And this shall be reciprocally practised.

5. The differences which existed before this treaty shall be reciprocally forgotten.

6. This treaty being concluded, should there still be any motive of jealousy and discord the matter shall first be treated through the Attorney, and both parties shall reciprocally act with all sincerity.

7. The vessels, parangues, and boats, for trading, which come from the dominions of the State to those of Pandit Pradan with merchandise for commerce, may do so on paying duty in the manner practised from

¹ Translation from the Portuguese text given in J. F. J. Biker, *Collecção de Tratados e concertos de pazes, etcetera*, Lisbon, 1885, Volume VIII, at page 62.

ancient times, without vexation from anyone. The merchants having sold their merchandise, may freely take with them vegetables, and other produce. In the same way the merchants from the dominions of Pandit Pradan, entering those of the State with their boats and parangues, will sell their vegetables and other merchandises and buy what they like in exchange, paying duty thereon according to the ancient custom established from the beginning and may withdraw freely without suffering oppression from any person whatever. And this shall be reciprocally observed.

8. The trading vessels of both the dominions going to any port, meeting the fleets of either party, or any ships or vessels of war, shall not be taken upon the pretext that they have not safe-conducts but shall be allowed free passage. And should the enemy take trading vessels from the dominions of either party, at sea, the fleets, or even a vessel of either side, which shall meet them in the power of the enemy, shall go to their assistance and liberate them, and convoy them in safety to the vicinity of their own rivers. And the commanders who shall so act shall be rewarded by their superiors.

9. The fleet of Pandit Pradan having encountered the enemy's fleet and being engaged with it, and the fleet and frigates of the State coming up at that time, the latter shall give them aid and succour, if the said enemy be not an ally of the said State. The fleet of Pandit Pradan shall act in the same manner. This shall be arranged reciprocally.

10. This treaty between the State and Pandit Pradan shall be made known in particular to the Governors upon the confines and others, and to the commanders of the fleets, with orders to take the necessary precautions. The same shall be ordered by Pandit Pradan to the Governors, fleets, and the Marathas of his dominions. And in case the Governors concerned and Marathas should fail in its execution, they shall arrange matters by their intervention. And this shall be observed on both sides.

11. Military men and high officers and other people from the dominions of the State taking refuge in those of Pandit Pradan, and continuing their plots and conspiracies in the said lands of the State, shall not be allowed to take refuge and conspire there, nor shall the said traitors be permitted to live especially upon the confines of its dominions. In the same way, military men and high officers of the household, high or low, or others of the dominions of Pandit Pradan taking refuge in those of the State, and continuing their plots and conspiracies in the said lands of Pandit Pradan, shall not be allowed to take refuge and conspire there, nor shall the said traitors be permitted to live especially upon the confines of his dominions. And this shall be observed reciprocally.

12. The enemies of the State shall not be succoured by Pandit Pradan, or supplied with provisions or any sort of produce. Neither shall the State give succour, or anything else, to the enemies of Pandit Pradan.

13. When one of the two parties shall be weaker or stronger than the other, the strongest shall not contend against the other upon alleged pretexts, but both shall correspond with sincere friendship, in conformity with the agreement.

14. Portuguese soldiers and other people of the State flying to the lands of Pandit Pradan shall not be allowed to remain there nor sheltered

but shall be forced to return for the purpose of being surrendered. In the same way sepoys and others, flying from the dominions of Pandit Pradan to those of the State, they shall not be allowed to remain there, and without being given shelter, shall be forced to return.

15. Henceforward the State shall not build any fortifications in any of the dominions of Gujrat, Saut, Cantevad, Sorat, and other places belonging to Pandit Pradan, and shall allow free entry into its dependencies through the ancient ports which the State now possesses.

16. The trading vessels from the dominions of the State, reputed lost, and wrecks coming ashore in the ports of Pandit Pradan, the said vessels with their cargoes of merchandise shall be restored. And in case they should put into port for fear of an enemy they shall not be interfered with and this shall be observed reciprocally.

17. As the Majestic State has evinced the greatest friendship towards this Pandit Pradan, as proved by the Attorney, Pandit Pradan has agreed to make a contribution in Damam of 12,000 rupees starting from this year through his Damam jurisdiction by virtue of which he shall specifically give to the State the Sanad or the confirmatory order of the villages.

18. In the past its frigate was restored to the State and for its approximate effects Pandit Pradan promised the State the following sum in rupees:—

Net in one year	66454
Teak wood for the ordinary fitting of the said frigate, to be transported in one year from Basaim to Damam, of the value of	3000
Total	<u>69454</u>

In accordance with the above agreement Pandit Pradan shall give the State what is stipulated.

Goa, 4 May 1779. Dom Jose Pedro Camara.

I accept, approve, and confirm this Treaty of Agreement.

Goa, 11 January 1780. Dom Frederico Guilherme de Souza.

Annex C. No. 3

(Part 1)

FINAL DRAFT OF THE MARATHA TREATY OF 1779. 16 DECEMBER 1779

(Peshwa Daftar. Ghadni. Rumlal 481.)

Shri.

Agreement concluded by Rajeshri Madhav Rao Pandit Pradhan dated Suhur Samanin Maya Wa Alaf. Rajeshri Narayan Vithal Dhume having come to the Huzur from Azam Dom Jose Pedro de Camara and

having communicated certain contents regarding friendship, a treaty was concluded between the Sarkar and the Firangee of Goa. The articles are as below:—

[1] When the fleet of the Sarkar meets the fleet of the Firangee or even a single ship, or a ship of one party meets the fleet of the other party, they will behave in a friendly manner.

[2] When the fleet of the Sarkar meets the fleet of the Firangee and one side is short of water and fuel and the other has in store more than it needs, it will give them to the other. If no provisions are left with the fleet of one side and if the other has in store supplies more than necessary, the other should give them on payment of cash. This be done reciprocally.

[3] Vessels from Firangee ports in China territory laden with merchandise sail on the sea for trading at various ports. The fleet of the Sarkar will not hinder them and the Firangee will not hinder vessels from ports belonging to the Sarkar when they proceed to China ports for purposes of trading.

[4] Female slaves and male slaves escaping from the Dominion of the Sarkar into the territory of the Firangee will be delivered up. Both parties will act accordingly.

[5] Neither party will revive disputes existing prior to this treaty.

[6] A bilateral treaty has now been concluded. Should there arise between the two parties anything contrary to it, after carrying on negotiations through the Vakil both parties should act in strict accordance with it.

[7] Merchant vessels, Padgis or Batelas from the territory of the Firangee will visit the Sarkar's Dominion with merchandise. They should engage in trading on paying the customary Zakat to the Sarkar and they should not suffer molestation from anyone. They will sell their merchandise and purchase grain and other provisions and carry them safely. Similarly merchant vessels from the Sarkar's territory, Batelas and Padgis, will sell grain and other provisions in the territory of the Firangee and in exchange will purchase merchandise. After paying the customary Zakat they should return in safety and should not be molested by anyone. This is agreed to by both parties.

[8] Merchant vessels belonging to the Dominion of the Sarkar and the territory of the Firangee sail on the sea for visiting every port. In case they come across the fleet or a single man-of-war or Sibad of either party they should not be seized for not carrying permits. They should be allowed to proceed unmolested. If a merchant vessel belonging to either Dominion happens to be carried away by the enemy and should it come across the fleet or a single ship of either party it should be helped and if there is sufficient force rescued and escorted to the nearest creek. Action taken as above by the commander of a ship should be rewarded by his master.

[9] Should the fleet of the Sarkar encounter an enemy and should an action commence, and should the fleet of the Firangee or a frigate arrive on the scene at that time the Firangee should

give all possible supplies and aid, provided the enemy be not an ally of the Firangee. This shall be done by fleets of both parties.

[10] Instructions in pursuance of the treaty concluded between the Sarkar and the Firangee will be issued to respective frontier officers and the navy. In case mamlatdars and officers of the Sarkar's Dominion act in variance with them they should be ordered to abide by them. Both parties to act accordingly.

[11] Elders and scions of old and respectable families, and Zamindars and others from the Sarkar's Dominion who ever escape into the territory of the Firangee and create disturbances and foment treason in the territory of the Sarkar should not be given asylum nor be allowed to foment treason. Traitors should not be allowed to stay on the border of each other's Dominion. Similarly old and respectable Zamindars and others from the territory of the Firangee who escape into the Dominion of the Sarkar and create disturbances and foment treason in the territory of the Firangee, should not be given asylum nor be allowed to foment treason. Traitors will not be allowed to stay on the border of each other's Dominion. Both parties to act accordingly.

[12] The Firangee will not render assistance to the enemy of the Sarkar and will not provide him with supplies and other commodities and the enemy of the Firangee should not be given by the Sarkar supplies, help or other commodities.

[13] Should either of the parties become weaker the other will not start a quarrel on some pretext or other, but will act in friendship according to the agreement.

[14] If soldiers and other persons from the Sarkar's Dominion escape into the Firangee territory they should not be entertained nor be given asylum; they should be delivered over. Similarly Firangee people and others from the Firangee territory escaping into the Sarkar's Dominion should not be entertained nor given asylum. They should be delivered over.

[15] The Firangee will not establish in future posts anywhere in any place in the Dominion of the Sarkar such as Gujarat, Sawant's territory, Kathiawad, Sorat, etcetera, and there shall be amadraft from the ports which at present are in the possession of the Firangee.

[16] Merchant vessels from the Sarkar's Dominion wrecked and cast in the ports of the Firangee should be returned along with their cargo; in case out of fear of the enemy they seek shelter in a port, they should not be molested. Both parties will act accordingly.

[17] Narayan Vithal Dhume conveyed assurances that the Firangee had evinced friendly sentiments towards the Sarkar and would in future be more friendly. In response, it is agreed that villages yielding revenue of twelve thousands rupees where the authority of the Sarkar is unimpeded would be assigned towards Daman from the current year. The Firangee will not raise any Imarat in the same. Such villages will be specified.

[18] The Vijaydurg fleet formerly seized and brought over to the Sarkar a frigate of the Firangee which was returned to him in

recognition of friendship; agreement to pay money for goods on the frigate:

Rs. 66454—Cash within a year.

Rs. 3000—Teakwood to be sent from Bassein to Daman within a year.

In all Rs. 69454 will be paid.

In all eighteen articles have been agreed upon. Both parties should act accordingly. Agreement should be made to that effect.

6 Jilhej Suhur Samanin, Margasirsha. [16th December, 1779.]

Annex C. No. 3

(Part 2)

MARATHA TREATY OF 17 DECEMBER 1779

Photocopy of Marathi text supplied with Annex I to the Portuguese Memorial.)

Shri.



Agreement concluded by Rajeshri Madhav Rao Pandit Pradhan dated Suhur Samanin Maya Wa Alaf. Rajeshri Narayan Vithal Dhume having come to the Huzur from Azam Dom Jose Pedro de Camara and having communicated certain contents regarding friendship, a treaty was concluded between the Sarkar and the Firangee of Goa. The articles are as below:—

[1] When the fleet of the Sarkar meets the fleet of the Firangee or even a single ship, or one ship of one party meets the fleet of the other party, they will behave in a friendly manner.

[2] When the fleet of the Sarkar meets the fleet of the Firangee and one side is short of water and fuel and the other has in store more than it needs, it should give them to the other. If no provisions are left with the fleet of one side and if the other has in store supplies more than necessary, the other should give them on payment of cash. This be done reciprocally.

[3] Vessels from Firangee ports in China territory laden with merchandise sail on the sea for trading at various ports. The fleet

of the Sarkar will not hinder them and the Firangee will not hinder vessels from ports belonging to the Sarkar when they proceed to China ports for purposes of trading.

[4] Female slaves and male slaves escaping from the Dominion of the Sarkar into the territory of the Firangee will be delivered up. Both parties will act accordingly.

[5] Neither party will revive disputes existing prior to this treaty.

[6] A bilateral treaty has now been concluded. Should there arise between the two parties anything contrary to it, after carrying on negotiations through the Vakil both parties should act in strict accordance with it.

[7] Merchant vessels, Padgis or Batelas from the territory of the Firangee will visit the Sarkar's Dominion with merchandise. They should engage in trading on paying the customary Zakat to the Sarkar and they should not suffer molestation from anyone. They will sell their merchandise and purchase grain and other provisions and carry them safely. Similarly merchant vessels from the Sarkar's territory, Batelas and Padgis, will sell grain and other provisions in the territory of the Firangee and in exchange will purchase merchandise. After paying the customary Zakat they should return in safety and should not be molested by anyone. This is agreed to by both parties.

[8] Merchant vessels belonging to the Dominion of the Sarkar and the territory of the Firangee sail on the sea for visiting every port. In case they come across the fleet or a single man-of-war or Sibad of either party they should not be seized for not carrying permits. They should be allowed to proceed unmolested. If a merchant vessel belonging to either Dominion happens to be carried away by the enemy and should it come across the fleet or a single ship of either party it should be helped and if there is sufficient force rescued and escorted to the nearest creek. Action taken as above by the commander of a ship should be rewarded by his master.

[9] Should the fleet of the Sarkar encounter an enemy and should an action commence, and should the fleet of the Firangee or a frigate arrive on the scene at that time, the Firangee should give all possible supplies and aid, provided the enemy be not an ally of the Firangee. This shall be done by fleets of both parties.

[10] Instructions in pursuance of the treaty concluded between the Sarkar and the Firangee will be issued to respective frontier officers and the navy. In case mamlatdars and officers of the Sarkar's Dominion act in variance with them they should be ordered to abide by them. Both parties to act accordingly.

[11] Elders and scions of old and influential families, and Zamindars and others from the Sarkar's Dominion whoever escape into the territory of the Firangee and create disturbances and foment treason in the territory of the Sarkar should not be given asylum nor be allowed to foment treason. Traitors should not be allowed to stay on the border of each other's Dominion. Similarly old and respectable Zamindars and others from the territory of the Firangee

who escape into the Dominion of the Sarkar and create disturbances and foment treason in the territory of the Firangee, should not be given asylum nor be allowed to foment treason. Traitors will not be allowed to stay on the border of each other's Dominion. Both parties to act accordingly.

[12] The Firangee will not render assistance to the enemy of the Sarkar and will not provide him with supplies and other commodities and the enemy of the Firangee should not be given by the Sarkar supplies, help or other commodities.

[13] Should either of the parties become weaker the other will not start a quarrel on some pretext or other, but will act in friendship according to the agreement.

[14] If soldiers and other persons from the Sarkar's Dominion escape into the Firangee territory they should not be entertained nor be given asylum; they should be delivered over. Similarly Firangee people and others from the Firangee territory escaping into the Sarkar's Dominion should not be entertained nor given asylum. They should be delivered over.

[15] The Firangee will not establish in future posts anywhere in any place in the Dominion of the Sarkar such as Gujarat, Sawant's territory, Kathiawad, Sorat, etcetera, and there shall be amadraft from the ports which at present are in the possession of the Firangee.

[16] Merchant vessels from the Sarkar's Dominion wrecked and cast in the ports of the Firangee should be returned along with their cargo; in case out of fear of the enemy they seek shelter in a port, they should not be molested. Both parties will act accordingly.

[17] Narayan Vithal Dhume conveyed assurances that the Firangee had evinced friendly sentiments towards the Sarkar and would in future be more friendly. In response, it is agreed that villages yielding revenue of twelve thousand rupees where the authority of the Sarkar is unimpeded would be assigned towards Daman from the current year. The Firangee will not raise any Imarat in the same. Such villages will be specified.

[18] The Vijaydurg fleet formerly seized and brought over to the Sarkar a frigate of the Firangee which was returned to him in recognition of friendship; agreement to pay money for goods on the frigate:—

Rs. 66454—Cash within a year.

Rs. 3000—Teakwood to be sent from Bassein to Daman within a year.

Rs. 69454

In all Rs. 69454 will be paid.

In all eighteen articles have been agreed upon. Both should act accordingly. Agreement should be made to that effect. Be it known 7 Jilhej [17 December 1779]. Orders be obeyed (end of writing).

Annex C. No. 4

ANANT KAMODI WAGH'S PORTUGUESE TRANSLATION OF THE MARATHA
TREATY OF 17 DECEMBER 1779¹

Translation of the same Treaty in the manner in which it was executed in
Poona

(Arch. da India, livro 2º de pazes, fol. 286.)

17th December, 1779.



Treaty of agreement made by the Sarkar of the honourable Madou Rau Pandit Pradan, in the year of the Muslim era 1180 [1779]. The esteemed Naraen Vital Dumo having come hither on behalf of the Magnificent Dom Jose Pedro da Camara, Portuguese Viceroy of Goa, conferred upon matters relating to friendship and the agreement between this Sarkar and the Portuguese of Goa was drawn up in the following manner :

1. Should the fleet of the Sarkar and that of the Portuguese meet at sea, or should single ships encounter each other, or a ship of one party meet the entire fleet of the other, they shall proceed amicably upon their way.

2. Should the fleet of the Sarkar and that of the Portuguese meet at sea, one fleet being in want of wood and water, and the other abundantly provided therewith, they shall provide the other fleet therewith, and in the same way should one fleet be in want of provisions and the other have abundance thereof, they shall give them of their provisions, receiving the price thereof in current rupees; and so they shall act reciprocally.

3. The ships of Chinese parts and from the ports of the Portuguese which navigate the sea for commerce putting into any port laden with merchandise, to buy and sell, shall not be impeded by the fleet of the Sarkar, nor shall the Portuguese impede the ships from the ports of the Sarkar, which may trade in those of China.

4. The male and female slaves from the dominions of the Sarkar who may fly to the lands of the Portuguese, shall be restored. And this shall be reciprocally practised.

5. The differences which existed before this treaty shall be reciprocally forgotten.

¹ Translation from the Portuguese text given in J. F. J. Biker, *Collecção de Tratados e concertos de pazes, etcetera*, Lisbon, 1885, Volume VIII, at page 67.

6. This treaty being concluded, should there still be any motive of jealousy and discord the matter shall first be treated through the Attorney, and both parties shall reciprocally act with all sincerity.

7. The vessels, parangues, and boats, for trading, which come from the Portuguese dominions to those of the Sarkar, with merchandise for commerce, may do so on paying duty to the Sarkar in the manner practised from ancient times, without vexation from anyone. The merchants having sold their merchandise, may freely take with them vegetables, and other produce. In the same way the merchants from the dominions of the Sarkar, entering those of the Portuguese with their boats and parangues, will sell their vegetables and other merchandise and buy what they like in exchange, paying duty thereon according to the ancient custom established from the beginning and may withdraw freely without suffering oppression from any person whatever. And this shall be reciprocally observed.

8. The trading vessels of the dominions of the Sarkar and of the Portuguese going to any port, meeting the fleets of either party, or any ships or vessels of war, shall not be taken upon the pretext that they have not safe-conducts but shall be allowed free passage. And should the enemy take trading vessels from the dominions of either party, at sea, the fleets, or even a vessel of either side, which shall meet them in the power of the enemy, shall go to their assistance and liberate them, and convoy them in safety to the vicinity of their own rivers. And the commanders who shall so act shall be rewarded by their superiors.

9. The fleet of the Sarkar having encountered the enemy's fleet and being engaged with it, and the Portuguese fleet and frigates coming up at that time, the latter shall give them aid and succour, if the said enemy be not an ally of the said Portuguese. This shall be observed by the fleets on both sides.

10. This treaty between the Sarkar and the Portuguese shall be made known in particular to the Governors upon the confines and others, and to the commanders of the fleets, with orders to observe it. And in case the Governors concerned and Marathas should fail in its execution, they shall arrange matters by their intervention. And this shall be observed on both sides.

11. Military men and high officers of the household, high or low, or others of the dominions of the Sarkar taking refuge in those of the Portuguese and continuing their plots and conspiracies in the said lands of the Sarkar, shall not be allowed to take refuge and conspire there, nor shall the said traitors be permitted to live especially upon the confines of their dominions. In the same way, military men and high officers, and others flying from the Portuguese dominions to those of the Sarkar and continuing their plots and conspiracies in the said lands of the Portuguese, shall not be allowed to take refuge and conspire there nor shall the said traitors be permitted to live, especially upon the confines of their dominions. And this shall be observed reciprocally.

12. The enemies of the Sarkar shall not be succoured by the Portuguese, or supplied with provisions or any sort of produce. Neither shall the Sarkar give succour, or anything else, to the enemies of the Portuguese.

13. When one of the two parties shall be weaker or stronger than the other, the strongest shall not contend against the other upon alleged pretexts, but both shall correspond with sincere friendship, in conformity with the treaty.

14. Sepoys and others flying from the Dominions of the Sarkar to those of the Portuguese, shall not be allowed to remain there nor sheltered but shall be forced to return. In the same way Portuguese soldiers and others, flying from the Portuguese dominions to those of the Sarkar, they shall not be allowed to remain there, and without being given shelter, shall be forced to return.

15. Henceforward the Portuguese shall not build any fortifications in any of the dominions of Gujrat, Saut, Cantevad, Sorat, and other places belonging to the Sarkar, and shall allow free entry into their dependencies through the ancient ports which they now possess.

16. The trading vessels of the dominions of the Sarkar, reputed lost, and wrecks ashore in the Portuguese ports, the said vessels with their cargoes of merchandise shall be restored. And in case they should put into port for fear of an enemy they shall not be interfered with and this shall be observed reciprocally.

17. As the Portuguese have acted with the greatest friendship towards this Sarkar, as proved by Naraen Vital Dumo, which friendship shall be maintained henceforward, from the current year he shall give, namely in Daman, villages of 12,000 rupees, without having in them dominion, nor any other hindrance on the part of the Sarkar and in which the Portuguese shall not erect buildings in accordance with the arrangement made, and the villages shall be specifically mentioned.

18. In times past a frigate was captured from the Portuguese by the Sarkar and fleet of Vizaedurga (Griem), which was restored in consideration of the said Portuguese friendship and for the merchandise therein he promised the following sum in rupees:—

Net in one year	66454
Teak wood to be transported in one year, from Basaim to Daman. To the value of	3000
Total	<u>69454</u>

Amounting to 69,454 rupees which shall be settled.

Altogether there are eighteen articles agreed upon, to be reciprocally observed, in the manner therein set down, and thus it has been agreed. Written on the 7th of the month Gilahaz [17 December 1779]. Firmly resolved.

Written on the small seal: end of the document. Translated by me Ananta Camotim Vaga—Interpreter of the State of India—6th of January, 1780—Ananta Camotim Vaga.

Annex C. No. 5

NARAYAN VITHAL DHUME'S TRANSLATION IN MARATHI OF THE
PORTUGUESE TREATY OF 4 MAY 1779 AND 11 JANUARY 1780

(Peshwa Daftar. Ghadni. Rumlal 477.)

(Copy according to original.)

MEMORANDUM

A treaty was concluded with the Firangee of Goa. Articles thereof have been recorded in the Portuguese language. The present is a Hindavi [Indian, meaning Marathi] rendering of the same.

His Excellency the Governor and Captain General of India, Dom Jose Pedro Da Camara, on behalf of Hazrat Estad despatched Narayan Vithal Dhume to the presence of Rajeshri Madhav Rao Pandit Pradhan. After friendly discussions a treaty was concluded between the Firangee State and the Pandit Pradhan. The articles are detailed below:—

(1) When the fleet of the Firangee State meets the fleet of the Sarkar or even a single ship at sea, or one ship of one party were to meet the fleet of the other, they will behave in a friendly manner.

(2) When the fleet of the Firangee State meets the fleet of the Pandit Pradhan on its way and one side is short of wood or fuel the other side will give them to the former if it has sufficient to spare; and if provisions are short in the fleet of one party and the other has more than it needs, it should give them on payment of cash. Both will act accordingly.

(3) Vessels from ports of the Firangee State in China territory laden with merchandise sail on the sea for trading at various ports. The fleet of the Pandit Pradhan will not obstruct them. Nor will the vessels from the ports of the Pandit Pradhan going to China ports for trading be obstructed by the Firangee State.

(4) Female slaves and male slaves escaping from the Dominion of the Firangee State into the territory of the Sarkar will be delivered up. Both to act accordingly.

(5) Disputes prior to the present treaty will not be revived.

(6) A bilateral treaty has been now concluded. Should there arise between the two parties anything contrary to it, after carrying on negotiations through the Vakil, both sides should act in strict accordance with it.

(7) Merchant ships of various types—Tarandis, Padgis, or Batelas—from the Dominion of the Firangee State will visit the Dominion of the Pandit Pradhan carrying merchandise. They will engage in trading, paying customs duties according to usage and will not suffer molestation from anybody. Merchants will sell their merchandise and purchase provisions and other articles and carry them safely. Similarly merchant vessels from the Dominion of the Pandit Pradhan—Batelas, Padgis—visiting the territory of the Firangee State, will sell provisions and other articles and buy in exchange produce from there. After paying customary Zakat

they will sail in safety. They will receive no molestation from anybody. This is agreed to by both parties.

(8) Merchant vessels of both Dominions sail on the sea to visit whatsoever State. If they came across the fleet of either party or a man-of-war or a siband they should not be seized on the ground of not carrying permits. They should be allowed to proceed in safety. If a merchant vessel belonging to either State happens to be carried away by the enemy at sea and should it come across the fleet or a single ship of either party it should be given help and if there is sufficient force, rescued and escorted to the nearest creek. Action taken as above by commander of a ship will be rewarded by his master.

(9) If the fleet the Firangee State or its frigates arrive at the time when the fleet of the Pandit Pradhan is engaged by the enemy, they will give provisions and render whatever help is possible provided the enemy be not an ally of the Firangee State. The fleet of the Pandit Pradhan will do accordingly. This is agreed to by both parties.

(10) Instructions in pursuance of the treaty between the Firangee State and the Pandit Pradhan will be issued to frontier officers and the navy. The Pandit Pradhan will likewise instruct his officers, navy and Marathas [Maratha Chiefs]. In case the Mamlatdars and Saranjamdars act in variance thereof they should be ordered to carry it out. Both parties to act accordingly.

(11) Ancient respectable land-holders and others from the Dominion of the Firangee State escaping into the Dominion of the Pandit Pradhan and creating disturbances and fomenting treason in the territory of the Firangee State will not be given asylum; neither will they be allowed to foment treason nor to stay on the border of each other's Dominions. Similarly seniors and juniors from land-holders of respectable families from the Dominion of Pandit Pradhan escaping and creating disturbances and fomenting treason in the Sarkar's territory should not be given asylum; neither will they be allowed to foment treason nor to stay on the border of each other's Dominion. Both parties to act accordingly.

(12) The Pandit Pradhan will not render assistance to the enemy of the Firangee State and will not provide him with supplies and other commodities. The Firangee State likewise will not aid the enemy of the Pandit Pradhan.

(13) Should either of the parties become weaker the other will not start a quarrel on some pretext of other, but will act in friendship according to the agreement.

(14) Firangees and other people from the Firangee State escaping into the Dominion of the Pandit Pradhan should not be entertained nor be given asylum. They should be delivered over. Likewise soldiers escaping from the Pandit Pradhan's Dominion into the Dominion of the Firangee State should not be entertained nor be given asylum. They should be delivered over.

(15) The Firangee State will not establish in future posts in any place of the Dominion of Pandit Pradhan such as Gujarat, Sawant's territory, Kathiawad and Sorat. There shall be amadraft from the ports he already has from the beginning.

(16) Merchant vessels from the Firangee State wrecked and cast in the ports of the Pandit Pradhan will be returned with cargo. If out of fear of the enemy they take shelter in a port they shall not be molested. Both parties will act accordingly.

(17) The Firangee State entertains friendly sentiments towards the Pandit Pradhan; the envoy conveyed assurances. Therefore it is agreed that the Pandit Pradhan should assign towards Daman from the current year a Jagir of the revenue of twelve thousand rupees in Prant Daman. Accordingly a sanad listing the villages be given to the Firangee State by making a separate agreement.

(18) A frigate belonging to the Firangee State was returned previously; for equipage on the same the Pandit Pradhan agreed formerly to give as under:—

Rs. 66454—in cash within a year.

Rs. 3000—in Teakwood to be sent from Bassein to Daman for loss of miscellaneous equipage.

Rs. 69454—within a year.

Accordingly as agreed the Pandit Pradhan will compensate the Firangee State. Written at Goa, 4 May 1779, 16 Rabilakhar. Suhur 1179.

Dom José Pedro DA CAMARA.

This agreement we consent to and it shall be observed.

Goa dated 11 January 1780. 3 Muharram 1180.

Dom Frederico Guilherme DE SOUZA.

Annex C. No. 6

MEMORANDUM REGARDING CAMARA, VICEROY OF GOA.
24 AUGUST 1776

(Itihas Sangraha. Par Darbar Maratha Vakils, pages 32-38.)

Memorandum regarding Dom Jose Pedro De Camara, Viceroy of Goa, in the year Saba Sabain Maya Wa Alaf. Narayan Vithal Dhume, Vakil from Firangee of Goa came to the Huzur and requested that sincere friendship between the Sarkar and the Firangee of Goa be established. On that account from the Sarkar . . . articles.

Frigate seized by Dhulap was returned to the Firangee. Equipage on it remained with the Sarkar. Estimated value of the same Rs. 66454

A Botello was seized at Vijaydurg, estimated value of goods in it Rs. 1800

Rs. 68254

For this, dates of payment.

Bhadrapad Pournima 23000-0-0

Kartik Pournima 23000-0-0

Paush Shudh I 22254-0-0

68254-0-0

Sixty-eight thousand two hundred fifty-four rupees may be paid according to said dates without fail from the Sarkar. In a manner consistent with this the amount received may be deducted, and the balance be paid. Accordingly agreement to be made.

The Sarkar and the Firangee have entered into sincere friendship. Therefore if Shri Dada Sahib (Raghoba) or any enemy from this side goes over he should not be given asylum. This should be acted upon in an unequivocal manner. In like manner no asylum be given by the Sarkar also. Agreement to be made accordingly.

Botello seized by Dhulap should be restored. If that Botello is not given, another from Bassein fleet may be given in exchange. It should be given in three months. Agreement to be made accordingly.

Frigate was returned to the Firangee. It is said that equipage on it—sails, masts, ropes, etcetera—has remained with the Sarkar. Estimated value of that 3000.

A Sanad should be issued to Visaji Keshav to send timber worth Rs. 3000 to Daman from Bassein.

The Sarkar and the Firangee entered into friendship. Therefore the Firangee should be assigned villages of *Kamal Beri* [total revenue yield] of Rs. 15000 useful to Daman. Care should be taken that after the assignment the authority of the Sarkar will meet with no obstruction. Accordingly without interruption of Sarkar's authority they should be assigned. *Imarat* should not be erected in villages so assigned. According to this, agreement be made.

9 Rajab San Saba Sabain, Bhadrapad month [24 August 1776].

Annex C. No. 7

MEMORANDUM RELATING TO INSTRUCTIONS FOR IMPLEMENTATION OF THE TREATY WITH THE PORTUGUESE, 19 DECEMBER 1779

(Peshwa Daftar. Ghadni. Rumal 496.)

Memorandum relating to the Firangee of Goa Suhur Samanin Maya Wa Alaf [1779].

Narayan Vithal Dhume came from the Firangee of Goa to the Huzur and represented that sincere friendship be established between the

Governments of the Sarkar and of Goa. Accordingly friendly relations were established and a treaty was concluded. Following are the articles to be executed which were proposed in the draft of Saba Sabain [1776/1777].

The Frigate formerly seized by Dhulap was returned to the Firangee. Its equipage and other goods that remained with the Sarkar are estimated at Rs. 66454.

The value of goods found in the botello at Vijayadurg estimated at Rs. 1800.

It is decided to make good the value of goods in the frigate and the botello amounting to Rs. 68254. The amount paid back so far is to be deducted and the balance paid.

A botello which Dhulap formerly came into possession of should be returned. If the same cannot be returned, another from the Bassein fleet should be given in its place.

The botello seized by Dhulap be returned. If this cannot be done, a botello from the Bassein fleet be given in exchange. This be done.

Equipage of the vessel returned—masts, sails, ropes, etc., valued at Rs. 3000. Orders to be issued to Visaji Keshav to send timber from Bassein to Daman of the value of Rs. 3000. This is done.

On account of the establishing of friendship of the two Sarkars, the Firangee is to be assigned towards Daman villages from the current year of the total revenue of Rs. 12000. The envoy gave proof of the friendship of the Firangee and assures of its continuance and knowing that he is a reliable person and will make the Firangee act in the interest of the Sarkar according to the treaty, it is agreed to grant him a Jagir of Rs. 3000 from the Sarkar. Villages adjoining Daman be selected for making this grant.

It is thus agreed to assign villages of Rs. 15000. Villages in which there is no restriction on the authority of the Sarkar and of the total value of the amount should be selected. No Imarat should be constructed in them. Agreement should be concluded accordingly.

Sanad should be issued to Visaji Keshav to assign villages of the total value of Rs. 15000 from Prant Bassein according to agreement.

This is done.

Jagir of Rs. 15000 has been assigned together to the Firangee and his envoy Narayan Vithal Dhume. From this the revenue for the current year realized by the Sarkar be returned. Letter to Visaji Keshav.

Agreement has been made to assign villages of Rs. 15000 from the current year. It should be agreed to return the revenue received by the Sarkar during the current year.

Sanad granted.

Dated 10 Jilhej Suhur Samanin Margasirsha [19 December 1779].

Sanad to be issued.

Annex C. No. 8**(Part 1)**

ENTRY OF SANADS ISSUED TO VISAJI KESHAV, SUBEDAR OF BASSEIN, IN FAVOUR OF NARAYAN VITHAL DHUME, THE PORTUGUESE ENVOY, AND THE PORTUGUESE OF GOA. 11 AND 10 FEBRUARY 1780

(Peshwa Daftar. Ghadni. Rumal 395)

Swari Rajeshri Pant Pradhan.

Suhur Samanin [1780].

Saranjam to Firangee of Goa.

Sanad dated 5th Safar Magh [11 February 1780].

Narayan Vithal Dhume, Firangee envoy, has conveyed assurances that the Firangee is friendly towards the Sarkar and would continue likewise in future. Therefore a Sanad is issued according to agreement that on behalf of the Sarkar villages adjoining Daman worth three thousand rupees where the Sarkar's authority runs unimpeded be assigned to the above person by way of allowance. No Imarat of any sort be raised. Accordingly villages yielding total revenue of Three Thousand near Daman in Taluka Bassein be assigned by way of allowance from this year. Revenue collection made for the year be returned. Sanad issued to Visaji Keshav.

Saranjam to Firangee of Goa.

Sanad dated 4th Safar [10 February 1780].

The Firangee of Goa is in amity with the Sarkar. Therefore Sanad is issued according to agreement, that villages adjoining Daman and of the revenue of twelve thousand rupees and without restriction on the authority of the Sarkar, and where no building shall be raised, be selected for the Firangee. Therefore villages of total revenue of twelve thousand rupees adjoining Daman in Taluka Bassein be assigned from this year according to the agreement. Revenue Collection made for this year be returned. Sanad issued to Visaji Keshav.

Annex C. No. 8**(Part 2)**

ENTRY OF SANAD ISSUED TO VISAJI KESHAV, SUBEDAR OF BASSEIN, IN FAVOUR OF THE PORTUGUESE OF GOA. 11 FEBRUARY 1780

(Peshwa Daftar. Konkan. Rumal 1865.)

Swari Rajeshri Pant Pradhan.

Prant Bassein under the administration of Visaji Keshav.

From the Register.

5 Safar [11 February 1780]. Frigate of the Firangee of Goa was formerly seized by Dhulap. It belonged to the Firangee and was there

fore returned to him. The equipage—masts, sails, ropes, etcetera—remained with the Sarkar. Its value has been fixed at Rs. 3000 for which timber is [to be] given. Therefore, from the Taluka timber worth rupees three thousand may be sent to Daman. Teakwood may be given against the value. Order issued to Visaji Keshav.

The Firangee of Goa has put friendly relations with the Sarkar. Therefore, Sanad has been issued making agreement that to the Firangee may be assigned villages adjoining Daman worth twelve thousand rupees and without restriction on the authority of Sarkar; and no imarat be raised. Therefore, villages worth rupees twelve thousand carrying this total income may be assigned according to agreement from the present year. The revenue for current year, you may have collected so far, should be returned. Sanad issued to Visaji Keshav.

Annex C. No. 9

(Part 1)

RECORD OF SANADS OF 31 MAY 1780, AND 3 JUNE 1780, IN FAVOUR OF THE PORTUGUESE AND THE PORTUGUESE ENVOY

(Peshwa Daftar. North Konkan. Rumal 1857).

Sanads for villages assigned to the Firangee of Goa in Suhur Samanin from Taluka Bassein.

Villages were granted to the Firangee. The Sanad was [issued] 26th Jamadilaval [31 May 1780]. From Pargana Pawadi—annual revenue:—

1 Mauza Pachakai	1519- 4-0
1 Mauza Parwase	1886- 1-0
1 Mauza Asame	1300-15-6
1 Mauza Sudhalwade	2017- 1-3
1 Mauza Kachwahal	1756- 8-0
1 Mauza Nimkhal	1945- 8-0
1 Mauza Barkai	569- 0-0
1 Mauza Wagsip Budruk	1006- 6-0
1 Mauza Wagsip Khurd	961- 5-0
	<u>12015- 0-0</u>

Sanad to the Firangee envoy dated 20th Jamadilaval [3 June 1780]. The revenue of villages Pargana Pawadi:—

1 Mauza Kubharia	1253- 3-
1 Mauza Suklav	1746-12-6
	<u>3000- 0-0</u>

Annex C. No. 9

(Part 2)

ENTRY OF SANAD ISSUED TO VISAJI KESHAV, SUBEDAR OF BASSEIN, IN
FAVOUR OF THE PORTUGUESE. 3 JUNE 1780

(Peshwa Daftar. Konkan Bassein. Rumal 1865.)

Swari Rajeshri Pant Pradhan Suhur Samanin Prant Bassein in charge
of Visaji Keshav.

From the Register.

29 Jamadilaval [3 June 1780].

The Firangee of Goa is keeping friendly relations with the Sarkar. Therefore formerly Sanad was issued to you after making agreement to the effect that villages adjoining Daman of the revenue of twelve thousand rupees, in which the authority of the Sarkar is unimpeded and of the above Kamal Akar [total revenue yield] should be assigned from Prant Bassein and no Imarat be constructed. But villages were not assigned. Therefore this Sanad is issued for assigning villages from Pargana Pawadi on the basis of the Kamal Akar of San Salas Sabain excluding Sarkar's Watans of Deshmukh, Despande, Gaon-Kulkarni and Sar-Patil, and of Zakat, the villages to be assigned from the current year being nine villages of the Kamal Akar of twelve thousand and fifteen rupees:—

Mauza Pachkai	1519- 4-0
Mauza Parvase	1886- 4-0
Mauza Asame.	1300-15-6
Mauza Sudhalwada	2070- 1-0
Mauza Kachwahal.	756- 8-0
Mauza Nimkhal	1945- 8-0
Mauza Borlai	569- 0-0
Mauza Wagsip Budruk.	1006- 6-0
Mauza Wagsip Khurd	961- 5-0

Therefore the remaining Amal [revenue] of the villages excluding Sarkar's Watans and Zakat be made Dumala to the Firangee and be shown on the debit side of the accounts of the said Prant. No Imarat be constructed in the villages. Sanad to Visaji Keshav.

Annex C. No. 9

(Part 3)

ENTRY OF SANAD ISSUED TO VISAJI KESHAV, SUBEDAR OF BASSEIN, IN FAVOUR OF NARAYAN VITHAL DHUME. 3 JUNE 1780

(Peshwa Daftar. Konkan Bassein. Rumal 1865.)

Swari Rajeshri Pant Pradhan Suhur Samanin Prant Bassein in charge of Visaji Keshav.

From the Register.

29 Jamadilaval [3 June 1780.]

Narayan Vithal Dhume, Firangee Vakil, has conveyed assurances that the Firangee is friendly towards the Sarkar and would continue likewise in future. Therefore formerly a Sanad was issued to you after making an agreement to the effect that villages in Prant Bassein yielding revenue of three thousand and having the authority of the Sarkar unimpeded therein should be assigned and that no Imarat should be constructed therein. But the villages were not assigned. Therefore after making an agreement to the effect that from Pargana Pawadi of the said Prant two villages of the Kamal Akar of three thousand rupees excluding Sarkar's Watans of Deshmukh, Despande, Gaon-Kulkarni and Sar-Patil, and Zakat, be assigned from the current year:—

Mauza Kubhariye	1253- 3-6
Mauza Suklav	1746-12-6
	<u>3000- 0-0</u>

Therefore excluding Government Watans and Zakat the remaining Amal [revenue] of the said villages be given as Dumala to him and be shown on the debit side of the accounts of the said Prant. No Imarat be constructed. Sanad to Visaji Keshav.

Annex C. No. 10

ENTRY OF SANAD OF 31ST MAY, ISSUED TO VISAJI KESHAV, SUBEDAR OF BASSEIN, IN FAVOUR OF THE PORTUGUESE. 3 JUNE 1780

(Peshaw Daftar. Rozkird Rumal 115.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

29 Jamadilaval Samanin [3 June 1780].

From the Register.

The Firangee of Goa is in friendly relations with the Sarkar. Therefore a sanad was formerly issued to you for granting to the Firangee by way

of allowance villages adjacent to Daman, of the Kamal Akar [total revenue yield] of twelve thousand rupees, where the Sarkar's authority is unimpeded, selecting them from Prant Bassein, and that no Imarat be constructed therein. But the villages have not been assigned. Therefore this Sanad is issued for assigning villages from Pargana Pawadi on the basis of the Kamal Akar of San Salas Sabain excluding Sarkar's Watans of Desmukh, Deshpande, Gaon-Kulkarni and Sar-Patil and of Zakat, the villages to be assigned from the current year being nine villages of the Kamal Akar of twelve thousand and fifteen rupees.

Mauza PanchKai	1519- 4-0
Mauza Parvase	1886- 0-3
Mauza Asame	1300-15-6
Mauza Sudhalwade	2070- 1-3
Mauza Kachwahal	756- 8-0
Mauza Nimkhal	1945- 8-0
Mauza Borlai	569- 0-0
Mauza Wagsip Budruk	1006- 6-0
Mauza Wagsip Khurd	961- 5-0
	12015- 0-0

The sanad is issued after making an agreement for granting from the current year nine villages of the total revenue of twelve thousand fifteen rupees. Therefore from these villages excluding Sarkar's Watans and Zakat the rest of the right of share in the revenue has been so made over to the Firangee that it may revert on the termination of the grant. Revenue of these villages may be shown on the debit side in the accounts of the Prant. Construction of Imarat in the villages should not be permitted. Sanad to Visaji Keshav accordingly. Sanad to Mukadams of nine villages to the effect that they should make themselves amenable to the Firangee and pay him the revenue of said villages exclusive of Sarkar's Watans and Zakat. Agreement has been made that no Imarat is to be raised in the said villages. Therefore no Imarat may be permitted to be raised.

Annex C. No. II

MEMORANDUM OF THE DETAILS OF THE ASSIGNMENT TO THE PORTUGUESE
AND TO NARAYAN VITHAL DHUME, 3 JUNE 1780

(Peshwa Daftar. North Konkan. Rumal 1857.)

(Copy according to original.)

Memo. in respect of villages in Pargana Pawadi of Prant Bassein to be assigned to the Firangee exclusive of the Watans of Deshmukh, Deshpande, Kulkarni and Patel, and exclusive of Zakat.

Mauza Pachkai	1519	4	0
Mauza Parvase	1886	1	0
Mauza Kumbhariya	1253	3	6
Mauza Asame	1300	15	6
Mauza Sudhalwada	2770	1	3
Mauza Suklav	1746	12	6
Mauza Kanchbahal	756	8	0
Mauza Nimkhal	1945	8	0
Mauza Borlai	569	0	0
Mauza Wagsip	1006	6	0
Mauza Wagsip	961	1	3
Total	15015	0	0

[Then follow details of items of land revenue, house tax, fowl tax, cart tax, vegetable tax, profession tax, tax on Palm trees and stills, etcetera, which go to make the total of Rs. 15015.]

Agreement has been made to assign to the Firangee nine villages of the revenue of Rs. 12015. On account of this nine villages from the current year exclusive of Zakat and the rights of the Hakdars of the total amount of Rs. 12015 have been assigned to the Firangee. Sanads and letters in respect of this:—

- 1 Sanad to Visaji Keshav of Prant Bassein that the above villages may be given to the Firangee in Dumala and the total receipts of the revenue may be shown on the debit side.
- 1 Sanad to the Mukadams of the nine villages that they should make themselves amenable to the Firangee and pay the revenue regularly.
- 1 Letter to the Zamindars.
- 3 Three sanads to be issued accordingly.

Letters to the same effect about the two villages Kumbhariya and Suklav granted to the Firangee envoy Narayan Vithal Dhume.

29th Jamadilaval Samanin, Jeshita month [3 June 1780]. Sanads to be issued.

[Postscript]

Four sanads for the said villages were granted in the closing month of the year Samanin [1780]

Annex C. No. 12

MEMORANDUM IN RESPECT OF THE PORTUGUESE. 30 JANUARY 1783

(Peshwa Daftar. Ghadni. Rumal 496.)

Memorandum in respect of the Firangee Suhur Salas Samanin Maya Wa Alaf [1783].

At the time of the conclusion of the treaty with the Firangee it was agreed to assign to him by the Sarkar villages as Saranjam and villages were assigned from Taluka Bassein, but could not be made Dumala. It has therefore been separately agreed to pay in cash from the Sarkar's treasury the amount for three years from the conclusion of the treaty to Isane Samanin [1782]. From the current year it is not convenient to assign villages of the Kamal Berij [total revenue yield] of twelve thousand near Daman. Therefore villages in Prant Konkan under the unimpeded authority of the Sarkar will be assigned elsewhere after making one fifth deductions in the total receipts of the villages. Formerly villages of the Kamal Berij of twelve thousand rupees were assigned. Making one fifth deductions the Berij will be nine thousand six hundred.

Sanad should be issued to Anand Rao Bhikaji that he should assign to the Firangee villages in Taluka Bassein of the Kamal Akar of twelve thousand rupees under the administration of Visaji Keshav and which are in the jurisdiction of the Sarkar and are free from disturbances of the English. A detailed memorandum of villages assigned should be sent to the Huzur.

It should be clearly written in the Sanad that these villages are assigned in lieu of villages adjoining Daman formerly assigned but which could not then be made Dumala. 26 Safar Suhur Salas Samanin Paush month [30 January 1783]. Sanad be issued.

Annex C. No. 13

MEMORANDUM IN RESPECT OF NARAYAN VITHAL DHUME, THE PORTUGUESE ENVOY, 30 JANUARY 1783

(Peshwa Daftar. Ghadni. Rumal 496.)

It was decided to assign villages to the Wakil in Saranjam at the time of the conclusion of the treaty and villages were assigned in Taluka Bassein, but could not then be made Dumala. Therefore it has been separately agreed to pay in cash the amount for the three years from 1780 to 1782. For the current year, it is not convenient to assign villages worth twelve thousand rupees near Daman. Therefore villages under the unrestricted authority of the Sarkar will be assigned elsewhere making one fifth deductions. Formerly, villages worth Rs. 3000 were assigned. With deductions the Berij will be Rs. 2400.

Sanad be to Anand Rao Bhikaji. He should select for Narayan Vithal Dhume villages in Taluka Bassein of the total revenue of Rs. 3000 in the administration of Visaji Keshav and which are under the exclusive authority of the Sarkar and free from disturbance of the English. A

detailed memorandum concerning the villages assigned should be sent to the Huzur. The Sanad to make it clear that these villages are being assigned in lieu of villages formerly assigned and which could not be made Dumala.

26 Safar Suhur Salas Samanin, month of Paush. Sanad be issued.

Annex C. No. 14

OFFICE COPY OF LETTER FROM THE PESHWA TO ANAND RAO BHIKAJI AND TRIMBAK BHIKAJI, SUBEDARS OF BASSEIN, ENCLOSING SANAD OF 21 MARCH 1783. 21 MARCH 1783

(Peshwa Daftar. Selected Rumal 22.)

Anand Rao Bhikaji and
Trimbak Bhikaji.

Madhav Rao Narayan Pant Pradhan offers compliments. Suhur Salas Samanin Maya Wa Alaf [1783].

A treaty was concluded between the Firangee and the Sarkar in the year Samanin [1779]. On that occasion agreement was made to assign from the Sarkar's territory villages adjacent to Daman of Kamal Akar [total revenue yield] of twelve thousand rupees and in San Ihide Samanin [1870] villages of the above revenue were assigned from Visaji Keshav's jurisdiction in Taluka Bassein but could not be given as Dumala to the Firangee. Now therefore from villages of Taluka Bassein in which the Sarkar's authority is unimpeded villages on the basis of Kamal Akar during the administration of Visaji Keshav and which are free from the disturbances of the English and which yield Kamal Berij [total revenue] of twelve thousand, be assigned and a detailed memorandum of the assigned villages be sent to the Huzur. Be it known. 17 Rabilakhar [21st March]. Orders be executed.

Annex C. No. 15

ENTRY OF SANAD TO ANAND RAO BHIKAJI AND TRIMBUK BHIKAJI, SUBEDARS OF BASSEIN, IN FAVOUR OF THE PORTUGUESE, 21 MARCH 1783

(Peshwa Daftar. Ghadni. Rumal 395.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Suhur Salas [1783].

Saranjam to the Firangee of Goa.

Order dated 17th Rabilakhar [21 March 1783].

A treaty was concluded between the Firangee and the Sarkar in the year Samanin [1779]. At that time it was agreed that villages belonging

to the Sarkar adjoining Daman, of the *Kamal Akar* of Rs. 12,000/- should be assigned by the Sarkar and accordingly in the year Ihide Samanin [1780] villages of the said *Berij* of Taluka Bassein under the administration of Visaji Keshav were assigned. The villages, however, were not then given as *Dumala* to the Firangee. Therefore now out of villages in Taluka Bassein within the jurisdiction of the Sarkar, villages yielding the *Kamal Akar* [of Rs. 12,000/-] during the administration of Visaji Keshav and which are free from the disturbances of the English, should be assigned to the Firangee. A detailed memorandum of the villages assigned to the Firangee should be sent to the Huzur. Sanad issued to Anand Rao Bhikaji and Trimbak Bhikaji, Mamlatdars of Bassein, to this purpose. Dated 17 Rabilakhar [21 March 1783].

Annex C. No. 16

ACCOUNT PAPER OF 1784

(Peshwa Daftar. North Konkan. Rumal 1663.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Suhur Arba [1784].

Prant Bassein.

First entry of Expenditure on account of Dumala villages of Pargana Nagar Haveli to be granted from the Huzur.

A treaty was concluded between the Sarkar and the Firangee of Goa in San Samanin. At that time an agreement was made to assign to the Firangee by the Sarkar villages of the *Kamal Akar* [total revenue yield] of twelve thousand rupees from Prant Bassein adjoining Daman and villages were assigned from Visaji Keshav's jurisdiction in the year Ihide Samanin [1780], but they were not then given as *Dumala*. Therefore a Sanad was issued last year to the former mamlatdars, Anand Rao Bhikaji and Trimbak Bhikaji, to the effect that villages yielding the said *Kamal Berij* [total revenue] of twelve thousand rupees be assigned and a detailed memorandum of these villages be sent to the Huzur. Accordingly they sent a general Kalambandi memorandum to the effect that after retaining for the Sarkar six villages and the entire Zakat revenue they had assigned the rest of the villages representing revenue receipts of twelve thousand rupees from Pargana Nagar Haveli. The receipts of the Mahal have been shown at fifteen thousand five hundred twenty eight rupees and fourteen annas; out of this the receipts of [left blank] of six villages and of the Zakat retained for the Sarkar are therefore deducted.

Annex C. No. 17

MEMORANDUM COMPOUNDING ARREARS OF CASH COMPENSATION DUE TO
THE PORTUGUESE. 1 MARCH 1784

(Peshwa Daftar. North Konkan. Rumal 1860.)

Shri.

Memorandum in respect of the Firangee of Goa Suhur Arba Samanin
Maya Wa Alaf [1784].

It was agreed in San Samanin [1779] to assign from the territories of the Sarkar to the Firangee and his Vakil, Narayan Vithal, villages in Taluka Bassein of the Kamal Akar [total revenue yield] of fifteen thousand rupees and Sanads were issued accordingly. The villages could not then be given as Dumala to the party. Next year in San Ihide the Taluka passed into the possession of the English. Consequently in San Salas Samanin [1783] there remained to be paid arrears for three years. Out of these arrears Rs. 15000 were paid by the Huzur and it was agreed to pay the balance after the recovery of Taluka Bassein from the English and Sanads were issued to assign villages from some of the Mahals of Taluka Bassein which had been recovered. These villages came into possession in Arba Samanin [1783-1784]. Thus the villages marked out for the Firangee and the Vakil actually came into possession in the current year and the arrears till then have remained unpaid. There is sincere friendship between the Sarkar and the Firangee. The Firangee and the Vakil could not be put in possession of villages in consequence of the occupation of Taluka Bassein by the English. The Sarkar also suffered much financial loss. Therefore the arrears to be paid by the Sarkar in respect of the villages from San Samanin to San Salas Samanin [1780 to 1783] have remained unpaid; deducting rupees fifteen thousand out of these the balance should not be claimed by the Firangee from the Sarkar. Decision to this effect has been made after negotiating with Narayan Vithal Vakil. Agreement to be made accordingly.

Dated 8 Rabilakhar, San Arba Samanin [1 March 1784] in the presence of Bahiro Raghunath Mehendale.

Annex C. No. 18

ENTRY OF SANAD ISSUED TO JIVAJI GOPAL, SUBEDAR OF BASSEIN,
IN FAVOUR OF THE PORTUGUESE. 6 JANUARY 1785

(Peshwa Daftar. Rozkird. Rumal 127.)

Rajmandal.

Rozkird.

Swari Rajeshri Pant Pradhan.

Suhur Khamas Safar.

Dated 24, Paush Vadya Dashmi Shake 1706 Krodi Nam Samvatsar.
[6 January 1785.] Camp Pooana.

A treaty was concluded between the Firangee of Goa and the Sarkar in San Samanin. At the time it was agreed to assign to the Firangee villages belonging to the Sarkar of the Kamal Berij [total revenue] of Rs. 12000 adjoining Daman. But villages were not given as Dumala. Consequently in San Salas Samanin Sanad was issued to Anand Rao Bhikaji and Trimbak Bhikaji, Mamlatdars, Taluka Bassein, to assign villages of the Kamal Berij of the said twelve thousand and to send to the Huzur a detailed memorandum of the villages assigned. Accordingly in San Arba Samanin [1783] out of the Mahal of Pargana Nagar-Haveli in Prant Ranmagar in the said Taluka, retaining for the Sarkar six villages and the entire Zakat, they specified the remaining villages, inhabited as well as uninhabited, of twelve thousand rupees, and submitted to the Huzur a memorandum thereof. Accordingly deducting the revenue of six villages and of the Zakat of the Pargana retained for the Sarkar, the remaining villages, inhabited and uninhabited, making the Berij of twelve thousand rupees which is being included in the Ajmas [estimates] have been assigned. However, Narayan Vithal, Vakil of the Firangee of Goa made a representation that as the Akar of exempted items and of uninhabited villages has been included in the figure of twelve thousand the Akar would not be in accordance with this, and there would be much loss; therefore, the Akar of twelve thousand rupees in Kamal Wasul [total collection] may be assigned. Consequently in the current year of San Khamas Samanin agreement is made to the effect that as villages yielding revenue of twelve thousand rupees are to be assigned, the Mahal of the said Pargana inclusive of the entire Sarkar Amal and also the Zakat should be assigned. Accordingly the remaining villages and Zakat excluding the villages formerly assigned are hereby assigned. Hence the entire Mahal of the said Pargana inclusive also of Zakat yielding a revenue of twelve thousand rupees be given as Dumala to the Firangee from the current year and his receipt be obtained. In San Arba forty-seven villages of the said Pargana were assigned to the Firangee. Revenue of villages exclusive of these and of Zakat of the last year collected for the Sarkar is to be returned to him. Therefore after ascertaining the amount collected, it should be returned and receipt obtained therefor. Agreement has been made that the Firangee should not construct in the said Pargana any new Imarat. If he attempts to construct any new Imarat he should be prevented. To this effect Sanad is issued in the name of Jivaji Gopal of Taluka Bassein.

Annex C. No. 19

ACCOUNT PAPERS OF THE CENTRAL SECRETARIAT OF THE PESHWA AT POONA SHOWING MAHAL OF PARGANA NAGAR AVELI AS SARANJAM IN DUMALA AND THE REVENUE THEREOF AS ANNUAL EXPENDITURE ON FOREIGN AFFAIRS. 1788. 1791/1792. 1804/1805. 1809. 1811. 1814. 1815. 1816. 1817.

(Peshwa Daftar. North Konkan. Nagar Haveli. Rumal 1815.)

Shri Ganaraj.

Memorandum.

Expenses in respect of Foreign Darbar.

Assignment to the Firangee of Goa, of Pargana Nagar-Haveli, Prant Bassein, with Zakat, for the year Tisa Samanin Maya Wa Alaf [1788].

Said Pargana	Rs. 10,470-0-0
Zakat	Rs. 1,530-0-0
Ain Makta	Rs. 1,500/-
Duhotra	Rs. 30/-
	<u>Rs. 1,530/-</u>
	<u><u>Rs. 12,000-0-0</u></u>

Total of twelve thousand rupees may be accounted for as expenditure on Foreign Darbar on account of Firangee of Goa.

Dated 8 Ramjam San Tisa Samanin month of Jeshta [13 June 1788].

Sanctioned.

7 Jamadilaval Pausha Ihide [12 January 1791].

(Peshwa Daftar. North Konkan. Bassein. Rumal 1692.)

Shri.

Memorandum of Taluka Bassein.

Suhur Isane Tisain Maya Wa Alaf [1791/1792].

Receipts estimate of San Tisain.

Assignment of expenses Berij (Total)

Huzur—Vilhe.

Foreign Darbar Firangee	15,000
Abai Rani of Jawar	2,200
Himmat Singh and Bhav Singh	1,440
Resumed lands	7,500

From which deduct Rs. 3,000/- on account of Villages in Sholapur Pargana given to the Firangee Vakil.

Cash Rs.
441624-13-0

Grains.
Khandi Md. Paili Seers
10654 I I

(Peshwa Daftar. North Konkan. Nagar Haveli. Rumal 1739.)

Shri.

Memorandum in respect of audit of accounts, Mahal-wise, of Taluka Bassein.

In charge of Khande Rao Nilkanth.
Suhur Khamas Mayatain [1804/1805].

Receipts

Articles.

Mahal-wise audit of revenue of Taluka Bassein in charge of Khande Rao Nilkanth, Suhur Khamas Mayatain, expenses on forts of the said Suba.

Expenses on Foreign Darbar: The Mahal of Pargana Nagar Haveli has been shown as expended in the name of the Firangee of Goa. Under that all items of revenue such as Ain Dast, Kherij Dast, House-tax, etc., be shown as usual and accounts maintained.

Approved.

(Peshwa Daftar. North Konkan. Rumal 1815.)

Shri Shankar Prasanna.

Memorandum:

Pargana Nagar Haveli was given to the Firangee as Dumala inclusive of Zakat. The Akar of the same for the year Seet Mayatain Wa Alaf [1805]	Rs. 12,000/-
Deductions on account of Zakat	Rs. 1,020/-
Balance consisting of the revenue of the said Pargana	Rs. 10,980/-

The amount of ten thousand nine hundred and eighty rupees be shown against Pargana Nagar Haveli as given in Dumala to the Firangee of Goa. Accounts may be maintained accordingly. Should be done.

Dated 2 Sawal San Seet Mayatain, month of Paush [24 December 1805].

(Peshwa Daftar. North Konkan. Rumal 1815.)

Shri Ram Prasanna.

Memorandum:

Foreign Darbar Expenses on account of Firangee of Goa in the year Tisa Mayatain Wa Alaf [1809] Mahal of Pargana Nagar Haveli is given as Dumala in entirety.

Estimated Akar of the said Pargana	Rs. 10,980/-
Zakat	„ 1,020/-
	<u>Rs. 12,000/-</u>

In all twelve thousand rupees as allowance to the Firangee of Goa. The revenue of the Pargana including Zakat be shown as given in Dumala. Accounts may be maintained accordingly. Should be done. The proposal sanctioned on 3 Safar Tisa Mayatain, month of Chaitra [20 March 1809].

(Peshwa Daftar. North Konkan. Nagar Haveli. Rumal 1815.)

Shri Ram Prasanna.

Memorandum:

Expenses on Foreign Darbar in respect of the Firangee of Goa.

Pargana Nagar Haveli, Prant Bassein, is assigned as allowance for the year Ihide Ashar Mayatain Wa Alaf [1811] for the amount detailed below:—

Total of Ain Dast and Kherij Dast of the said Pargana	Rs. 10,980-0-0
Zakat	Rs. 1,020-0-0
Total	<u>Rs. 12,000-0-0</u>

The amount of twelve thousand rupees may be accounted for according to assignment.

This should be done.

Dated 13 Jamadilawal San Ihide Ashar, month of Jeshta [5 June 1811].

Sanctioned on 24 Rajab Isane [14 August 1811].

(Peshwa Daftar. North Konkan. Rumal 1815.)

Shri Ram Prasanna.

Memorandum in respect of expenses on Foreign Darbar.

Mahal of Pargana Nagar Haveli has been given to the Firangee of Dumala in entirety, together with Zakat. Akar of the same according to assignment as per details below Rupees.

Total of Ain Dast, Kherij Dast, etc., of the said Pargana	Rs. 10,980/-
Zakat of the said Pargana	Rs. 1,020/-
Ain	1,000
Duhotra	20
	<u>1,020</u>
	<u>Rs. 12,000/-</u>

Total twelve thousand rupees on Foreign Darbar expenses. The amount may be shown against the Firangee of Goa. This should be done.

Sanctioned on 24 Jamadilaval San Arba Ashar month of Vaishakh [15 May 1814].

(Peshwa Daftar. North Konkan. Rumal 1815.)

Shri Ram Prasanna.

Memorandum:

Expenses on Foreign Darbar.

Mahal of Pargana Nagar Haveli was given to Firangee of Goa as Saranjam in entirety.

Akar inclusive of Zakat of the (Pargana) in cash	Rupees
Pargana Nagar-Haveli	Rs. 10,980/-
Ain Dast	10,750/-
Kherij Dast	<u>230/-</u>
	10,980/-
Zakat of the said Pargana	Rs. 1,020/-
Total	<u>Rs. 12,000/-</u>

Total of twelve thousand rupees expenses on Foreign Darbar:

The Akar of Pargana Nagar Haveli inclusive also of Zakat be shown in the accounts as Saranjam to the Firangee of Goa. This should be done.

Dated 26 Jamadilakhar Akher-Khamas Ashar Mayatain month of Vaishakh [5 June 1815].

Sanctioned on 11 Saban San Seet [19 July 1815].

(Peshwa Daftar. North Konkan. Ruml 1815.)

Shri Ram Prasanna.

Memorandum regarding expenses on Foreign Darbar. Mahal of Pargana Nagar-Haveli has been given from the Sarkar's territory to the Firangee of Goa as Dumala inclusive of Zakat in entirety.

Revenue receipts of the Mahal for the year Seet Ashar Mayatain Wa Alaf [1816]:

Cash		Rupees ..
Pargana Nagar Haveli		10,980-0-0
Ain Dast	10,750-0-0	
Kherij Dast	230-0-0	
	<u>10,980-0-0</u>	
Zakat of the said Pargana		1,020-0-0
Ain	1,000-0-0	
Duhotra at the rate of Rs. 2/- per cent	20-0-0	
	<u>1,020-0-0</u>	
		<u><u>12,000-0-0</u></u>

In all twelve thousand rupees may be shown against Foreign Darbar expenditure. This should be done.

Dated 5 Jamadilaval San Seet Ashar, month of Chaitra [4 April 1816].

Sanctioned on 12 Jamadilaval [11 April 1816].

(Peshwa Daftar. North Konkan. Nagar Haveli. Ruml 1815.)

Shri Ram Prasanna.

Memorandum regarding expenses on Foreign Darbar on account of Firangee of Goa, Prant Bassein, Suhur Saba Ashar Mayatain Wa Alaf [1817].

Mahal of Pargana Nagar Haveli has been given to the Firangee of Goa as Dumala in entirety. Revenue receipts of the same inclusive of Zakat Rupees

Said Pargana		10,980-0-0
Ain Dast	9,381-2-0	
Kherij Dast	1,598-14-0	
	<u>10,980-0-0</u>	
Zakat of said Pargana		1,020-0-0
Ain Dast	1,000-0-0	
Duhotra	20-0-0	
	<u>1,020-0-0</u>	
		<u><u>12,000-0-0</u></u>

In all twelve thousand rupees may be shown against Foreign Darbar expenditure. Should be done.

Sanctioned on 23 Jamadilakhar San Saba Ashar Mayatain, month of Vaishakh [11 May 1817].

Annex C. No. 20

DETAILED ACCOUNT PAPERS OF THE CENTRAL SECRETARIAT OF THE PESHWA AT POONA SHOWING MAHAL OF PARGANA NAGAR AVELI AS SARANJAM IN DUMALA AND THE REVENUE THEREOF AS ANNUAL EXPENDITURE ON FOREIGN AFFAIRS. 1785. 1784/1785. 1786/1787. 1791/1792. 1793/1794. 1796/1797. 19 JUNE 1797. 1797/1798. 1805/1806. 1805/1806. 1812/1813. 1812/1813

(Peshwa Daftar. Ghadni. Rumal 367.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Suhur San Khamas [1785].

Expenses on account of Foreign Darbar: the Firangee of Goa.

In respect of Zadti of forts of Taluka Bassein during the administration of Jivaji Gopal.

Expenditure on account of assignment.

Rs. 12,000/- . . . Pargana Nagar Haveli in entirety together with Zakat has been assigned to the Firangee. Akar of the same according to assignment.

Rs. 3,000/- . . . Two villages from Pargana Khaladi—Pawadi assigned to the Firangee Vakil, Narayan Vithal Dhume. Akar of the same according to assignment.

1,746-12-0 village Suklav.

1,253- 4-0 village Kumbhariye.

Rs. 15,000/-

(Peshwa Daftar. North Konkan. Rumal 1668.)

Rajmandal.

Swari Rajashri Pant Pradhan, Prant Bassein.

Suhur Khamas [1784/1785]. Receipts for the current year.

Villages of Pargana Nagar-Haveli assigned to the Firangee of Goa.

1 Mauza Dadra

1 „ Awali

1 „ Sayeli

1 „ Ranadhe Khurd

1 „ Morkhal

I	Mauza Seli
I	„ Naroli
I	„ Bade Set
I	„ Ubarkoi
I	„ Galode
I	„ Hatole
I	„ Kudase
I	„ Rakholi
I	„ Karade
I	„ Vasone
I	„ Padwade
I	„ Pawi
I	„ Chawade
I	„ Khanwali
I	„ Khugu
I	„ Takawali
I	„ 1
I	„ Chinchdhe
I	„ Dudhani
I	„ Kawache
I	„ Jambulpada
I	„ Barde
I	„ Karchode
I	„ Samroni
I	„ Chinchpada
I	„ Chikhli
I	„ Velgaon
I	„ Abeti
I	„ 1
I	„ Felani
I	„ Kilwani
I	„ Ranadhe Budruk
I	„ Hatale
I	„ Wagsipe
I	„ Shalwale
I	„ Masate
I	„ Khandoli
I	„ Tilwade
I	„ Abawali
I	„ Surangi
I	„ Kanher
I	„ Karajgaon
I	„ Shelati
I	„ Medhe
I	„ Wagchawade
I	„ Rudane
I	„ Ghodbari
I	„ Kharaddari
I	„ Khadpe
I	„ Bahojape
I	„ Abebari

¹ Illegible in the original Maratha document in the *modi* script.

I	„	Kaware
I	„	Shelawani
I	„	Parjai
I	„	Rakholi
I	„	Umroni
I	„	Wasade
I	„	}
I	„	
I	„	
I	„	
I	„	
I	„	
I	„	

Receipts for the current year.

Total receipts for Pargana Nagar-Haveli	Rs. 10,370/-
Regular Land Revenue receipts from land let out by Government direct and given as Dumala to the Firangee	Rs. 8,990/-
For last year	Rs. 9,587/-
From this deduct	Rs. 597/-

Villages of twelve thousand rupees in the Pargana exclusive of six villages and the Zakat were assigned to the Firangee last year in San Arba. The receipts were not according to expectation. Therefore the [remaining] six villages and entire Zakat were assigned as part of the twelve thousand. In the present year Sadashiv Gajare Shet has taken the farm of the entire Zakat of the Taluka at an enhanced rate of Rs. 15,500/-. The management was taken over by the contractor from the present year. The said Shet on his own farmed out the Zakat contract of Pargana Nagar-Haveli for Rs. 1,500/- for a period of five years to Bapuji Waman Nene. While matters stood thus, six villages and Zakat were assigned to the Firangee in the current year. When the transaction was executed last year, the Taluka had just come within the jurisdiction of the Sarkar. Though the year was one of turmoil Baji Gangadhar took up the farm of the Zakat for Rs. 1,001/- and thus the amount of Rs. 12,000/- was made up, and yet the management came in the possession of the Sarkar only at the end of the year. Therefore the contractor agreed to give more for the contract than last year. The increased additional amount which the farmer contracted for went to make up

Rs. 12,000/-	
Deduct	Rs. 499/-
Out of Rs. 100/- being Antast on Zakat deduct from the Jamabandi of the Mahal	Rs. 98/-
Rs. 597/-	
Balance of the last year	Rs. 8,990/-

¹ Illegible in the original Maratha document in the *modi* script.

Details

Mohtarfa from seven merchants. Total	Rs.
Arrears for last year	Rs. 25/ 8/-
Total receipts of last year on account of Dumala villages	Rs. 124/ 8/-
	<hr/>
	Rs. 150/-
Jaraiba from sixteen persons as in the last year	Rs. —
Total arrears for last year	Rs. 36/ 8/-
Total receipts shown last year when the villages were given as Dumala	Rs. 188/ 8/-
	<hr/>
	Rs. 225/-
<hr/>	
Jirayat	Rs. 4,492/-
(This amount is shown as having been levied on 411 ploughs. The Kunbis who owned 91 ploughs contributed Rs. 2,292/- at the rate of Rs. 12/- per plough. The Warlis who owned 220 ploughs contributed Rs. 2,200/- at the rate of Rs. 10/- per plough)	Rs. 4,492/-
The peasant proprietors 200 at the rate of 2½ per head Hundekaris	Rs. 500/-
The item of Kharaba was included at the time of giving the Mahal as Dumala and therefore the amount of the Kharaba is added as due from the Hundekaris	Rs. 1,008/-
	<hr/>
Total	Rs. 6,000/-
Arrears of last year	Rs. 860/10/-
Revenue of 63 villages given as Dumala to the Firangee of Goa	Rs. 5,139/ 6/-
	<hr/>
	Rs. 6,000/ -/-
Net receipts of the last year on account of Dumala villages	Rs. 8,664/ 6/-
Deduct other taxes:—	
Tax on traders	124/8/-
Tax on trees	188/8/-
Tax on irrigated land	5,139/6/-
Increase in general	2,615/-/-
	<hr/>
	8,067/2/-
Balance	Rs. 597/-
The Firangee was assigned villages of Rs. 12,000/- revenue from the said Pargana exclusive of six villages and the Zakat but the revenue was not according to expectation. Therefore six villages and the Zakat have been included in the grant from this year. There is increase in Zakat receipts in this year. Therefore deduct from mahal	Rs. 499/ -/-
Antast	Rs. 98/ -/-
	<hr/>
	Rs. 597/-
	<hr/>
Balance	Nil
General increase	Rs. —
Approved and passed last year	Rs. 0/-
On account of Dumala villages	Rs. 2,615/ -/-
	<hr/>
	Rs. 2,615/ -/-
	<hr/>

Abstract of the total taxes.

	Total Rupees	Last year's receipts	Less	Balance
Tax on traders	150/-	150/-	0	150/-
Jaraiba	225/-	225/-	0	225/-
Jirayat	6,000/-	6,000/-	0	6,000/-
Dumala Villages	0	597/-	597/-	0/-
General increase	2,615/-	2,615/-	0	2,615/-
	<u>8,990/-</u>	<u>9,587/-</u>	<u>597/-</u>	<u>8,990/-</u>
Extra assessment				Rs.
Kamavis				Rs. 380/-
Karasai				Rs. 375/-
Antast				Rs. 445/-
Duhotra				Rs. 180/-
				<u>Rs. 1,380/-</u>
Abstract of receipts of the year:—				
Total assessment of Revenue				Rs. 8,990/-
Extra assessment				Rs. 1,380/-
Total receipts				<u>Rs. 10,370/-</u>
Collections belonging to the Firangee of Goa				<u>Rs. 10,370/-</u>
Balance				<u>Rs. Nil</u>

(Peshwa Daftar. Ghadni. Ruml 367).

Rajmandal.

Swari Rajashri Pant Pradhan.

Suhur Saba [1786/1787].

Expenses on account of Foreign Darbar: the Firangee of Goa.
In respect of Zaddi of Forts.

Mahal of Pargana Nagar Haveli of Taluka Bassein during the administration of Ganapatrao Jivaji has been given to the Firangee in entirety as Dumala and two villages from Pargana Khaladi-Pawadi to the Firangee Vakil. Berij of the Kamal Akar of the same is as under:—

Rs. 12,000/- Pargana Nagar Haveli together with Zakat has been assigned to the Firangee. Akar of the same according to assignment.

Rs. 3,000/- Two villages from Pargana Khaladi-Pawadi assigned to the Firangee Vakil Narayan Vithal Dhume. Akar of the same according to assignment.

1,253- 3-6 village Kumbhariye.

1,746-12-6 village Suklav.

3,000/-

Rs. 15,000/-

(Peshwa Daftar. North Konkan. Rumal 1691.)

Title page of the Audit of 1791-1792.

Accounts of Revenue of Mahals of Prant Bassein, Suhur Isane Tisain
[1791/1792].

Rajmandal.

Zadti.

Swari Rajashri Pant Pradhan.

Revenue Receipts according to Mahals of Prant Bassein for the year
Isane Tisain.

Villages of Pargana Nagar-Haveli assigned to the Firangee:—

I Mauza Dadra	I Mauza Phaleni
I " Avli	I " Kilwani
I " Sayli	I " Ranadhe Brudruk
I " Ranadhekhurd	I " Hatale
I " Morkhel	I " Wagsip
I " Seli	I " Selwase
I " Naroli	I " Masat
I " Badset	I " Khadawli
I " Umbarkoi	I " Tilwade
I " Galade	I " Aboli
I " Hatole	I " Surangi
I " Kuduse	I " Kolewar
I " Rakholi	I " Karojgaon
I " Kerad	I " Salati
I " Sason	I " Medhe
I " Padwad	I " Waghchawde
I " Pawi	I " Rudane
I " Chawade	I " Ghodbari
I " Khaniwali	I " Nebabari
I " Jutwali	I " Khudak
I " Takawli	I " Ambabari
I " 1	I " 1
I " Chichadhe	I " Kaldar
I " Dudhani	I " Shalavani
I " Kawacho	I " Parjai
I " Jambulpada	I " Rakhali
I " Berde	I " Umaroni
I " Karchode	I " Wasade
I " Chinchpada	I " }
I " Sambroni	I " }
I " Chinchpada	I " }
I " Chikhli	I " }
I " Welgoan	I " }
I " Abeti	I " }
I " 1	
I " 1	

3633

In all 69 villages.

¹ Illegible in the original Maratha document in the *modi* script.

Total receipts according to last year's	
Makta	Rs. 10,980-0-0
Ain Dast as in the last year	Rs. 7,950-0-0
While assigning Saranjam to the Firangee Kharaba revenue was taken into account for	Rs. 2,800-0-0
(Deduct) from this Kherij of Dast	Rs. 720-8-0
	Rs. 2,079-8-0
	Rs. 10,029-8-0

The assessment on cultivated land is explained as under:—

From 441 ploughs deducting 37 for Patels and the Naiks and other village officers	Rs. 4,492-0-0
200 Thalkaris at the rate of Rs. 2½ per head	Rs. 500-0-0
Hundekaris	Rs. 1,008-0-0
	Rs. 6,000-0-0
Mohtarfa from seven merchants	Rs. 150-0-0
Jaraiba from 16 persons accor- ding to last year	Rs. 225-0-0
Jirayat	Rs. 6,000-0-0
General increase by including revenue on Kharaba, etc.	Rs. 3,654-8-0
Total	Rs. 10,029-8-8

Kherij Dast as in the last year—	
Kamavis }	Rs. 375-0-0
Kardsai }	Rs. 375-0-0
Duhotra }	Rs. 200-8-0
	Rs. 950-8-0

Abstract of receipts of this year.

Ain Dast	Rs. 10,029-8-0
Kherij Dast	Rs. 950-8-0
	Rs. 10,980-0-0

(Peshwa Daftar. North Konkan. Rimal 1706.)

Rajmandal.

Zadti.

Swari Rajeshri Pant Pradhan.

Revenue receipts according to Mahals of Prant Bassein for the year Arba Tisain [1793/1794].

Villages 69 of Pargana Nagar Haveli in the charge of Firangee of Goa.

Total receipts according to last year's Malkta	Rs.	10,980-0-0
Ain Dast as in the last year	Rs.	—
Receipts of last year	Rs.	7,950-0-0
While assigning Saranjam to the Firangee		
Akar of Kharaba was taken into account for	Rs.	2,800-0-0
From this deduct Kherij Dast	Rs.	720-8-0
	Rs.	2,079-8-0

Details—

Mohtarfa from 7 merchants	Rs.	150-0-0
Jaraiba from 16 persons according to last year	Rs.	225-0-0
Jirayat (tax on irrigated land)	Rs.	6,000-0-0

Item of general increase included while granting the said Pargana to the Firangee together with Zakat, Kherij Dast, etc., in Saranjam for Rs. 12,000/-

Rs. 3,654-8-0

Rs. 10,029-8-0

Separate items of Ain Dast	Rs.	6,375-0-0
Mohtarfa	Rs.	150-0-0
Jaraiba	Rs.	225-0-0
Jirayat	Rs.	6,000-0-0
	Rs.	6,375-0-0

Kherij Dast	Rs.	950-8-0
Zakat of the said Pargana	Rs.	1,020-0-0
Ain Dast	Rs.	1,000-0-0
Duhotra	Rs.	20-0-0

Rs. 1,020-0-0

Total	Rs.	3,345-8-0
	Rs.	10,029-0-0

On account of Kherij Dast as in the last year	Rs.	950-8-0
---	-----	---------

 Kamavis

Rs. 375-0-0

 Karsai

Rs. 375-0-0

 Duhotra on Ain Dast of Rs. 10,029-8-0 at the rate of Rs. 2/- per cent.

Rs. 200-8-0

Rs. 950-8-0

(Peshwa Daftar. North Konkan. Ruml 1716.)

Rajmandal.

Zadti.

Swari Rajeshri Pant Pradhan.

Revenue receipts according to Mahals of Prant Bassein for the year Suhur Saba [1796/1797].

Village of Pargana Nagar Haveli in charge of Firangee of Goa

Total receipts according to last year's Makta		Rs. 10,980-0-0
Previous receipts	Rs. 7,950-0-0	
While assigning Saranjam to the Firangee Kharaba Akar, etc., was taken into account for—		
Deduct	Rs. 2,800/- from which Rs. 720/8/- Kherij of Dast	} Rs. 2,079-8-0
	<u>2,079/8/0</u>	
Total Rupees		10,029-8-0
Mohtarfa from 7 merchants	Rs. 150-0-0	
Jaraiba from 16 persons . .	Rs. 225-0-0	
From Ryots (Jirayat) . . .	Rs. 6,000-0-0	
	<u>6,375-0-0</u>	
Item of general increase included while granting the said Pargana to the Firangee together with Zakat, Kherij Dast, etc., in Saranjam for Rs. 12,000/-		} Rs. 3,654-8-0
Items of Ain Dast	Rs. 6,375-0-0	
Mohtarfa Rs. 150-0-0		
Jaraiba Rs. 225-0-0		
Jirayat Rs. 6,000-0-0		
	<u>6,375-0-0</u>	
Kherij Dast	Rs. 950-8-0	
Zakat of the said Pargana	Rs. 1,020-0-0	
Ain Dast 1,000-0-0		
Duhotra 20-0-0		
	<u>1,020-0-0</u>	
	<u>8,345-8-0</u>	
Total		Rs. 10,029-8-0
Kamavis	375-0-0	
Kardsal	375-0-0	
Duhotra	200-8-0	
	<u>950-8-0</u>	

Terij of receipts	Rs.
Ain Dast	Rs. 10,029-8-0
Kherij Dast	Rs. 950-8-0
	<hr/>
	Rs. 10,980-0-0
Receipts of the year	Rs. 10,980-0-0
Collection of Revenue	Rs. 10,980-0-0
	<hr/>
Balance at the end of the year	Rs. Nil
	<hr/> <hr/>

(Peshwa Daftar. Konkani. Bassein. Rumat 1855.)

Treasury Receipts Swari Rajeshri Pant Pradhan during the administration of Sadashiv Raghunath, Prant Bassein, Suhur Saman Tisain Maya Wa Alaf, 23 Jilhej [19 June 1797].

Rajmandal.

Rozkird.

Swari Rajeshri Pant Pradhan during the administration of Rajashri Wamanaji Hari Prant Bassein month of Jilhej. Adjustment of payment on account of Foreign Darbar (through Suba). Mahal of Pargana Nagar-Haveli had been given as Dumala in entirety inclusive of Zakat to the Firangee. The Akar of the same—Rs. 12,000.

Pargana Nagar Haveli and Zakat of the said Pargana—Rs.

Receipts of the said Pargana	Rs. 10,980-0-0
Ain Dast	10,750-0-0
Kherij Dast	230-0-0
	<hr/>
	10,980-0-0
Zakat of the said Pargana	Rs. 1,020-0-0
Ain Dast	1,000-0-0
Duhotra	20-0-0
	<hr/>
	1,020-0-0
	<hr/>
Total	Rs. 12,000-0-0
	<hr/> <hr/>

(Peshwa Daftar. Konkani. Rumat 1717.)

Zaddi
Suhur Saman Tisain
[1797/1798].

Rajmandal.

Swari Rajeshri Pant Pradhan Prant Bassein. Receipts for the current year [1797/98] of Pargana Nagar-Haveli.

Pargana Nagar Haveli in charge of the Firangee of Goa. Here follow the names of villages of Pargana Nagar Haveli.

.....

Total receipts according to contract as in the last year		Rs. 10,980-0-0
Ain Dast according to last year		Rupees.
Receipts of the last year		Rs. 7,950-0-0
The Akar of Kharaba was included when Saranjam was granted to the Firangee	Rs. 2,800-0-0	} 2,079-8-0
Out of this deduct on account of Kherij of Dast	Rs. 720-8-0	
Total		<u>10,029-8-0</u>

Details:—

Mohtarfa on account of 7 merchants	Rs. 150-0-0
Jaraiba on account of 16 persons	Rs. 225-0-0
Jirayat	Rs. 6,000-0-0

[Details of land-revenue charged according to ploughs omitted.]

Item of general increase included while granting the said Pargana in Saranjam for Rs. 12,000/- to the Firangee together with Zakat Kherij Dast etc.		3,654-8-0
Separate items of Ain Dast		6,375-0-0
Mohtarfa	150-0-0	
Jarayeba	225-0-0	
Jirayat	6,000-0-0	
	<u>6,375-0-0</u>	
Kherij Dast		950-8-0
Zakat of the said Pargana		1,020-0-0
Ain Dast	Rs. 1,000-0-0	
Duhotra	Rs. 20-0-0	
	<u>Rs. 1,020-0-0</u>	
Total of actual Receipts		8,345-8-0
Total		Rs. 10,029-8-0
Kherij Dast etc., as last year—		
Kamavis	Rs. 375-0-0	
Kardsai	Rs. 375-0-0	
Duhotra on Ain Dast	Rs. 200-8-0	
	<u>Rs. 950-8-0</u>	
Terij of receipts—		
Ain Dast	Rs. 10,029-8-0	
Kherij Dast	Rs. 950-8-0	
	<u>Rs. 10,980-0-0</u>	
Receipts of the year		Rs. 10,980-0-0
Collections of the year		Rs. 10,980-0-0
Balance at the end of the year		Nil

(Peshwa Daftar. North Konkan. Rimal 1741.)

Title page of Audit of Accounts of Huzur expenditure of Dharmadai, etc., Prant Bassein, San Seet Mayatain.

Rajmandal.

Zadti

Swari Rajeshri Pant Pradhan. Expenditure from revenues of Prant Bassein during the administration of Parshuram Khanderao—expenses from the said Taluka in Huzur accounts for the year Seet Mayatain [1805/1806].

Expenses on account of Foreign Darbar i.e., on account of Pargana Nagar Haveli which has been given to the Firangee of Goa as Dumala together with Zakat—

	Rupees.
(Revenues of) said Pargana	Rs. 10,980-0-0
Zakat	Rs. 1,020-0-0
	Rs. 12,000-0-0
	Rs. 12,000-0-0

Shri.

Terij of expenditure from Huzur Accounts of Prant Bassein for the year Seet Mayatain.

	Rupees	Cash
Total		
Expenses on Foreign Darbar on account of Firangee of Goa	Rs. 12,000-0-0	Rs. 12,000-0-0

(Peshwa Daftar. Konkan. Bassein. Rimal 1741.)

Shri.

Record of total Receipts of Prant Bassein Seet
Mayatain Wa Alaf [1805/1806.]

Rajmandal.

Page No. 646 of Zadti.

Swari Rajeshri Pant Pradhan, Suhur Seet, Prant Bassein, during the administration of Parsharam Khanderao. Receipts for the current year Mahal-wise.

Pargana Nagar Haveli in charge of Firangee of Goa given as Dumala to him—villages 69.

Details.

Kitta 1 Dadra 1 Ayali * * *	Villages	Kitta 1 Roli 1 Badekhat * * *	Villages
35		34	
Total 69 villages.			
According to last year Rs.		Rs. 10,980- 0-0	

Details.

Ain Dast		Rs. 9,381- 2-0
Mohtarfa for 7 merchants	Rs. 150- 0-0	
Jaraiba for 16 persons	Rs. 225- 0-0	
Jirayat	Rs. 6,000- 0-0	
General increase by including Akar of Kharaba at the time of assigning villages worth twelve thousand together with Zakat to the Firangee	Rs. 3,006- 2-0	
Total	Rs. 9,381- 2-0	
Kherij Dast		Rs. 1,598-14-0
Kamavis Makta	Rs. 450- 0-0	
Karsai	Rs. 375- 0-0	
Antast	Rs. 586- 0-0	
Duhotra on Ain Dast	Rs. 187-14-0	
	1,598-14-0	
Total		Rs. 10,980- 0-0

(Pashwa Daftar. North Konkan. Bassein. Rimal 1775.)

Shri.

Rajmandal.

[1812/1813]
Zadti.

Audit of accounts Mahal-wise

Swari Rajeshri Pant Pradhan, Prant Bassein during the administration of Parshuram Khanderao for the year Salas Ashar Mayatain Wa Alaf.

Pargana Nagar Haveli has been given in entirety to Firangee of Goa as Dumala.

Villages of the Pargana total Number	69
Total receipts as in the last year Rupees	9,381- 2-0
Mohtarfa from 7 merchants	150- 0-0
Jaraiba from 16 persons	225- 0-0
Jirayat	6,000- 0-0

This amount is shown as having been levied on 411 ploughs. The Kumbis who owned 91 ploughs contributed Rs. 2,292-0-0 at the rate of Rs. 12/- per plough. The Warlis who owned 220 ploughs contributed Rs. 2,200/- at the rate of Rs. 10/- per plough 4,492- 0-0

Peasant proprietors 200 at the rate of 2½ per cent. 500- 0-0
 Hundekaris 1,008- 0-0
6,000- 0-0

General increase:—

The Akar of Kharaba was included at the time when the Sarkar agreed to assign to the Firangee villages of the revenue of twelve thousand Rupees 3,006- 2-0

9,381- 2-0
 Kherij Dast 1,598-14-0
 Kamavis 450- 0-0
 Karsai 375- 0-0
 Antast 586- 0-0
 Duhotra on Ain Dast 187-14-0
1,598-14-0

Total Receipts	Rs. 10,980- 0-0
(Realization of revenue)	Rs. 10,980- 0-0
Balance	<u>Nil.</u>

(Peshwa Daftar. Thana Ruml 70.)
 Rajmandal.

[1812/1813]
 Zadti.

Swari Rajashri Pant Pradhan Suhur Salas, Prant Bassein during the administration of Parashuram Khanderao.

Expenditure:—Expenses on foreign Darbar. The Mahal of Pargana Nagar-Haveli has been assigned in entirety as Saranjam to the Firangee of Goa. The Akar of the same inclusive of Zakat Rs. 12,000/-

Annex C. No. 21

DETAILED ACCOUNT PAPERS PREPARED IN TALUKA BASSEIN SHOWING MAHAL OF PARGANA NAGAR AVELI AS SARANJAM IN DUMALA AND THE REVENUE THEREOF AS ANNUAL EXPENDITURE ON FOREIGN AFFAIRS. 1783/1784. 17 OCTOBER 1785. 1784/1785. 1787/1788. 4 JUNE 1788. 1787/1788. 1793/1794

(Peshwa Daftar. North Konkan. Rimal 1666.)

Shri.

Jamabandi settlement of Pargana Nagar-Haveli Prant Ram-Nagar, Taluka Bassein for the year Arba Samanin Maya Wa Alaf [1783/1784].

Villages of the Pargana—69

From which deduct deserted villages—15

Akar from the remaining 54 villages exclusive of Hakdars		Rs.
According to accounts for the year Salas Sabain during the administration of Trimbak Vinayak Village-wise		Rs. 11,781-1-0
Jirayat	Rs. 8,592-5-3	Rs. 11,302-12-3
Jaraiba	Rs. 342-15-6	
Mohtarfa	Rs. 41-8-0	
Tax on Mango trees etc.	Rs. 6-0-0	
General increase	Rs. 761-2-9	
	<u>Rs. 9,743-14-6</u>	

Akar from waste lands from villages Naroli and Dadra excluded from the account estimated at Rs. 2,135-12-0 from which deduct as part of general increase of the said villages, included in the above total Rs. 576-13-9, Balance

1,558-14-0

Total 11,302-12-9

Details—

Akar	7,950-0-0
Amount of remissions formerly granted	1,793-14-6
Total assessment on waste land	<u>1,558-14-3</u>

11,302-12-9

Kamavis Makta (contract-fees)	250-0-0
Duhotra at the rate of Rs. 2/- per cent.	<u>228-7-3</u>

11,781-4-0 11,781-4-0

Carried forward . . . 11,781-4-0

		Rs.
	Brought forward . . .	11,781- 4-0
Miscellaneous items		1,342-12-0
Fines, tax on marriages, & remarriages of widows, estimated at Rs. 729/- from which amount received according to Makta included in the above Rs. 250/-		
Balance	Rs. 479- 0-0	
On account of Karsai approximately	Rs. 373- 0-0	
Estimated for Antast and Kar-kuni	Rs. 490-12-0	
	<u>Rs. 1,342-12-0</u>	
Total		<u>13,124- 0-0</u>
<u>Zakat</u>		1,528- 0-0
Akar for the year Tisa Sabain	1,075- 8-0	
Expenses on account of establishment of the said Mahal	324- 8-0	
Duhotra at the rate of Rs. 2/- per cent.	28- 0-0	
	<u>1,428- 0-0</u>	
Antast	100- 0-0	
	<u>1,528- 0-0</u>	
Total		14,652- 0-0

Details:

	Village-wise
Mauza Upase	100-10-3
„ Sayli	149- 4-6
„ Umbroni	29-10-0
„ Kheratbari	11-10-0
„ Wasde	25-12-0
„ Borpe	126-12-0
„ Rudane	73- 0-0
„ Ghodbari	45- 4-0
„ Shelti	129- 4-0
„ Dudhani	127- 4-0
„ Khaniwli	105-14-0
„ Wagchawade	100-12-0
„ Chawade	144- 4-0
„ Karanjaon	23-10-0
„ Medhe	26- 8-3
„ Benadhe	21- 4-0
„ Bridawan	7- 0-0
„ Masat	147- 8-0
„ Kharadi	39- 9-0
„ Tilade	37- 4-0

Mauza Kawcho	115- 0-0
„ Karchonde	31-12-0
„ Seli	335-12-0
„ Surangi	108- 0-0
„ Asone	92- 4-0
„ Avli	368- 0-0
„ Chikhli	109- 0-0
„ Chinchpade	53- 8-0
„ Dapode	135- 8-0
„ Aboli	63- 0-0
„ Udase	92- 4-0
„ Sawase	178- 4-0
„ Sabrun	68- 4-0
„ Polani	66- 4-0
„ Morkhal	881- 8-0
„ Ranadhe Budruk	566- 4-0
„ Ranadhe	280-13-0
„ Umbarkoi	396- 8-0
„ Hatale	127- 8-0
„ Hatsal	87- 5-0
„ Walegaon	103- 8-0
„ Anboti	20-12-0
„ Kelwani	161-12-0
„ Khadwali	167- 4-0
„ Bedset	269-12-0
„ Khadape	131- 4-0
„ Sinwani	29- 8-0
„ Takawli	166- 0-0
„ Wagsip	131- 4-0
„ Pawi	87-12-0
„ Naroli	4,125- 4-0
„ Dadra	1,445- 8-0
„ Galande	554-12-0
„ Salitali	171- 0-0
	<hr/>
	13,124- 0-0

Excess of revenue was realised in Saba and Tisa Sabain
than what was realised in Salas Sabain Rs. 174-14-0

More revenue receipts in the year Tisa Sabain Rs. 163- 1-0

Mauza Udavane	9-10-9
„ Wagchawade	21- 9-0
„ Medhe	26- 7-9
„ Karchawad	48- 1-0
„ Khadawli	1-12-0
„ Khadap	16-11-3
„ Golande	35- 9-6
	<hr/>
	159-13-3
Duhotra at the rate of 2 per cent	3- 3-9
Carried forward	<hr/>
	163- 1-0

Brought forward	163- 1-0	
Mauza Birdawan in the year San Sabain		11-13-0
Cash	11- 9-6	
Duhotra	0- 3-6	
	<u>11-13-0</u>	
		<u>174-14-0</u>
Total		13,298-14-0
Zakat		<u>1,528- 0-0</u>
		<u>14,826-14-0</u>

Revenues of deserted villages have been deducted in the accounts of year Salas Sabain. There was cultivation on small scale in the year Tisa Sabain. Revenue receipts of the same:—

Mauza Lohari	37-12-3	Details of deserted villages
" Chinchole	26- 0-0	1 Mauza Jalewangaon.
" Rakholi	44- 2-9	1 " Khadakwane.
" Karad	45- 8-9	1 " Dokari.
" Ambebari	13- 2-3	1 " Kotare.
	<u>166-10-0</u>	1 " Ruipada.
More revenue will be yielded if the harvest is good.		1 " Bildari.
		1 " Dolbare.
		1 " Madwani.
		1 " Parjai.
		1 " Kele.

10

The said ten villages will be brought under cultivation. Therefore Revenue estimated at Rs. [left blank].

(Peshwa Daftar. North Konkan. Nagar-Haveli. Ruml 1854.)

Shri.

Jamabandi settlement of Pargana Nagar Haveli, Prant Ram-Nagar, Taluka Bassein, for the year Khamas Samanin Maya Wa Alaf [1784/85]. Accounts of the said Pargana for the year Salas Sabain together with additional Akar of recent years.

Pargana	Villages
Inhabited	59
Ditto.	54

Out of 15 villages which were deducted in San Salas Sabain on account of their being as uncultivable and uninhabited, villages in which partial cultivation was carried out and revenue was realised in the settlement of Tisa Sabain, are as under—

Brought forward . . . 54

I	Mauza Laheri	
I	„ Chinchdhe	
I	„ Rakholi	
I	„ Marbad	
I	„ Ambebari	
—		
5		5
	Deserted—10.	
I	Mauza Kele	
I	„ Nanedana	
I	„ Khadakwani	
I	„ Dalebari	
I	„ Kobar	
I	„ Reni	
I	„ Bildari	
I	„ Dolebari	
I	„ Mapwani	
I	„ Parjai	
10		10
		69
	From which deduct deserted villages	10
	Remaining inhabited villages	59
	Total Akar Rupees	<u>119</u>
	Ain Dast, etc.	Rs. 10,737- 4-3
	Details of Ain Dast	
	Akar (Revenue receipts) of the year	
	Salas Sabain	Rs. 7,950- 0-0
	Additional (receipts) recently	
	realized	Rs. 338- 4-0
	Additional Akar yielded from an	
	inhabited village in the year	
	Saman Sabain	11-13-0
	Akar of inhabited villages together	
	with receipts from a few of the	
	uninhabited villages partially	
	cultivated	*326- 7-3
		<u>338- 4-0</u>
	Akar of 7 uninhabited	
	villages	159-13-3
	Uninhabited villages	
	deducted in the year	
	Salas Sabain, Akar	
	of five of them which	
	have been cultivated	
	partially	166-10-0
		<u>*326- 7-3</u>
	Carried forward	Rs. 8,288- 4-3

	Brought forward . .	8,288 -4-3
Akar (Receipts) from Zakat		1,400- 0-0
Receipts in the year Tisa Sabain . .	1,075- 8-0	
Estimated expenses of the Mahal in addition to the receipts by the Sarkar	324- 8-0	
	<u>1,400- 0-0</u>	
Kherij Dast		1,049- 0-0
Kamavis of Makta (contract fees) in the year San-Salas Sabain . . .	250- 0-0	
Dujotra on—		
Ain Dast	8,288-4-3	}
Zakat	1,400-0-0	
Kamavis	250-0-0	
Antast and Karkuni	199- 0-0	
	<u>600- 0-0</u>	
	1,049- 0-0	
Karsai approximately		375- 0-0

Details of separate items:—

Revenue receipts of waste lands of inhabited villages shown as deducted together with remissions during the year Salas Sabain . . .		3,352-12-9
Remissions previous granted . .	1,793-14-6	
Revenue from lands shown as arable from Kharaba lands in the survey of Salas Sabain	1,558-14-3	
	<u>3,352-12-9</u>	
Miscellaneous receipts on account of fines, tax on marriages, fees of messengers despatched estimated at Rs. 729-0-0 of which amount received according to Makta as shown above Rs. 250/- .		479- 0-0
Duhotra		<u>56-12-0</u>
Total Rs. . .		<u>15,000-13-0</u>

Ten villages.

The Akar of fifteen villages, ten of which are uninhabited and five partially cultivated, together with Zakat may be assigned—— [portion torn]. Accordingly the remaining villages inhabited and uninhabited and Zakat excluding the villages formerly assigned are hereby assigned. Thus the said pargana together with Zakat is assigned to the Firangee from the current year. Therefore the same be given as Dumala and receipts obtained therefor. In San Arba forty-seven villages of the said pargana were given in charge [of the Firangee]. Revenue of villages exclusive of these and of Zakat of the last year collected for the Sarkar is to be returned to him. Therefore after ascertaining the amount collected.

it should be returned and receipt obtained therefor. Sanad to Jivaji Gopal to the same effect. Sanad may be issued after writing explicitly therein that an agreement has been made to the effect that the Firangee will not construct any new fortifications in the pargana.

Sanad should be issued dated 2 Jilhej Suhur Khamas Samanin month of Kartik [17 October 1784].

(Peshwa Daftar. North Konkan. Haveli Saywan. Rumal 1779.)

Shri.

Temporary accounts of Taluka Bassein from beginning of Suhur Khamas Samanin Maya Wa Alaf [1784/1785] to the end of the year receipts Rupees.

Expenditure	Rupees.	
Huzur Accounts		Rs. 37,406-10-0
Temple of Vajrayogini	162-11-0	
Religious Charities	1,539- 0-0	
Inams	2,153- 4-0	
Villages granted in farm to Inamdars	10,342-15-3	
Expenditure no account of Dumala	15,000- 0-0	
Pargana Nagar Haveli inclusive of Zakat with the Firangee of Goa	12,000 }	
Vakil of Firangee of Goa	3,000 }	
	<u>Rs. 15,000</u>	

(Peshwa Daftar. North Konkan. Bassein. Rumal 1682.)

Shri.

Audit of revenue accounts. Rajmandal Swari Rajashri Pant Pradhan. Taluka Bassein, during the administration of Ganpat Rao Jivaji, in the year Saman Samanin Maya Wa Alaf [1787/1788] from 18 Shaban Aval year to the end of 27 Shaban Akhir year villages of the said Prant accordingly Villages 719.

Out of which deduct villages assigned Villages.

In charge of Raja Durjan Singh Villages from Pargana Khaladi	5	
In charge of Firangee of Daman	21	
From Pargana Neher	10	
From Pargana Khaladi	11	
	<u>21</u>	
	Total	<u>26</u>
Remaining Villages		Villages 693

Details:

Inam	11
Isafat in charge of Deshmukh	15
Dumala	71
In charge of Narayan Rao Vithal. Firangee Vakil Villages from Pargana Khaladi—Pawadi.	2
Entire Pargana of Nagar-Haveli	69
	<u>71</u>

(Peshwa Daftar. North Konkan. Rumat 1686.)

Shri.

[4 June 1788.]

Audit of Mahal-wise revenue accounts.

Rajmandal Swari Rajeshri Pant Pradhan. Prant Bassein during the administration of Ganpat Rao Jivaji in the year Tisa Samanin Maya Wa Alaf from Awal Year 28 Saban to Ramjan 8 Akher. Receipts for the year—

Total number of villages	719
Out of which deduct villages of which Akar is not accounted since former times	Villages 21
Villages assigned to the Firangee at the time of tretay .	5
With Raja Durjan Singh	<u>26</u>
Remaining	Villages
Mahals 13 of Prant (Firangan) Bassein	479
Mahals 4 of Prant Ramnagar	178
Pargana Wada of Prant Jawar	36
	<u>693</u>

Details

Belonging to Sarkar	596
Isafat	15
Inamati	
Given as Dumala to the Firangee of Goa	71
Entire Pargana of Nagar Haveli	69
Out of Pargana Khaladi-Pawadi to the Firangee Vakil	2
	<u>71</u>
	<u>693</u>

Estimated Akher in cash Rupees 297,111-7-6

(Peshwa Daftar. North Konkan. Bassein. Rumal 1764.)

Shri.

Estimates of Taluka Bassein during the administration of Ganpat Jivaji from the beginning of the year Saman Samanin Maya Wa Alaf [1787/1788] to the end of the same year.

Receipts	Rs.
Antast and Darbar expenditure	14,092- 0-0
.	
The Firangee of Goa and his Vakil was granted Saranjam for the Kamal Berij of	Rs. 15,000/-
Of this Saranjam former receipts	Rs. 10,786- 4-0
Increase when villages were given as Dumala	Rs. 4,213-12-0
The Mahal of Pargana Nagar Haveli assigned to the Firangee in entirety for Rs. 12,000/-.	
On this account	Rs. 2,800- 0-0
From Pargana Khaladi-Pawadi 2 villages to Narayan Vithal, Vakil, for Rs. 3,000/-.	
Increase on this account	Rs. 1,413-12-0
	<u>Rs. 4,213-12-0</u>

(Peshwa Daftar. North Konkan. Rumal 1709.)

Audit of Revenue accounts, Mahal-wise, of Prant Bassein of the year Arba Tisain [1793/1794].

Shri.

Audit of Accounts, Rajmandal, Swari Rajashri Pant Pradhan, in charge of Sadashiv Raghunath, Prant Bassein from the beginning of 24 Sawal Arba Tisain Maya Wa Alaf to the end of the year 4 Jilkad, receipts.

Gross Total Rs.

Audit of revenue accounts Mahal-wise, Rajmandal Swari Rajashri Pant Pradhan in charge of Sadashiv Raghunath, Prant Bassein from the beginning of the year 24 Sawal, Arba Tisain Maya Wa Alaf to the end of 4 Jilkad of the same year.

Receipts	Villages 719
Out of which deduct those which are not accounted for in the revenue receipts.	
Villages given to the Firangee of Daman formerly at the time of conclusion of treaty	21
From Pargana Neher	10
From Pargana Khaladi-Pawadi	11
	<u>21</u>
With Raja Durjan Singh of Pawadi	5
	<u>26</u>
Remaining—	Villages
From 13 Mahals of Firangan (Taluka Bassein)	479
From 4 Mahals of Prant Ram-Nagar	178
From Pargana Wade, Prant Jawar	36
	<u>693</u>
<i>Details :</i>	
Belonging to Sarkar	597
Inam	12
Isapat	15
Pargana Nagar Haveli is entirely given as Dumala to the Firangee of Goa	69
	<u>693</u>
Total Receipts in Cash	<u><u>Rs. 2,51,458-6-9</u></u>

Annex C. No. 22

(Part 1)

ENTRY OF SANAD ASSIGNING TRIBUTE FROM RAJA OF RAMNAGAR TOWARDS MAINTENANCE OF FORT GHAMBIRGAD. 23 JULY 1750

(Peshwa Daftar. South Konkan. Dafata Patra. No. 650.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Suhur Ihide Saban 29. [23 July 1750.]

Letter from Register.

The Sarkar's farm of Rs. 5,200/- was fixed from Rana Ramdeo of Ramnagar State and the amount was assigned to you. Now that fort

Ghambirgad has been won for the Sarkar money has to be provided for maintaining the same. Therefore from the current year the said amount of Rupees five thousand two hundred has been given to Ramaji Mahadeo in charge of Prant Salsette for the maintenance of the fort. He will receive the amount. You should not press the State for payment. Sanad to Shankaraji Keshav to the above effect.

Copied by Mahadaji Baburao temporary Clerk 20 August 1853.
Compared by Dinkar Vasudeo Clerk 27 May 1854.

Annex C. No. 22

(Part 2)

ENTRY OF SANAD ASSIGNING TRIBUTE FROM RAJA OF RAMNAGAR
TOWARDS MAINTENANCE OF FORT GHAMBIRGAD: 23 JULY 1750

(Peshwa Daftar. South Konkan. Dafata Patra. No. 650.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Suhur Ihide Saban 29. [23 July 1750.]

Letter from Register.

Sanad to Ramaji Mahadeo in charge of Prant Salsette.

The share of the revenue of Zakat of Prant Ramnagar was assigned to Antaji Moreshwar. The same has been taken away from him and has been assigned to you for one year. The contract for the same for Rs. 2,500/- has been given to you. Share excluding this [portion torn] to be sent to the Sarkar will not be deducted. The excess should be credited to the Sarkar. Agreement accordingly. Article 1.

Now Parganas exclusive of the Zakat of Prant Ramnagar have been taken over by the Sarkar. Their estimated revenue will be about fifteen thousand rupees. Out of this five thousand two hundred rupees are to be received in cash for the old contract. The remaining revenues amount to ten thousand rupees. Later the revenues would go on increasing. [Portion torn] Baji Gangadhar informed the Huzur. Therefore you should take action that the revenue receipts do not fall below the amount of fifteen thousand rupees, but increase. Article 1. [Portion torn.] Accordingly two articles have been agreed upon. You should act accordingly. Sanad 1. Copied by Baburao temporary Clerk dated 20 August 1853. Compared Dinkar Vasudeo 27 May 1854.

Annex C. No. 23

LIST OF ZAKAT POSTS OF GHAMBIRGAD, INCLUDING THOSE INSIDE
PARGANA NAGAR AVELI

1793/1794

(Peshwa Daftar. Returnable Papers. Sadashive Mankeshwar. Rumat 105.)

Shri.

List of Zakat Nakas of Taluka Gambhirgad in the year Suhur Arba
Tisain Maya Wa Alaf (1793/1794).

Sarkar's entire Amal is in force in respect of Zakat inclusive of Ain Zakat and rights of Sardeshmukhi and Sarpatilki Watans.	6 Panch Mahal 1 Waghadi 1 Kurze 1 Chicune 1 Subhakar 1 Save 1 Balapur <hr/> 6
Administration of the Sarkar in charge of Parsharam Ganesh inclusive of Ain Zakat and rights of Sardeshmukhi and Patilki.	6 Pargana Barhe 1 Dongari 1 Wase 1 Bormal 1 Sav Shaveli 1 Warawade 1 Bari <hr/> 6
According to previous practice Zakat was shared by both parties. Ain Zakat belonging to the Raja of Ramnagar and the rights of Babi Sardeshmukhi and Patilki were the Sarkar Amal. After Annexation of Nagar Haveli by the Sarkar both the Zakats came in the possession of Sarkar. Thereafter with the Firangee.	6 Nagar Haveli Share 1 Padajai 1 Ubarkoi 1 Rakholi 1 Saile 1 Amla 1 Fatepur <hr/> 6
The Zakat of the said Mahal is with Ramnagar and rights of Sardeshmukhi and Sarpatilki are with the Sarkar. This is the present position.	6 Prant Ram Nagar 1 Panas 1 Poda 1 Khadakwal 1 Modwaigan 1 Gowari 1 Chorwad <hr/> 6

Statement from Parsharam Ganesh. 1 Amal of right of Sardeshmukhi in charge of Chaskar. 1 Amal of right of Sarpatilki in charge of Pilaji Jadhav who entrusted it to the Sarkar.	Formerly Parsharam Ganesh had taken the farm; since then nearly 36 years from the year Saman Khamasain have passed. At that time exclusive of farm Rs. 1,623 Pargana Bare —1,623																																																			
<hr style="width: 10%; margin-left: 0;"/> 2	<table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">Ain Zakat</td> <td style="text-align: right;">1,150</td> <td></td> </tr> <tr> <td>Right of Sardeshmukhi & Sarpatilki</td> <td style="text-align: right;">450</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;"><hr style="width: 50%; margin-left: auto; margin-right: 0;"/></td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">1,600</td> <td></td> </tr> <tr> <td>Duhotra</td> <td style="text-align: right;">23</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;"><hr style="width: 50%; margin-left: auto; margin-right: 0;"/></td> <td></td> </tr> <tr> <td style="text-align: center;">Total</td> <td style="text-align: right;">1,623</td> <td></td> </tr> <tr> <td>Nagar Haveli</td> <td></td> <td style="text-align: right;">2,015</td> </tr> <tr> <td>Ain Zakat</td> <td style="text-align: right;">750</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Sarkar's share of Rs. 1150/- of which Rs. 400/- are in arrears with Raja of Ramnagar.</td> <td></td> <td></td> </tr> <tr> <td>Rights of Sardeshmukhi & Sarpatilki.</td> <td style="text-align: right;">1,250</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;"><hr style="width: 50%; margin-left: auto; margin-right: 0;"/></td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;">2,000</td> <td></td> </tr> <tr> <td>Duhotra</td> <td style="text-align: right;">15</td> <td></td> </tr> <tr> <td></td> <td style="text-align: right;"><hr style="width: 50%; margin-left: auto; margin-right: 0;"/></td> <td></td> </tr> <tr> <td style="text-align: center;">Total</td> <td style="text-align: right;">2,015</td> <td style="text-align: right;">2,015</td> </tr> <tr> <td style="padding-left: 20px;">Rights of Sardeshmukhi and Sarpatilki of Ram Nagar and Ain Zakat and Batti half to the Sarkar</td> <td></td> <td style="text-align: right;">3,300</td> </tr> </table>	Ain Zakat	1,150		Right of Sardeshmukhi & Sarpatilki	450			<hr style="width: 50%; margin-left: auto; margin-right: 0;"/>			1,600		Duhotra	23			<hr style="width: 50%; margin-left: auto; margin-right: 0;"/>		Total	1,623		Nagar Haveli		2,015	Ain Zakat	750		Sarkar's share of Rs. 1150/- of which Rs. 400/- are in arrears with Raja of Ramnagar.			Rights of Sardeshmukhi & Sarpatilki.	1,250			<hr style="width: 50%; margin-left: auto; margin-right: 0;"/>			2,000		Duhotra	15			<hr style="width: 50%; margin-left: auto; margin-right: 0;"/>		Total	2,015	2,015	Rights of Sardeshmukhi and Sarpatilki of Ram Nagar and Ain Zakat and Batti half to the Sarkar		3,300
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Rights of Sardeshmukhi and Sarpatilki of Ram Nagar and Ain Zakat and Batti half to the Sarkar		3,300																																																		

Annex C. No. 24

MEMORANDUM REGARDING ZAKAT OF PRANT BASSEIN. 1792/1793

(Peshwa Daftar. Returnable Papers. Sadashiv Mankeshwar. Rumal 105.)

Memorandum regarding Zakat of Prant Bassein of the year Salas Tisain Maya Wa Alaf [1792/93].

In the year Arba Samanin [1783] the Mahal of Pargana Nagar Haveli of the said Prant was granted to the Firangee. At that time Zakat Amal from Dadra/Naroli posts set up in the year Tisa Khamasain [1758/59] on the Mahal being taken over by the Sarkar in the administration of

Shankaraji Keshav, and four villages were retained, and the remaining villages were granted to the Firangee. But it has been agreed by the Huzur to grant to the Firangee Saranjam of Rs. 12,000/-. On account of retention of Zakat and villages the Saranjam was not completed. Therefore the Vakil of the Firangee represented to the Huzur and obtained the Zakat and villages of that Mahal which had been retained.

Therefore the total amount of Rs. 12,000/- is as under

The Mahal consisting of 72 villages	Rs. 10,980- 0-0
Zakat of Dadra and Naroli posts [Rs. 1020/-] against which annually Rs. 1530 are being shown as deductions from the total Zakat (of Bassein)	1,020- 0-0
	<u>Rs. 12,000- 0-0</u>

Thus the amount of Rs. 12,000/- was completed but the Firangee insisted that in the Sanad issued to the Subha for the grant of the Saranjam by the Huzur it is written that Mahal Darobast should be granted. Formerly the Raja [of Ramnagar] made over in exchange of Bakti and Sardeshmukhi to the Sarkar share in the Zakat of Ram Nagar inclusive of Nagar Haveli. Though this was not included in twelve thousand the Firangee forcibly collected Zakat from posts in San Ihide Tisain [1790] and from others in Isane [1791] and did not allow annual collection according to article. The estimated revenue is as under:—

For the year San Ihide Tisain [1790]	Rs. 1,335- 0-0
Zakat post at Surangi	Rs. 50- 0-0
From the Zakat post of Kawcho on account of dispute in San Saba Sabain during the contract of Somaji Rhaghunath the revenue of the village was kept with the Patel in deposit with the in- tention that decision would be taken after receiving orders from Poona. The revenue has been forcibly taken from the Patel	Rs. 225- 0-0
The Firangee collects the shop tax which shop- keepers in villages pay towards the village expenses. As it is inconvenient to pay every time tax on goods imported and exported, the shopkeepers made a contract to pay a lump sum. The Firangee forbids payment of this	325- 0-0
The Patels agreed to give on the sale of nagli, rice etc., as ulfa a lump sum of	Rs. 300- 0-0
This has been stopped.	
The Kamavisdar of the Zakat receives according to custom rice, dal and ghee in kind. This has been stopped. Estimated receipts	75- 0-0
Tax on cattle, estimated receipts	125- 0-0
The Firangee carries rice etc. to Daman in addition to rice received in payment of assess- ment. Formerly custom duty was paid on this. The same is not being paid—estimated receipts	125- 0-0

[Carried forward . . Rs. 1,225- 0-0]

	[Brought forward . . .	Rs. 1,225- 0-0]
The Firangee carries teakwood from the jungle. He does not pay fees for the cartage—estimated receipts		75- 0-0
Weekly bazaar is held at Mauza Rakholi, the tax on this comes to Rs. 125/-. One-third of this amount is a share of Ram Nagar Zakat. Out of this only Rs. 16/- are received—balance		25- 0-0
According to practice each village contributes one fowl in the form of tax—estimated receipts		10- 0-0
Total		<u>1,335- 0-0</u>
From San Isane Tisain [1791]		2,169- 5-0
Zakat post at Mauza Rakholi		604-12-0
" " at " Ubarkoi		93- 5-0
" " at " Ambali		64- 4-0
Zakat posts at Kilwani, Phalevani and Seli		11-10-0
Zakat posts at Mauza Parjai	Rs.	9- 2-0
" " at Selwassa & Nisana		3- 4-0
Excise duty in lump sum promised by the wine merchants is not being paid		485- 8-0
Merchants bring teak-wood to Daman—Zakat is levied on the basis of value of goods. The Firangee levied Zakat—its estimated receipts		897- 8-0
Total		<u>2,169- 5-0</u>
		<u><u>3,504- 0-0</u></u>

Accordingly the Firangee attaching the payment appropriated it, Balkrishna Pandurang, Kamavisdar of Zakat Prant Bassein wrote to the Firangee from Arjungad that he had not been granted Amal of Zakat Ram Nagar. It was, therefore, not proper that he was attaching it forcibly. On this he deputed his Vakil. He represented that the Darobast Mahal had been granted to him. He would take in the Mahal the Sarkar's share of Zakat included in the Zakat of Ramnagar. On this evidence was adduced that this Amal was not included in the grant of Rs. 12,000/- made to the Firangee. It was then decided that the amount and the Amal be given. But as his Ryots would be molested if the collections were to be made by the Sarkar, a peon of the Sarkar and another of the Firangee should make the collection and payment should be received by the Sarkar.

Amount received for the year

Ihide [1790] on account of a few items mentioned above	Rs.	535- 0-0
Balance with the Firangee		2,969- 5-0

Accordingly compromise was made. Later on a peon was sent to the Firangee to bring the balance. He replied as the year was a lean one it was necessary to give a Kaul to Ryots for assuring cultivation. The amount would be paid later. Therefore the balance remaining unpaid by the Firangee Rs. 3,504- 5-0

The total amount of the Sarkar received by the Firangee is as under:—

Zakat from the post of Kawcho for four years from the year Saba to Tisain at the rate of Rs. 225/- which the Firangee has forcibly taken from the Patels	900- 0-0
In the year Ihide [1790] he collected money setting aside Sarkar Amal	1,335- 0-0
For San Isane [1791].	3,504- 5-0
	1,335- 0-0
(Items explained)	2,169- 0-0
	<u>3,504- 5-0</u>
For San Salas	3,504- 5-0
Total	Rs. 9,243-10-0

Annex C. No. 25

(Part 1)

ENTRY OF SANAD RELATING TO REVENUE ADMINISTRATION OF PARGANA NAGAR AVELI ACQUIRED FROM RAMNAGAR 26 MARCH 1759,

(Peshwa Daftar. South Konkan. Rumal 650.)

Rajmandal.

Swari Rajeshri Pant Pradhan

Suhur Tisa [1759].

In charge of Rajashri Trimbak Sadashiv.

Dated Rajab 26 Tisakhamasain [26 March 1759].

Letter from Register.

Sanad to Shankaraji Keshav.

In this year sixty-nine villages of Pargana Nagar Haveli inclusive of Zakat and half the Zakat of the highway at Naka Fattepur have been taken over from Bala Bhai Raja by the Sarkar in place of Nazar Kamavisi. The same has been entrusted to you. Therefore acting with trust and carefully administering the mamla collection should be credited to Govt. accounts.

Sanad—I.

Copied by Kashinath Dhonddeo temporary clerk on 7 July 1853.

Compared by Dinkar Vasudeo clerk on 28 August 1854. Read by Naro Atmaram clerk soon after the same date.

Annex C. No. 25

(Part 2)

ENTRY OF LETTERS OF INSTRUCTIONS TO KAMAVISDARS CONCERNING
ZAKAT OF RAMNAGAR. 27 MARCH 1759

(Peshwa Daftar. South Konkan. Rumal 650.)

Rajmandal.

Swari Rajeshri Pant Pradhan
Suhur Tisa [1759].

In the presence of Trimbak Sadashrin.

27 Rajab [27 March 1759].

Letter from Register.

The Parganas of Bala Bhai Raja of Ramnagar were attached by the Sarkar. On this the said Raja came to Bassein and in lieu of the Nazar having taken from him sixty-nine villages of Pargana Nagar Haveli of the State inclusive of Zakat and Kulbab and Kulkanu and half the Zakat of the highways of the Pargana, the [remaining] Parganas are made over to him. Letters of instructions to the Kamavidars that attachment has been removed and that they should no longer interfere in the Parganas.

(1) To Shankaraji Keshaw, Prant Bassein, in respect of Pargana Mandwe.

(1) To Ramchandra Anant in respect of Pargana Pedwal, Chodthal and Naroli.

Copied by Kashinath Dhonddeo temporary clerk on 7 July 1853.

Compared by Dinkar Vasudeo clerk 28 April 1854.

Read by Naro Atmaram clerk.

Annex C. No. 26

ACCOUNT PAPER SHOWING WRONGFUL COLLECTION BY THE PORTUGUESE
OF ZAKAT DUE TO THE MARATHA GOVERNMENT. 1794/1795

(Peshwa Daftar. Gambhirgad. Rumal 1765.)

Shri.

Estimates of Taluka Bassein and Gambhirgad in charge of Sadashiv Raghunath.

Suhur Khamas Tisain Maya Wa Alaf [1794/1795].

Receipts from the beginning to the end of the year.

Rupees	Annas
3,929	4

The Zakat of Gambhirgad and of other Zakat posts was formerly received by the Sarkar. Of late the Firangee of Goa forcibly collects the

same on the pretext that it forms a part of Nagar Haveli Zakat. The arrears of previous administration are being carried forward separately. In addition to this, the amount for the last year collected by him is three thousand nine hundred and twenty-nine rupees and four annas. The same should be collected. If it is not paid the same should be recovered from his Mahal.

Annex C. No. 27

ACCOUNT PAPER RECORDING AMOUNT RECOVERED AS A RESULT OF ATTACHMENT OF MAHAL OF PARGANA NAGAR AVELI. 18 JUNE 1797

(Peshwa Daftar. North Konkan. Rumal 1725.)

Rajmandal.

Swari Rajeshri Pant Pradhan.

Prant Bassein.

Expenditure 18, Jilhej Suhur Saman [18 June 1797].

Suba Armar, income from sales.—

The Mahal of Pargana Nagar-Haveli is with the Firangee of Daman. On account of dispute over Zakat attachment was made. Amount in respect of this attachment Rs. 787.8.0.

Annex C. No. 28

ENTRY OF SANAD ISSUED TO WAMANAJI HARI, SUBEDAR OF BASSEIN, DIRECTING WITHDRAWAL OF ATTACHMENT OF MAHAL GRANTED IN SARANJAM TO THE PORTUGUESE. 11 JANUARY 1799

(Peshwa Daftar. Rozkird. Rumal 158.)

Swari Rajeshri Pant Pradhan.

Dated 4 Saban [11 January 1799].

Letter from Register.

Mahal of Pargana Nagar Haveli of Prant Ramnagar in Taluka Bassein inclusive of Zakat, Mohtarfa and tax on cattle was assigned in entirety by the Sarkar to the Firangee in Saranjam towards Daman. Accordingly it is continued to him. The Firangee collects the share of his Zakat by posting a peon at Fattepur Naka. The Mamlatdar caused harassment alleging that the Zakat collected by the Firangee by posting a peon at Fattepur Naka was from the share of Gambhirgad and in consequence of this dispute brought attachment. At that time cattle, utensils and other articles were taken away by the Mamlatdar. To restore these a Sanad was issued by the Sarkar. But these were not restored. This was represented by Vithal Rao Goraksh, the Firangee Wakil. Therefore this Sanad is issued to you. You should act according to the Sanad received from the Sarkar previously and should not raise new objections. The Firangee

should be permitted to collect the share of his Zakat as he has been doing by posting a peon at Fattepur Naka. Cattle, utensils, and other articles which have been attached and taken away should be restored. Steps be taken that no complaints are made again. Sanad is issued in the name of Wamanaji Hari, Mamlatdar of Taluka Bassein to this effect.

Annex C. No. 29

LETTER TO WAMANAJI HARI, SUBEDAR OF BASSEIN, DIRECTING THAT ATTACHMENT ON MAHAL GIVEN IN SARANJAM TO THE PORTUGUESE BE WITHDRAWN. 19 JUNE 1798

(Peshwa Daftar. North Konkan. Sarsuba Rumal 1532.)

Rajmandal.

Swari Rajeshri Vinayak Amritrao.

Suhur Tisa Tisain [1798].

In charge of Wamanaji Hari.

Letter from Register.

Taluka Bassein Muharam. Vithal Rao Goraksh, the Firangee Vakil represented to the Sarsuba that Mahal of Pargana Nagar-Haveli inclusive of Zakat Mohtarfa and tax on cattle has been assigned to the Firangee from the Sarsuba; that last year the Mamlatdar of Arjungad brought attachment on the Mahal for realizing one year's amount of the Saranjam and that orders be issued for the removal of the attachment. Therefore this letter is addressed to you that no new harassment should be caused and you should conduct yourself according to the treaty made from the time the said Pargana was assigned to the Firangee in Saranjam. Attachment be removed without realizing the revenue of the Pargana. Letter to Wamanaji Hari Mamlatdar dated 4 Muharram [19 June 1798].

Annex C. No. 30

PETITION OF LANDHOLDERS OF PARGANA NAGAR AVELI ADDRESSED TO THE PESHWA. UNDATED

(Peshwa Daftar. North Konkan. Nagar Aveli. Rumal 1854.)

Zamindars of Pargana Nagar-Haveli, Prant Ram Nagar, Taluka Bassein, pray as under:

The Mahal of the said Pargana was assigned from the Sarkar's territory by the Sarkar to the Firangee of Goa in San Arba Samanin [1783]. At that time while retaining the Zakat post at Dadra and five villages of the Pargana and posts of Ramnagar Zakat and Amal from Zakat including tax on cattle as was collected formerly, the Amal of the remaining villages was assigned to the Firangee. So long as the Sarkar was collecting Amal in the Mahal the Firangee did not misbehave. Later

on after explaining the business to the Sarkar, he obtained the remaining five villages and the Amal of the entire Zakat. Since then he farms out villages to Muslims and Christians and transports cattle to Daman for slaughter. Patels and Zamindars have been exterminated, women have been molested, allowances to places of worship and religious grants and lands to Brahmins and annuities for charitable purposes have been abolished. Such is his tyrannous conduct, and he does not act according to the treaty. In consequence Maratha subjects in the Mahal find life impossible. Therefore we approach the feet of the Master and make our representation in detail. Let the Master be kind enough to keep the Mahal under his own direct revenue administration and take proper care of the Zamindars. We the entire Ryots agree to make up the total amount of the revenue for which the Mahal has been assigned to the Firangee. Or if so ordered, we will pay the revenue of the Pargana to the Firangee. But the Mahal should not be in charge of the Firangee. The Master is powerful to listen to our prayers and protect Maharashtra Dharma. May this be known. This is our prayer.

Annex C. No. 31

MEMORANDUM TO THE EFFECT THAT MAHAL GRANTED IN SARANJAM
TO THE PORTUGUESE BE RESUMED. 1817

(Peshwa Daftar. North Konkan. Rumal 447.)

Memorandum.

Suhur Saba Ashar Mayatain.

[1817]

The Vakil from the Firangee of Goa was always accredited to the Sarkar at Poona and services of the Sarkar were performed by the Firangee of Goa. For this the Mahal of Nagar Haveli, Taluka Bassein, has been granted by the Sarkar in Saranjam to the Firangee of Goa. Of late no services to the Sarkar are rendered by the Firangee. And the Vakil does not reside at Poona. Therefore the Mahal should be resumed.

Annex C. No. 32

MARATHA TREATY OF 29 JANUARY 1741

(Peshwa Daftar. Ghadni. Rumal 482.)

Treaty by Sarkar Rajeshri Balaji Pandit Pradhan Ihide Arabin Maya Wa Alaf [1740/1741].

D. Francisco Baron Galenfes came on behalf of the Viceroy of Goa, Pedro Mascarenhas D. Sandomil, and Captain Inchbird on behalf of Stephen Law, Governor of Bombay, and concluded treaty at Poona with Peshwa Balaji Bajirao in the Year Ihide Arabin Maya Wa Alaf [1740/41]. It was agreed that villages in the vicinity of Indragad should be taken

over by the Sarkar and those adjoining Daman should be given to Daman. An exchange of these villages agreed upon at Indragad between Shankaraji Keshav and Captain Francisco Paim de Melo on behalf of the Captain Sottomaeyor of Daman and Shivaji Ranchod on behalf of Captain Inchbird as under:—

.....

[Here follow list of 17 villages retained by the Peshwa in Pargana Naher and 11 villages contiguous to Daman assigned by him to the Portuguese; and several articles of a miscellaneous nature relating to cultivations, timber, cattle grazing, etc.]

.....

A soldier of the Sarkar entering the territory of Daman will do so only with the permission of the Firangee. If a soldier of the Firangee were to enter the territory of the Sarkar, he will do so only with the permission of the Sarkar. There is no reason to enter without permission.

.....

Accordingly eighteen articles have been agreed upon. The exchange of villages has been effected according to the Treaty of Poona. Both Parties should act accordingly.

Be it known. 22 Jilkad [29 January 1741].

Annex C. No. 33

BOMBAY SELECTED COMPILATIONS VOL. 51

PAGE No. 1 to 7

1818-1823

Translation

To

The Right Hon'ble Sir Evan Nepean Bart.
President and Governor in Council, Bombay.

Right Hon'ble Sir,

1st. It is very probable that Your Excellency is not unaware that by a Treaty concluded between the Governor General of Goa in the name and on the part of the King of Portugal, and the Reigning House of Poona in the year 1780, His Highness Madow Row Naran Punt Purdan ceded to the Crown of Portugal the Purganna of Nagur Avely situated in the vicinity of this City, which, from that time to this day, has been governed by those whom His Most Faithful Majesty has charged with the Government of this Garrison and City.

2nd. As the local situation of this Purganna of Nagur Avely, rendered it impossible to transport all its territorial products to this City without necessarily passing through some of the Villages in the Purganna of Nair Sojani, and Colony Pawary, belonging to the Marhatta Government and annexed to the above-mentioned Purganna of Nagur, it was stipulated by one of the articles of the said Treaty that all articles of production of the Purganna of Nagur Avely that should be required to be transported to the Portuguese Possession of Damaun should be absolutely exempted from all duties and Taxes, leviable under all other circumstances.

3rd. This was observed for a long space of time, till one of the Marhatta Chieftains to whom the administration of the Purgannahs in the neighbourhood of the Government was confided, pretended to elude that article with fictitious interpretations, which on this Government making known to the Paishwa of Poona, Bajy Row Ragoonath, he immediately ratified the said Treaty and granted a sunnud, of which Your Excellency will find the enclosed to be a copy, in order that the said Chieftain should not only recognise the existence of this article, but that he should not in future raise other doubts in that respect.

4th. After some time it happened that one of the Marhatta Chieftains entered into a convention with the Government of this Place and City that to obviate all kinds of doubts and misunderstandings in regard to the articles of production of the Purganna of Nagur Avely that should be imported for the consumption of this City, it was convenient that the said Articles and their qualities should be specified in a Certificate under the Seal and Signature of the Governor, in which he agreed, and the same has been practised ever since. This arrangement however brought with it subsequently some disappointments against the Petty Farmers and other common people, some of whom cultivating certain portion of lands in the said Purgannah of Nagur Avely and others proceeding to the said

Purgunna for the purpose of providing themselves by purchases with the necessary articles of life, or of Timber for the building and re-erection of their Houses, it was not very easy for them to obtain from the Government the said Certificate under its Seal and Signature, the want of which subjected them to the payment of duties and Taxes on their transit through the Marhatta Villages, and in this manner it happened that the entire exemption of those duties and Taxes upon all Articles of production of the Purgunnah of Nagur Avely importing into the Portuguese possession of Damaun, has been eluded, and only reserved on those few articles importing with the above-mentioned Certificate sealed and signed by this Government.

5th. On entering into an enquiry of this inconvenience felt by a great portion of the Inhabitants of this City, the Government of which was confided to me by my sovereign, I intended to remove it by new arrangements with the Marhatta Chiefs, my neighbours, but in consequence of all the Marhatta Possessions having in the same year, been transferred to the Hon'ble English East India Company, my intent was frustrated, and flattering myself however that I had happily to deal on the subject with an European nation, as my own, and allied to the Crown of the United Kingdom of Portugal by the strongest ties of amity, and while supported in this consideration and as preparing to lay the subject before Your Excellency . . . I find myself compelled to hasten this step and to represent at the same time to Your Excellency that the present Farmers of duties and Taxes established in the Purgunnah of Naer Sanjane and Colona Pawary not only pretend to levy duties and Taxes on all articles exporting into this City from the Purgunna of Nagur Avely, without exempting any article there from, however trifling they may be, but they even refuse to exempt those very articles which by Certificates Sealed and Signed by this Government appear to come for the consumption of this City.

6th. Therefore, it is my duty to appeal to Your Excellency for the faithful observance of the above-mentioned articles, exempting from duties and other Taxes all articles and Timbers that may be exported from the Purgunna of Nagur Avely to this City and Garrison of Damaun by land or Rivers, which I request may be confirmed without hesitation, as it is notorious that the wise sytem of the English Government does not innovate any practice that has been established by the late Marhatta Government much less intringe on the Treaties concluded between that Asiatic Government and an European Nation it's intimate ally, confided in this certainty, and above all in the Justice of this case, I request an early decision from Your Excellency by removing the present doubt or misunderstanding of the said receivers of duties and Taxes which will afford me a further motive for augmenting the respect and consideration with which I have the honour to be

Your Excellency's Much
Obliged and Obedient Servt.
(Signed) Illegible.

Daman,
Government House.
11th Nov., 1818.

BOMBAY SELECTED COMPILATIONS VOL. 51

PAGE No. 17

Translated Copy of a letter from His Highness Bajee Rao Ragoonath to the Kamavishdars and Officers of the Customs in the district of Bassein

The Portuguese Government of Goa obtained the Purgunna of Nager Huvelee in the said district from this Government, for the support of the Garrison of Damaun, and altho' that nation have, for a length of time been in the habit of conveying Grain, teak, timber, etc., from thence to Damaun, both by Sea and land, you have lately harassed them on the score of Customs, and they have in consequence made a representation to Government on the subject, in view to which this letter is now written to desire that you will allow the Portuguese at Goa, to carry Grain, Teak, Timbers etc. from the said Purgunna to Damaun, both by land and sea, without let or hindrance on account of Customs—Dated the 26th Zilkaad Anno Soorsun Tisa Tisyn Myan Ouluf (A.D. 1798/99)—

A True Translation.

(Signed) Illegible.

BOMBAY SELECTED COMPILATIONS VOL. 51

Page No. 19.

This Copy is extracted from the Original Sunnud which is found in the Archives of this Government which I certify, and to it I refer Sadoba Naroba Interpreter of Asiatic languages and characters of the said Government, and I have written this and Signed by order of the Most Illustrious Governor of this Garrison and City—Damaun 11th Nov., 1818.

(Signed) SADOBA NAROBA.

BOMBAY SELECTED COMPILATIONS VOL. 51

PAGE No. 21

Cons. 16th December, 1818.

To,

The Collector in the Northern Concan

Sir,

In transmitting to you the accompanying copy of a letter from the Governor of Damaun of the 11th of last month with it's accompaniments, I convey the instructions of the Right Hon'ble the Governor in Council, that you will report the practice, which has hitherto prevailed, in respect

to the exports from the Purgunna of Nugar Avely to Damaun and, the probable amount of the Duties and Taxes Collected on such Exports.

I have the honour to be etc.

(Signed) Illegible,
Secretary to Government.

Bombay Castle,
11th December, 1818.

BOMBAY SELECTED COMPILATIONS—PAGES 25 TO 27

Political Department.

To,

John Adam Esquire,
Chief Secretary to the Supreme Government at Fort William,

Sir,

I am directed by the Right Hon'ble the Governor in Council to request you will lay before His Excellency the Most Noble the Governor General in Council, the accompanying copy of a letter from the Governor of Damaun dated the 11th of last month with its accompaniments, soliciting the exemption from duty of all articles the produce of the Purgunna of Nagur Avely in the Northern Concan, which may pass through the British territory, for the consumption of that city.

2nd. The Purgunna is represented by His Excellency to have been ceded by Treaty to the Portuguese by the Poona Government in the year 1780, and the exemption is claimed under a further stipulation in the same Treaty, but subsequently modified by an arrangement with the local Marhatta authorities under which all articles to be exempted, have been specified in Certificates from the Governor previously to their being allowed to pass free of duties.

3rd. This arrangement the Governor of Daman requests may be superseded as attended with inconveniences; and that the original stipulation in the Treaty may be observed.

4th. In reference to the accompanying report from the Collector in the Northern Concan on the subject, you will be pleased to acquaint His Lordship in Council that however trifling the remission on the duties collected on articles which do not bear the Governor's Certificate may be—the Governor in Council has not thought himself justified in granting what may increase hereafter to a considerable extent, deeming it also previously necessary to consult His Lordship in Council on all such arrangements with Foreign European Nations.

5th. The plea set up by the Governor that the concession was originally made by the Poona Government appears to the Governor in Council to be entitled to little weight; and it is considered a question of Policy alone

which it is deemed advisable to refer to the decision of His Lordship in Council.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

(Signed) Illegible.

Bombay Castle,
31st December 1818.

BOMBAY SELECTED COMPILATIONS VOL. NO. 51

PAGE No. 31 to 32

To

W. Newnham Esquire,
Acting Chief Secretary to Govt,
Bombay.

Political Department.

Sir,

I am directed to reply to Mr. Warden's Despatch of the 31st December addressed to Mr. Adam, respecting an application from the Governor of Damaun, for the exemption of duties on all Articles, the produce of Nagur Avely, proceeding through our Territories to Damaun.

2. His Excellency the Governor General in Council does not see any sufficient reasons, of a Political nature, to require a deviation from the practice hitherto pursued, and requests that His Excellency the Governor in Council will decide on the application of the Governor of Damaun with reference to local Expediency alone.

3. The report from the Collector of Northern Concan adverted to in Mr. Warden's letter did not reach this Presidency.

I have the honour to be
Sir,

Your Most Obedient Humble Servant,

(Signed) Illegible,

Secretary to the Government.

Fort William,
6th Feb., 1819.

BOMBAY SELECTED COMPILATIONS VOL. 51

PAGES 35-36

To

Francis Warden, Esq.,
Chief Secretary to Government.

Sir,

1st. I have had the honour of receiving your letter of the 16th of last month, enclosing the translation of an address from the Governor of Daman, and requesting in reply you will do me the favour of acquainting the Right Hon'ble the Governor in Council that no interruption has been offered by my people in the Pargana of Bugwara (or as it is sometimes called Kulon Powary) to the privileges, heretofore enjoyed by the Portuguese Government and persons holding jagirs in the Pargana of Daman, of carrying what they require for their own use from the Pargana of Nagar Haveli of any chowki duties under the usual passes from the Governor. The Pargana of Nair Sojam alluded to in the Governor of Daman's letter, I take leave to notice, is under the Collector of Northern Konkan.

2nd. I find it will not be in my power to furnish the information required in your letter of the probable amount of the duties and taxes which would have been claimable, from the circumstance before stated of none having been levied—and consequently no account has been kept of their exports. These exports, however, consist principally of firewood, hay, grain, oil and occasionally timber, but the amount I am assured is very trifling.

3rd. On the occasion of replying to the Governor of Daman's letter I would take the liberty of suggesting that the privilege which is also similarly enjoyed by the subjects of our Pargana of Bugwara of carrying articles for their own use, vouched by a note from the Tannahdar, from the districts of Nagar Haveli free of any duties may be continued to them by the Portuguese Government.

I have etc.

(Signed) J. MORRISON.
Collector

Surat Collector's Office.

The 14th April, 1819.

BOMBAY SELECTED COMPILATIONS VOL. 51—PAGES 41-46

To,

The Worshipful D. Jose M. de Castro e Almeida,
Governor of Damaun.

Worshipful Sir,

1st. I have had the honor of receiving your Worship's despatch of the 11th of November last, wherein you are pleased to request that orders

may be given for exempting from the payment of duties all articles the produce of the Purgunnah of Nagur Aveli in the Northern Concan, which may pass through the British Territories for the consumption of the city of Damaun, a privilege which had been granted under a Treaty concluded by the Governor General at Goa with the Poona Government in the year 1780, subsequently modified under an arrangement with the local Marhatta authorities, by which all articles to be exempted would appear to have been specified in certificates from the Governor of Damaun previously to their being allowed to pass free of duties. This modification however your Worship solicits may be superseded, as attended with inconvenience, and that the original stipulation in the Treaty may be observed.

2nd. I regret that any delay should have taken place in replying to your Worship's application, a circumstance which however has been unavoidable in consequence of the enquiries which it became my duty to institute on the subject, and I have now the satisfaction of acquainting your Worship that your wishes will be complied with under an expectation that such Regulations will be established by your Worship as may be effectual for preventing any other articles than such as are bona fide the growth and produce of the Purgunnah of Nagur Aveli and intended for the use of Damaun being clandestinely introduced within the limits of your authority.

3rd. Should the signing of these certificates be attended with any personal trouble to your Worship, no objection will be made to your confiding the execution of that duty to one of the public officers of your Government; but it will be necessary I should be apprized of the official designation of the officer to whom such duty may be so confided. I beg also to recommend that the certificates be given in the Marhatta as well as the Portuguese language few of the Revenue Officers in the Concan being acquainted with the last mentioned language.

4th. It is understood that a similar privilege has been invariably enjoyed by the Inhabitants of the Purgunna of Bugwara, of conveying articles for the consumption from the district of Nuggur Huvelie into Bugwara under a note signed by the Tannadar and of that Purgunna now belongs to that Government. It is hoped that your Worship will authorize the continuance of this privilege on its present footing. See 7th.

5th. To guard against any abuse of the Revenue Laws of either the British or Portuguese Governments your Worship will not I am persuaded have any objection to the local Revenue Officers being vested with the power of examining any packages on their transit whenever they may have reasonable ground for suspecting that contraband goods may be contained in such packages.

6th. By the reports which have been received from the Officers of this Government to whom your Worship's application had been communicated I have been informed that no impediment has been offered to the conveyance to Damaun of the productions of Nagur Aveli free of duties on the production of your Worship's certificates, and I am therefore led to doubt the correctness of the information which your Worship has received to a contrary effect.

7th. It will be necessary I should explain to your Worship that on the cession of the Northern Concan by the late Peshwa to the British This should be the 4 paragraph.

Government no communication was made to it of any reservation of privileges to the Portuguese Government; and it consequently follows that any exemption which has been so granted could not be considered in any degree binding on the British authorities but considering the amicable relations which happily subsist between the two Governments your Worship may readily believe that a disposition exists to guard your wishes at all times whenever it can be done consistently with a due attention to the interests of my Hon'ble employers.

Worshipful Sir,

Your most obedient, humble servant,

Bombay Castle.

1st May, 1819.

BOMBAY SELECTED COMPILATIONS VOL. No. 51

PAGE No. 49 to 57

To,

The Most Illustrious and Excellent
Sir Evan Nepean Baronet,
ETC.

Most Illustrious & Excellent Sir,

On the 25th Instant I had the honour of receiving Your Excellency's letter of the 1st of May in reply to mine of the 11th of November last and beg in the first instance to thank Your Excellency for the kind disposition with which you wish to comply with the requisitions I submitted to Your Excellency's consideration and decision in my afore-said dispatch notwithstanding that the Paishwa has made no communication to the British Government, on the cession of the Territories to the Northward of the Conkan, relative to the privileges allowed to the Portuguese Government, to whom therefore they would not be guaranteed by the British authority, *were not the consideration of the friendly relation happily subsisting between the Government more powerful than that principle*; and in the second beg to assure Your Excellency that very great would be my surprize that the Paishwa had kept silence on the subject of a Treaty concluded with the Portuguese Government under all convenient authenticity and regularity of which the long quiet and peaceful possession of the Purgunnaha of Nagur Avely by the crown of Portugal is an incontestable proof if I did not recollect that an Asiatic power is always liable to such foregetfulnesses when treating of complying with or defining Treaties or negotiations concerted with European Powers, with whom they never act on good faith, and I am persuaded that of the truth of this assertion you will more than once have satisfied yourself.

2nd. Laying therefore aside the arguments which notwithstanding this silence might convince Your Excellency of the justness of my pretension to the required observance of the articles of the Treaty by which the Purgunnah of Nagur Avely was transferred to the Portuguese possession, since Your Excellency has so generously been pleased to

accede to my request, I beg to assure you that the most active regulations shall be established to prevent the abuse of introducing articles which may not properly be the production of Nagar Avely and in order to prevent all misunderstand on the subject, I have thought it proper not to alter the practice observed by this Government with that of the Mahratta, (notwithstanding the impropriety of such practice, and the damages resulting therefrom to the Farmers of the said Purgunnah of Nagar Havely and other Individuals of the jurisdiction of this Government of the consequences of which I have already informed Your Excellency) that the certificates of the Articles and their qualities imported into Damaun from the Purgunnah of Nagar Avely shall be signed by the Governor of this City and written in Mahratta language as was customary before, in order that articles accompanied by such certificates only may be allowed to pass free of duties on their transit thro' the Territories under Your Excellency's Government to enter into those under the jurisdiction of this Government. Inclosed Your Excellency will find a form of the Certificate and if Your Excellency should think proper that they should all be written in the Portuguese language it shall be done, but as this language is seldom understood by the Revenue Officers in the Conckan, as Your Excellency declares, the measure appears to be unnecessary; on this point however I shall conform to Your Excellency's wishes.

I agree that the Revenue Officers properly authorized by the British and Portuguese Government may examine the packages on their transit thro' the respective jurisdiction as whenever there may be any cause for suspecting that contraband Goods are included in the said packages.

I can decidedly declare that the informations which Your Excellency obtained from the Officers under Your Government to whom my application was referred, that no prohibition had been laid to the transit of goods free of duties from the Purgunnah of Nagar Avely when they were accompanied by my Certificates are absolutely false, since from the month of August the said certificates have been returned as useless and from that time to the present day nothing worth a ree is imported into Damaun without paying duties, by which the Royal Finance of this Government has greatly suffered as well as those of many other individuals, wherefore it seems but reasonable that such damages should be indemnified by those Officers who not only have appropriated to their use the amount of those duties without the authority of their Government but even are bold enough, in being inquired, to deny their proceedings which have continued without interruption for a long period of nearly ten months, and as notwithstanding the dispatch I have received from Your Excellency the Revenue Officers of the Purgunnahs of Nair and Sanjane continue to demand duties on all articles importing thro' those districts from the Purgunnah of Nagar Avely into this City while those of the Purgunnah of Bagwara assure me that they have received orders from their Government to observe the former established practice, I should suppose that some error has occurred in the distribution of similar orders to those of Nair and Sanjane Purgunnahs and I hope Your Excellency will have the goodness to cause instructions to be sent to prevent the innovations which have occurred and to observe the practice under the Regulations referred to.

I will give the necessary orders that the privileges allowed by the said Treaty between my Government and that of Paishwa to the

Inhabitants of the Purgunnah of Baguara shall continue to be observed as before, but I must inform Your Excellency that the said privilege is not general, but limited to Articles of materials for the construction of their Houses, and the article relative to the said privileges is as follows.

"The Inhabitants of the Purgunnah of Colona Pawvary are accustomed to go in search of materials for the construction of their House and for the necessary supply of fuel during the rains, to the Districts of the Purgunnah of Nagar Avely, and do not pay duties on the said articles—This practice the Portuguese will continue to observe and they will also not demand duties on any Articles intended for the Fort situated in the same Purgunnah of Nagar Avely."

To prevent, however, the introduction of abuses into this privilege, Your Excellency will have the goodness to order the Officers entrusted with the administration of the said Purgunnah of Bagvara to furnish the Inhabitants of that place with Certificates that the Articles they go in search for to the Purgunnah of Nagar Avely are actually required for the construction or use of their own and respective Houses in order that such Articles only may be allowed to be taken away from that District free of duties, and Your Excellency will be pleased to furnish with the names of the Officers who may be authorized by Your Government to exercise such authority in order that the same may be made known to the Officers of this Government in the District of Nagar Avely.

I have the honour to be with the highest consideration and respect,

Your Excellency's most obliged,
Obedient & Humble Servant;

Government House Daman,
30th May, 1819.

(Signed) Illegible.

BOMBAY SELECTED COMPILATIONS VOL. 51

PAGES 71-74

To

The Worshipful Sir D. Jose Maria de Castro e Almeida,
Governor of Damaun;

Worshipful Sir,

1st. I have the honor of receiving your Worship's letter dated the 30th of last month, with its enclosure. It is very gratifying to this Government to observe that the concession which has been made to the Portuguese Government has been gratifying to your Worship, and your intention of preventing any abuse of that concession cannot be more strongly manifested than by the determination you have formed of affixing your own signature to the certificates.

2nd. With respect to the form of the certificate to be granted by your Worship I have taken the liberty of submitting an addition, annexed to a translation of the original, which I have the honor to return.

3rd. With that addition which would appear to me to be desirable it will I conceive answer every purpose for which it is required, and it will

not be necessary that it should be written in any other than the Marhatta language, as that language will no doubt be understood by the persons into whose hands the certificates may be likely to fall.

4th. Since your Worship has so positively asserted that the information I had received of proper attention having been paid to your certificates is unfounded, I shall not hesitate in giving full credit to your statement, and the officers, who, as your Worship informs me, have received the duties, will immediately be called upon to render an account of their proceedings, particularly those in the Purgunnah of Nair Sanjane (under the authority of the Collector in the Northern Concan) who will be effectually prevented from offering any obstructions, which your Worship represents to be still existing.

5th. The mode of continuing the privilege hitherto enjoyed by the Inhabitants of Bugwara who may have occasion to procure material for building their Houses, and supplies of fuel during the Rains from the Purgunnah of Nagur Havelle, as proposed by your Worship, appears to be sufficient in point of form, and instructions will be given to the officers in Bugwara by the Collector at Surat, under whom that Purgunnah is placed, to furnish certificates in the terms suggested, to the persons who may be desirous of taking the advantage of this privilege, as also, to furnish your officers with the names of the persons who may be authorized to sign such certificates.

I have the honor to be, Worshipful Sir,

Your most obedient,
humble servant;

Bombay Castle,
18th June, 1810.

BOMBAY SELECTED COMPILATIONS VOL. NO. 51

PAGE NO. 87 TO 90

Read the following letter from the Collector at Surat to Mr. Secretary Henderson dated the 20th September with enclosure:—

Sir,

1st. I have been prevented replying to Your letter of the 3rd of last month by the delay occasioned in the arrival of the Kamavisdar from Bagwarra whom I had ordered into Surat for the purpose of questioning as to the Complaints preferred by the Governor of Damaun.

2nd. The Kamavisdar declares that Duties are not due on Timber, Grain, Hay, Firewood, or other articles belonging to the Portuguese Government and produced in their Purgunnah of Nuggar Havelee or else where, when accompanied by a note from the Governor of Damaun and that articles belonging to Jaghiredars, under Damaun are similarly exempted from Duties according to which Custom, and the orders formerly issued to him by me, he declares that he has ever since conducted himself, and that no Chowkee Duties have been claimed by him.

3rd. I have renewed these orders in writing of which I beg leave to enclose a copy and translation with the view of a Transcript of the former being sent if such should be the pleasure of Government to the Governor of Damaun who should be requested to be attentive to the part which refers to our subjects being allowed to bring away the articles specified from Nuggur Havelee free of any expense, and which was acknowledged to be their right by the former Governor of Damaun in his letter to Sir Evan Nepean of the 30th of May last year, but to which it is reported to me there has been some objection of late.

4th. These orders will I hope prevent possibility of any future complaints either by the Portuguese Government or the Hon'ble company's subjects of Bugwarra as far as my Department is concerned.

I have the honor to be etc.

(Signed) Illegible,
Collector.

Surat
Collector's Office
the 20th Sept., 1820.

Translation of an order from the Collector of Surat to the Kamavisdar of Bugwarra dated the 20th of Sept., 1820. Corresponding with the 13th Bhadurwa, 1876.

Order were formerly given, and they are now repeated, that Timber, Grain, Hay, Firewood, and other articles belonging to the Portuguese Government and produced in the Purgunnah of Nuggar Havelee as well as other places are to pass the Chowkee of Bagwarra free of all Charges on a note being produced from the Governor of Demaun, or any person authorized by him.

2nd. The Jaghiredars of the villages of Winkoore and Dhabel, under Demaun are also allowed to pass all articles of their own free of Duties.

3rd. The Ryots of Bugwarra carry articles for the construction of their Houses from Nuggar Havelee without being charged any thing by the Portuguese Government on producing a note from the Tannah of Bugwarra which privilege is continued to them by the authorities at Demaun, so that you will grant such of the company's Ryot's as may bring of the above description a note as heretofore under the Tannah Seal, which will exempt them from Duties by the Portuguese Government. Let these orders be strictly attended to.

(True Translation.)

(Signed) J. MORISON,
Collector.

Minutes
10th Oct., 1820

Ordered that the subject of the preceding papers lie over for consideration until Mr. Marriott's reply be also received.

Foreign Power
European.—To
lie over for con-
sideration until
Mr. Marriott's
reply be also
received.—

BOMBAY SELECTED COMPILATIONS NO. VOL. 51

PAGE NO. 91 TO 93

To,

The Most Illustrious and Excellent
The Hon'ble M. Elphinstone,
President and Governor,
Bombay.

Most Excellent Sir,

It will give me much pleasure to know that Your Excellency enjoys good health, the continuance of which God grant you for many years.

Having examined the records of Secretary's Office of this Government I have found amongst them some letters addressed by my Predecessors De Joze Maria de Castro, and D. Lourenco de Noronha to the Bombay Government by the former to Your Excellency's Predecessor under date the 11th November, 1818, and by the latter to your Excellency dated the 28th of April 1820 regarding the exemption of duties collected by the Custom House Officers of the British Government in the Purgunnahs of Naer and Sajane, contiguous to the Pergunah of Nagar Avely, belonging to this Government in the same manner as practised previously to the Country having come under the British authority in the transit of articles imported for the use of the Inhabitants of this place, I had at the same time the satisfaction to see an answer from Your Excellency to D. Lourenco de Noronha dated 5th of August 1820 on the subject in which you promised to make the necessary enquiries and to communicate the result to him, but as nothing further has been done as yet and the Custom House Officers of the British Territory continue to exact duties as before, even on articles imported for the public service of this Garrison, I find myself under the necessity of requesting Your Excellency to take this subject, so important to the interest of the Inhabitants of this place into Your consideration, and order whatever you may think proper, for which I shall have to thank Your Excellency, and I am sure you will condescend to accede to so just a claim, and afford me another proof of the justice of Your Government.

I beg to assure Your Excellency that I shall always be happy to do any thing which may require from me.

And I have the honour to remain with the highest consideration and respect.

Your Excellency's Most Humble Servant,
(Signed) Illegible.

Damaun,
9th June, 1823.

BOMBAY SELECTED COMPILATIONS VOL. NO. 51. PAGE NO. 95

Minute by the Governor,

The Governor of Damaun's last letter to be sent to the Collectors of Surat and the Northern Concan with an observation, that as the resolutions formerly adopted were favorable to the Government of Damaun the Governor in Council conceives that any cause of complaint which may now exist must be owing to some mistake on the part of the Camavisdars, and that he requests it may be enquired into.

(Signed) M. ELPHINSTONE.

BOMBAY REVENUE DEPARTMENT

Vol. 108 of 1824. Page 353-355

Hon'ble Sir,

The Inhabitants of this place have represented to me that every description of Provisions, Cattle, hay etc. the produce of the Territories of the British Government, were detained at the four chokeys of the British Government situated in the districts of Nana, Calion, Bamabays and Salsette to the southward, and were prevented coming to this place. This prohibition, it appears, was usual every year during the time of collecting the Revenues and used to be soon removed, and permission given to bring them to this place. This year, however, the prohibition still continues, notwithstanding that the Revenues have long been paid. The same prohibition exists at the chokey's to the Northward under the jurisdiction of Surat. This circumstance and the want of rains last season caused a scarcity of provisions and induced my predecessor to reserve in public granaries all the rice in the hands of the Merchants of this place, with the view of distributing it to the inhabitants.

The inhabitants have also represented to me that the provisions, cattle etc. coming to this place from the Districts belonging of provisions to this Government situated in the British Territories are and have been for some time subjected to the payment of certain duties.

Under these circumstances I request that in consideration of the indissoluble ties which unite the two Crowns, your Excellency will be pleased to order the removal of the prohibition to the transit to this place, and the abolition of the duties collected on articles coming to this place from the districts above alluded to.

I beg to assure Your Excellency that orders have been given to remove the prohibition to the transit of provisions from the Parganah in question to the British Territories and for not collecting duties on provisions going thro' the districts under this Government from one British District to another.

I trust that, for the reasons I have stated, your Excellency will be pleased to accede to my request in behalf of the inhabitants of this place,

and I shall consider it a very particular favour conferred on me. God preserve your Excellency for many years. Daman, 13 of December 1824.

(Signed) Iatio José DA SILVA VIEIRA.

To—

The Hon'ble M. Elphinstone,
Governor of Bombay.

BOMBAY REVENUE DEPARTMENT

Vol. 108 of 1824, page 356.

(Endorsement by Government.)

It certainly seems very impolitic to interrupt the communications with a sea-port at a time when scarcity is apprehended. It is also, I believe, contrary to the orders of Government relating to the scarcity. The Collector may be required to report on this prohibition and on the exemption of duties with as little delay as possible. If the interruption of communications with Damaun be (as I believe it is), contrary to the former orders, it ought to be removed.

(Initialled) Illegible.

BOMBAY REVENUE DEPARTMENT

Vol. 22/132 of 1825

Page No. 479-482

No. 5 of 1825

Territorial Department.
Revenue.

To

Gilbert More Esq.,
Acting Secretary to Government, Bombay.

Sir,

I have the honor to acknowledge the receipt of your letter dated 31st December 1824, forwarding copy translation of a letter from the Governor of Damaun, and desiring me to report with as little delay as possible, on the prohibition said to have been laid on the Export of provisions to the Portuguese Territories, and on the duties levied on the produce of the Portuguese Districts situated within the British Territories. North Concan.
Damaun.

With reference to the paragraph of the letter, regarding the prohibition laid in the Export of provisions, I beg to acquaint the Hon'ble the Governor in Council, that an order prohibiting the exportation of grain

was issued by the late Collector Mr. Cherry conformably to the order of Governor dated 30th September 1824, forbidding "the exportation of grain from your District to foreign Countries, or "districts, where a similar prohibition" may exist against exportation to the British Territories".

I beg to inform the Hon'ble the Governor in Council that all goods, excepting those under the seal and signature of the Governor of Damaun, belonging to merchants coming from Naggar Haveli to Damaun and vice versa, and passing thro' the British Territories, are subject to duties as heretofore. The transit duties on cattle were abolished by Government order dated 13th February 1823.

The very general nature of the complaint in the 2nd Paragraph of the letter from the Governor of Damaun, that the inhabitants of Damaun have been subjected to payment of certain duties on their goods from Naggar Haveli to Damaun, obliges me to state in a general manner, that from enquiries which I have made I cannot learn that any duties have been collected which have not been sanctioned by Customs.

I have the honor to be Sir,

Your most obedient and humble servant.

(Signed)

Acting Collector.

Tannah.

Northern Concan,
Collector's Office

21st Jan., 1825.

BOMBAY REVENUE DEPARTMENT

Vol. 22/132 of 1825. Page No. 487-88

No. 188 of 1825

Terr. Dept,
Revenue.
Copied.

To

Governor of Damaun

I have the honor to receive your letter dated 13th of December last complaining that a prohibition had been laid on the export of provisions from the British Territories to Damaun, and that duties had been levied on the produce of the Districts belonging to your Government situated within the British territories.

2nd. In reply to the first point, I have the honor to inform you that the prohibition arose from a standing order of this government that such a measure should be adopted with regard to all the places where a similar prohibition extended against exportation to the British territories but orders have been given for its removal as your Lordship states that the prohibition has ceased at Damaun.

3rd. In regard to the second point, I have not been able to discover that any such duties have been levied on the produce of the Damaun

territory but if you will have the goodness to state the duties to which you allude, I will cause further enquiry to be made in the subject.

I am etc.

(Signed) Illegible.

Bombay Castle,
31st January, 1825.

BOMBAY REVENUE DEPARTMENT

Vol. 22/132 of 1825. Page No. 495-95

No. 34^c of 1825

Territorial Department,
Revenue.

To
The Governor of Damaun.

Sir,

I had the honor to address you on the 31st of last month in reply to your letter of 13th December regarding the restrictions which had been placed on the export of provisions from the British territories to Damaun. I have since been informed that British subjects are still prohibited from exporting grain from the Territories under your Government, and as this probably arises from some mistake on the part of your officers, I have been induced to communicate the circumstance to you in order that you may adopt such measures as may appear to you to be advisable.

I have the honor to be

(Signed) M. ELPHINSTONE.

Bombay Castle.
22nd February, 1825.

BOMBAY REVENUE DEPARTMENT

Vol. 22/132 of 1825. Page Nol 513-14

No. 467 of 1825

Territorial Department,
Revenue.

To,
The Worshipful Senhor Juliao Jose de Silva Vieira, Governor of Damaun.

Worshipful Sir,

I have the honour to acknowledge the receipt of your Worship's letter of the 28th Ultimo informing me that the continuance of the prohibition to export grain from the Portuguese territory must have arisen from mistake which you had taken means to correct. At nearly the

same time, I had the pleasure of receiving information from the Collector in the Northern Concan that the prohibition against exporting grain which had existed in the Territories under Your Worship's Government had been withdrawn, and that the local officer acting under the orders alluded to in my last letter had discontinued the prohibitions on the part of the British Government, to the export of Grain into the Territories of His Most Faithful Majesty.

I have the honour to be
Worshipful Sir,

Your most obedient
Humble Servant.

Bombay Castle,
16th March, 1825.

BOMBAY REVENUE DEPARTMENT

Vol. 22/132 of 1825. Page No. 593-94

Territorial Department,
Revenue.

To:

Gilbert More Esquire,
Acting Secretary to Government,
Bombay.

Sir,

I have the honor to acknowledge the receipt of Your letter of 31st December 1824 with its enclosure Translation of a letter from the Governor of Damaun, and to state, that I have made particular enquiry, but cannot find that any prohibition on the export of provisions exists.

2. I am informed however that before the last fall of rain, the Ryuts of Coonta a village of ours near Damaun, made a complaint to the Comavisdar of Bugwara, that when they went into Damaun to sell grass, wood, or the like and stood in need of grain for their dinner there, they were not allowed to purchase it. On this the Comavisdar and Mujmoodar took upon them, to order the Havaldars of our villages not to allow any grain to be taken to Damaun. But when the rain fell the prohibition was removed.

3. The amount of Duties levied on the produce of Nuggar Havelly carried to Damaun was in 1822/23 Rs. 2,392.2.21. Two thousand three hundred ninety two, two quarters and twenty one reas. This is the last year to which the accounts are made up, and the above is about the annual produce of these duties, which are as ancient, as the concession of the Purgunnah & rendered that Mahratta grant so much less valuable.

4. There is very little trade from one British District to another through the Damaun territory, and none at all in provisions; but on

bettle leaf brought from the Conkan duties are levied in the Damaun territory.

I have the honor to be

Sir,

Your most obedient servant,
(Signed) Illegible.

Omersarry
by
Damaun

11th January, 1825.

1825.

Rev. Consult No. 3.

Surat Collector.

From reporting on complaint of the Governor of Damaun of a prohibition on the export of provisions to that place.

BOMBAY REVENUE DEPARTMENT

Vol. 29/496 of 1833. Page No. 242 to 247

To:

His Excellency,

Senhor Juliao Jose de Silva Vieira, Governor Etc. Etc. Etc.
Damaun.

Most Illustrious Sir,

It has come to my notice by the application of the Acting Collector of Sea Customs in Guzerat that a parcel of Teakwood belonging to a merchant of Bellemora was forcibly carried off from Putullia Bunder by a Tindal and about 100 fishermen belonging to Your Excellency's Government, without obtaining the usual pass note, and paying the regular duties, the undoubted right of the British Government; whereby a loss has been sustained of about 78 Rupees. I therefore have the honor to request Your Excellency will be pleased to adopt such measures as to Your Excellency appear just and proper.

I have the honor to enclose copies of a Report of the manager of the Sea and Land Customs in Bulsar and Bugwara, with it's enclosure, for Your Excellency's information.

I have the honor to be etc.

(Signed) W. J. LUMSDEN,
A.G.

Surat Office of Agent
for the Right Hon'ble
the Governor
12th July, 1833.

To:

The Illustrious
W. J. Lumsden Esquire,
Political Agent of the Governor,
at Surat.

Illustrious Sir,

In replying Your Worship's letter of the 12th Instant, I beg to acquaint you that, whenever any Goods are brought into this Town belonging to the King thro' the Hon'ble company's Chowkies adjoining to Damaun, no duties are paid for them; neither do we charge any duties on the Goods belonging to the Hon'ble Company when they are carried thro' our Chowkies: It is an ancient agreement of which Your Worship must have notice.—

The Timber of which Your Worship makes mention in the letter, was purchased at Patalia, for the use of a Frigate of His Faithful Majesty, now building in this Town; to load on boats and bring the said timber to Damaun, I had sent a sufficient number of fishermen, but not armed people, and there no one hindered taking away the timber, or else one armed sepy would have been sufficient to repulse double the number of these fishermen—As soon as this timber was brought here, the Interpreter of this Government wrote to the Carkoon of Buzwara informing him that the said timber was for the use of His Faithful Majesty, but that letter is not mentioned (or is not) in the roll of paper Your Worship sent to me, as the whole expressed in it, is entirely false, and being of no use I beg to return.

Your worship will be pleased to cause an enquiry to be made in the neighbouring Chowkies of Damaun, belonging to the Hon'ble Company, if any duty is paid, when the Goods of the King are brought into this Town—It is not the custom to send in the first instance a pass note in gentoo language with the Royal Seal, declaring that the Goods belong to the King but after the said Goods are imported into this Town, the above fact is certified; Your Worship ought to have examined, before writing so much upon a trifling business.—

If in future, the neighbouring Chowkidars of the Hon'ble Company exact any duties upon the Goods imported into this Town on the King's account thro' their Chowkies, similar duties will be exacted when the Hon'ble Company's Goods pass thro' the Damaun Chowkees but this becomes an innovation which I, nor Your Worship, are authorized to practice, but ought to be decided by superior authority; but as Your Worship shews the enormous defalcation the Hon'ble Company had of duties amounting to 78 Rupees, Your Worship may wish to be paid for the Timber imported here for the use of His Faithful Majesty, as the King My Lord does not wish, on his account, his allies should suffer any prejudice in their interests, I herein enclose a Hundie for 78 Rupees payable at sight which amount I hope Your Worship will keep in deposit until it be legally decided if I am to pay duties for this timber.

I have the honor to be etc.,

(Signed) Illegible.

Fort of Damaun
19th July, 1833.

True Copies.
(Signed) W. J. LUMSDEN.
A.G.

To

W. J. Lumsden, Esquire,
Agent for the Right Hon'ble the Governor,
Surat.

Sir,

Before entering more at length into a consideration of the letter from the Governor of Damaun, dated the 19th instant, copy whereof accompanied Your's to me of yesterday. I take the liberty of enquiring whether His Excellency is correct in the surmise offered at the conclusion of the 1st paragraph of his address, touching your knowledge of the existence of the right of the Portuguese Government to pass its own Goods free of Duties through the British possessions—no such Right is known in this Department.

I have the honor to be etc.,

(Signed) J. H. PELLY,
Actg. Coll. of Customs.

Surat,
25th July, 1833.

To

J. H. Pelly, Esquire,
Actg. Collector of Customs in Gujerat,
Surat.

Sir,

I have the honor to acknowledge the receipt of your letter of the 25th Instant, enquiring whether His Excellency the Governor of Damaun is right in his surmise touching my knowledge of the existence of the right of the Portuguese Government, to pass their own Goods free of duties through the British Possessions, and to state that a search of the Agency records has not discovered any information on the subject; and on which, it so happens that I am quite uninformed and at a loss to understand the grounds of the claim of right alluded to in so general terms, by His Excellency.

I have the honor to be etc.

(Signed) W. J. LUMSDEN.

Surat Office of Agent
to the Right Hon'ble
Governor, 27th July, 1833.

To

W. J. Lumsden, Esquire,
Agent for the Right Hon'ble the Governor, Surat.

Sir,

I have the honor to acknowledge the receipt of your letter dated the 27th instant, stating that a search of the agency Records has not discovered any information on the subject of the claim set up by the Governor of Damaun to pass His most Christian Majesty's Goods free of Duties through the British Territories, and that it so happens that you are quite uninformed, and at a loss to understand the grounds of the claim alluded to in such general Terms by his Excellency.

2. As I have already communicated to you, we find ourselves equally in the dark in this Department and since the whole affair must ultimately be submitted to His Lordship in Council, I would venture to suggest that, if you would be so obliging as to request His Excellency the Governor of Damaun to say on what he founds the claim to exemption which he has advanced, the whole case might then perhaps go up to Government with this preliminary impediment placed in such a position, as to admit of its being decided on without further references hither.

I have the honor to be etc.

(Signed) J. H. PELLY,
Actg. Collector of Customs.

Surat,
29th July, 1833.

To

W. J. Lumsden, Esquire,
Agent to the Right Hon'ble the Governor, Surat.

Sir,

In reference to my letter dated the 29th ultimo, I take the liberty of enquiring, whether you have had any further communication with His Excellency the Portuguese Governor at Damaun.

I have the honor to be etc.

(Signed) J. H. PELLY,
Act. Coll. of Customs.

Surat,
24th August, 1833.

To

J. H. Pelly, Esquire,
Acting Collector of Customs, in Guzerat.

Sir,

In reply to your letter of the 24th Instant, I have the honor to inform you that a letter has been addressed by me to the Governor of Damaun on the 30th Ultimo, and as soon as an answer is received, I shall duly hand you a copy.

I have the honor to be etc.

(Signed) W. J. LUMSDEN,
A.G.

(True Copies),
(Signed) Illegible.

Surat Office of Agent to the
Right Hon'ble Governor,
26th August, 1833.

BOMBAY REVENUE DEPARTMENT

Vol. 29/496 of 1833. Page No. 273 to 276

No. I of 1833,

Territorial Department,
Revenue.

To

L. R. Reid Esquire,
Secretary to Government,
Bombay

Sir,

With reference to your letter of 24th ultimo, I have the honor to hand up copies of my communication to the Governor of Damaun dated the 30th July alluded to in my letter to the Acting Collector of Customs dated 26th August, and of a letter addressed under the 2nd Instant, together with the reply of His Excellency.

The enclosures to this last are on the records of Government as per margin.

2. On perusal of translation from the Portuguese of this correspondence, and of part of it obtained from the records of the Principal Collector, the subject matter of the concession by Sir Evan Nepean is Goods and Timber, the produce of the district of Nuggar Havelly, and more over for the consumption of Damaun and on certificate signed by, or by authority of the Portuguese Governor.

On the other hand a privilege enjoyed by the Inhabitant of Bugwara of importing from Nuggar Havelly free of duties timber for building and fuel, is continued under a modification as to the manner of issuing certificates as by the latter part of the Governor of Damaun's letter of the 30th May, 1819, may appear.

3. In His Excellency's letter to me of the 19th July, one of the enclosures to your above despatch, he stated whenever "any goods are brought into this town belonging to the King thro' the Hon'ble Company's Chowkees adjoining to Damaun no duties are paid for them; neither do we charge any duties on the goods belonging to the Hon'ble Company when they are carried through our Chowkees. It is an ancient agreement of which your Worship must have notice".

It will be observed the claim now advanced is for the free transit of any goods brought into Damaun belonging to the King through the Hon'ble Company's Chowkees adjoining to Damaun, . . . on the alleged reciprocity of free transit of goods belonging to the Hon'ble Company when carried through the Portuguese Chowkees.

In proof of such privileges a correspondence is cited which stipulates, not for goods belonging to the King without reference to the place of growth; but for goods without reference to who may be owner provided they be the produce of Nuggar Havelly.

While as to the counter privilege it is not a concession conferred on goods the property of the Company imported into the Portuguese territory as recited in the letter to me but one continued and limited to the inhabitants of Bugwara confined to timber for building & fuel imported from the district of Nuggar Havelly.

It is to be hoped that His Excellency may have inadvertently expanded his claims into generality without reference in the first instance to the correspondence as it is clear this is irrelevant to these claims as they are put.

4. In his said letter of the 19th July last His Excellency in reference to the particular affair which has accidentally given rise to this correspondence or been experimentally essayed as a pretext for trying the extent of privilege which might be allowed, states "The timber of which Your Worship makes mention in the letter was purchased at Puttullia for the use of a Frigate of His Faithful Majesty now building in this town to load on boats and bring the said timber to Damaun."

The timber is not alleged to be the produce of Nuggur Havelly which is material to entitle it to the privilege, whereas the specification of the property therein whether of sovereign or subject is no wise relevant to the same.

5. The complaints alluded to as made by Portuguese subjects in the last letter of His Excellency the Governor of Damaun of a general increase of duties at the Chowkees adjoining the Damaun territory are presumably as far as any claim of right is involved likely to be largely, if not completely comprehended by the scope of the correspondence in regard to the privileges confirmed and continued but upon this any further observation would at present be premature.

I await any instructions Government may be pleased to direct.

I have the honor to be,

Sir,

Your Most Obedient Servant.

Surat Office of the
Agent for the Right
Hon'ble the Governor,
17th October, 1833.

BOMBAY REVENUE DEPARTMENT

Vol. 29/496 of 1833, page No. 279 to 281.

To

His Excellency
 Senhor Juliao José de Silva Vieira,
 Governor Etc. Etc. Etc. Damaun.

Most Illustrious Sir,

I have the honor to receive Your Excellency's letter of the 19th Instant; but before replying to it at large or submitting a reference on the subject to the Right Hon'ble the Governor in Council, I have the honor to solicit that Your Excellency will be good enough to favour me with copy of the Agreement or Document in which it may be introduced or other Evidence of the existence of the said Agreement referred to in the following passage of Your Excellency's above letter "I beg to acquaint you that whenever any Goods are brought into this town belonging to the King through the Hon'ble Company's Chowkees adjoining to Damaun no duties are paid for them, neither do we charge any duties on the goods belonging to the Hon'ble Company when they are carried through our Chowkees. It is an ancient agreement of which Your Worship must have notice." I shall feel obliged for any information calculated to throw light on the matter above quoted.

I have the honor to be etc.

(Signed) W. J. LUMSDEN.
 A. G.

Surat Office of Agent
 for the Right Hon'ble
 the Governor.

30th July, 1833.

To

His Excellency
 Senhor Juliao José de Silva Vieira
 Governor Etc. Etc. Etc. Damaun.

Most Illustrious Sir,

With reference to my letter of the 30th July I have the honor to communicate to Your Excellency Extract of one dated the 24th ultimo from the Secretary to the Right Hon'ble the Governor in Council as follows; with reference to the 1st paragraph of the letter of His Excellency the Governor of Damaun to your address dated the 12th of July last to request you will inform His Excellency that unless His Excellency can produce clear proof of the Agreement therein stated to be of old standing that Goods belonging to His Faithful Majesty are exempt from liability to duties in passing through the Hon'ble Company's chowkees adjoining to Damaun under an understanding that the Hon'ble Company's goods are exempt from payment of customs in the Damaun territories, the

Right Hon'ble the Governor in Council cannot admit the claim, founded in the reciprocity system alluded to by His Excellency.

May I solicit the favour of an early answer in the event of Your Excellency feeling desirous further to agitate the question by adducing proofs.

I have the honor to be etc.

(Signed) W. J. LUMSDEN.
A.G.

Surat Office of Agent
for the Right Hon'ble
the Governor.

2nd October, 1833.

BOMBAY REVENUE DEPARTMENT

Vol. 29/496 of 1833. Page No. 283 to 284.

Translation.

To

The Illustrious William J. Lumsden Esquire, Political Agent of the
Governor. Surat.

Illustrious Sir,

I had the honor to receive Your Worship's letter of the 30th July last, and while I was on the eve of replying, sundry persons subjects of this Government complained to me that the duties at the Chowkees adjoining to the jurisdiction of this Government have been augmented upon all goods that come to Damaun, also that come to the district of Nagur Avely, belonging to this City, and the persons in charge of the collections make an exorbitant valuation of the said Goods, which raises the duties, to more than the value of the goods. On this subject I have caused inquiries to be made, when I obtain replies I shall send them to Your Worship with proper representations from the complainants. For this reason I delayed to answer Your above letter, but as in Your Worship's letter of the 2nd instant an immediate answer is desired, I beg to say that the subject in question is not a new matter. It is decided by his Excellency Sir Evan Nepean Governor of Bombay in 1819. Copy of the correspondence with the Governor of Damaun D. Jose Maria de Castro e Almeida I herewith transmit No. 1 which I presume you will find in the Secretary's office of Bombay or Surat & I also forward copies of other documents No. 2 and 3 which will bear out what I have said in my letter of the 19th July of the present year.

I have the honor to be etc.

Fort of Damaun.

11th Oct., 1833.

(Signed) Juliao José DE SILVA VIEIRA.

True Copies & translated:

(Signed) Illegible.

BOMBAY REVENUE DEPARTMENT

Vol. 29/496 of 1833. Pages 287-288.

No. 3260 of 1833.

Copy
J. D. R.

To

The Agent for the Governor Surat.

Sir,

I am directed by the Right Hon'ble the Governor in Council to acknowledge the receipt of your letter dated the 17th ultimo, and to instruct you to intimate to His Excellency the Governor-General of Damaun, in reply to his last communication to you that the British Government will strictly adhere to the arrangement made between the two Govts. in 1819 by which it was agreed that all goods the produce of Nuggur Haveiley passing through the H.C. districts and required for internal consumption in Damaun should be exempt from customs, while no customs should be levied by the Portuguese authorities on timber for building and fuel brought from Nuggur Huwelle for consumption in Bugwara. In the case in question His Lordship in Council conceives that the agreement has not been infringed by a demand for the usual customs on the Timber exported from the Pallullea Bunder which has not yet been proved to be the produce of Nuggur Havailey, which is the condition on which alone its claim to exemption can be admitted.

(Initialed) Illegible.

B.C.

12th Nov.

Annex C. No. 34

Record Office, Bombay

REVENUE DEPARTMENT

Vol. 70 of 1848. Page Nos. 43 to 66.

No. 181 of 1848.

To Territorial Department,
Revenue.

R. D. Luard, Esquire
Collector of Continental Customs and Excise.

Sir,

17th. But it has not been in the item of salt alone that fraud has been practised, every sort of irregularity has prevailed, in regard to the import of grain into Damaun: of this I can shew ample proof.

18th. I will instance here an abuse of an indulgence deserving remark—In 1843 there was a question as to the right, or privilege, of the Governor of Damaun, to receive from the Nuggar Haveli District certain personal supplies free of duty.

19th. I did not consider the right established and believing it liable to abuse I refused it—my friend the late Mr. Jackson being appealed to—considered my view of the matter too severe, and he allowed the claim.

20th. Appendix will shew that this frank and liberal concession instead of being met in the spirit it was made has been abused in the most shameless manner and under this pretext grain etc. etc. to the amount of Rupees 69,725.15.2.

Value according the Frontier accounts. It is

In 1845/46	26,045.9
In 1846/47	21,421
In 1847/48	22,259.6.2

the duty on this would have mounted to:—
s. 4,736.3.3
s. 3,357.13.8
s. 4,240.13.4
has been passed the Frontier free of duty—But these accounts are false—
for on comparing them with the pass notes given by the Governor of Damaun and taking the whole amount shewn in them the quantity passed free proves to have been in

s. 12,334.14.3		
1845/46	33,560.10	
1846/47	43,505.15	
1847/48	55,659.1	
	132,725.10	

21st. Another point deserving notice is that under this present system the Damaun revenues have so much improved that their Farm of transit duties has been sold for twenty one thousand Rupees in the current year—nine years ago it was Fourteen thousand Rupees—our loss is their profit.

22nd. I trust in a year or two, we may be able to learn, that the sale of the Damaun Transit duties, has returned to its original standard; but it will always prove a guide to help to determine the healthy, or unhealthy condition, of things in our own district.

.....

(Signed) A. BETTINGTON,
Deputy Collector of Continental
Customs and Excise.

On Circuit Daman
Office of the Deputy
Collector of Conti.
Customs Etc.
18th May, 1848.

REVENUE DEPARTMENT

Vol. 70 of 1848, page No. 165 to 167.

No. 252 of 1848.

Territorial Department.
Revenue.

To

J. G. Lumsden, Esquire
Secretary to Government.

Sir,

In the absence of the Collector I have the honour to submit to you that in my report on Damaun of the 18th ultimo I pointed out the abuse of an indulgence granted to the Governor of Damaun of having certain supplies passed from Nuggar Haveli to Damaun through our custom Chokies without paying duty.

2nd. In the report referred to I have shewn that under this pretext goods have been passed from every direction under passes from the Governor of Damaun—to large amount and involving a considerable sacrifice of Revenue.

3rd. In the last year the value of the goods so passed was Fifty-five thousand six hundred and fifty-nine Rupees and one anna the amount of customs that should have been paid thereon Rupees four thousand two hundred and forty thirteen annas and four pies—fortunately this is not a case the proof of which depends on the validity of an account kept by an inferior carcoon and might be open to trial—I have the passes of the Governor of Damaun to prove the fact.

4th. Involving as it did a daily and hourly sacrifice of our Revenue and considering that the countenance which has been given to the salt smuggling by the Damaun Government to the great injury of our Excise in no wise entitles them to extravagant indulgence and that the abuse of a concession and favour made in courtesy—required instant correction—I directed that no goods should be passed the Damaun Frontier free of duty on any pretext whatever.

5th. I have given the detail of this matter in paras. 17th 18th 19th 20th of the report above referred to. I regret however to find I have not mentioned that I had given the orders immediate effect. I trust however Government will consider me justified in having done so for the reasons above mentioned.

I have the honour to be, Sir,

Your most obedient servant,
(Signed) Illegible.
Deputy Collector of Contl.
Customs Etc.

Surat Office of the Deputy
Collector of Contl. Customs
Etc.
10th June 1848.

SURAT AGENCY

Vol. 29 of 1841-1851. Flags Q to M.

Illustrious & Exct. Sir,

I have the honor to bring to Your Excellency's notice that the administrators of the Excise Chowkies of Koonta, and Paleet are in the habit of obstructing the free transit of the articles brought from the Purgunnah Nagur Havellie for the use of this City, such as Timber, Bamboos, Batty, Firewood, Hay etc. as has been customary under the proper passes granted by this Government until now in the form agreeably to the Treaty between the two nations British and Portuguese: I am informed that the said administrators are levying unlimited transit duties.

Excellent Sir, I presume this arbitrary determination of the administrators to be their own acts, and not the orders issued to them by Your Excy. or any other British authority, because had the orders been from Your Excellency I believe I would have been honored with the information thereof and which would have enabled me to adopt measures accordingly—In consequence of the approaching monsoon I request Your Excellency's early answer.

May God preserve Your Excy:
Government Palace at Damaun.
20th May, 1848.

To

His Excy. the Governor of Surat.

(Signed) Illegible.
True Translation.
A.G.

SURAT AGENCY

Vol. 29 of 1841-1851. Flags Q to M.

No. 4906 of 1848.

Received 25th August.

Territorial Department.
Revenue.

To

W. C. Andrews, Esquire,
Agent for the Right Hon'ble the Governor,
Surat.

Sir,

In acknowledging the receipt of your letter, No. 182, dated 10th June last, with accompaniments relative to certain precautionary measures adopted by the Deputy Collector of Continental Customs and Excise for the protection of the Government revenue, I have been directed by the Right Hon'ble the Governor in Council to request, that, you will acquaint the Governor of Damaun, in reply to his letters which accompanied yours under acknowledgment, that, the very large amount of grain stores etc. passed duty free under his passes has attracted the attention of our Customs Officers, that Government fears designing persons must have been imposing on His Excellency (as in a recent instance) that His Lordship in Council thinks it would be advantageous, as a guide to both Governments, to know as nearly as possible, the amount of produce which could be legitimately imported in this way, and, that, he hopes His Excellency will desire the proper authorities to prepare statements similar to those required from Mr. Bettington in the Extracts noted in the margin, copies of which are hereto annexed, and that he will furnish us with copies of them as soon as he conveniently can.

I have the honour to be,

Sir,

Your most obedient Servant.
(Signed) Secretary to Government.Bombay Castle,
22nd August, 1848.Extract para. 9
of letter from
Revenue
Commissioner,
N.D. No. 1271
dated 3rd June
1848Extract paras. 4
& 6 of letter
No. 4905 dated
this day to
Revenue
Commissioner
N. D.

SURAT AGENCY

Vol. 29 of 1841-1851. Flags Q to M.

*Extract para. 9 of a letter from the Revenue Commissioner, Northern
Division, dated 30th June, 1848*

9. Referring to the charges of abuse by the Governor of Damaun of the privilege conceded to him of granting passes for exemption from the duty the subject will be found to have been under consideration in the correspondence replied to in Government letter, No. 348 of 19th

January last, a separate report might I think be called for on this point giving a summary of the whole of the evidence of abuse, amongst which a contrast of the quantities of goods in the pass notes, with the estimated production and consumption of the District on account of which the free transit has been permitted as previously suggested in para. 2 of my letter No. 994 of 16th June 1847, submitting the correspondence above referred to, should be included, and in the event of abuse being made clear which would seem to be probable the entire discontinuance of the privilege for the future, might be resorted to.

Extract para. 5 & 6 of a letter from Government to the Revenue Commissioner Northern Division dated 22nd August, 1848, No. 4905

5. Before, however, Government can determine to alter the present arrangement, it will be necessary to have more particular information, and you will therefore have the goodness to instruct Mr. Bettington to prepare a report of the kind suggested in the 9th para. of your letter No. 1271 dated 3rd June last replied to in mine No. 4901 of this date, including in it full information as to the foundation on which the Portuguese Government rests its claim to exemption from duty. This report should shew the annual amount or value of the exportable produce of the Nuggar Havellee district, and the quantity of this produce annually consumed in Damaun.

6. This information Mr. Bettington His Lordship in Council believes, will be able to furnish as he appears to have obtained many of the accounts necessary for the preparation of such a report.

True Extracts.

(Signed) Secretary to Government.

No. 278 of 1848.

Political Department.

To

J. G. Lumsden, Esquire,
Secretary to Government,
Bombay.

Sir,

With reference to your letter of the 22nd ultimo No. 4906 on the subject of the privilege claimed by His Excellency the Governor of Daman to import into Daman certain articles the produce of the Nugur Huvelee free of duty, I have the honor to state, for the information of the Right Hon'ble the Governor in Council, that I immediately addressed His Excellency on the subject as therein directed and that in reply His Excellency has intimated to me that he has brought the matter to the notice of His Excellency the Governor General of Portuguese India in the hope of receiving instructions agreeably to the wishes of the Right Hon'ble the Governor in Council.

I have the honor etc.

(Signed) A.G.

Surat
Office of the Agent etc.
11th September, 1848.

No. 3160 of 1849.

Territorial Department,
Revenue.

To

W. C. Andrews Esquire,
Agent for the Right Hon'ble
the Governor at Surat.

Sir,

With reference to your letter No. 278 dated the 11th of September, 1848, relative to the claim of the Damaun Government, to exemption from payment of duties on goods, the produce of Nuggur Havailee, passing through the Company's districts, required for internal consumption at Daman, I have been directed to transmit, for your information, copy of a communication addressed to Government, by His Excellency the Governor of Damaun. No. 39 of the 12th December last, and extracts paras: 1 to 9 of one from the Revenue Commissioner Northern Division No. 760 of the 19th ultimo, and to state that the Right Honorable the Governor in council entirely concurs in the remarks of Mr. Shaw in this case; and in the mode in which he proposes to dispose of the complaints made by His Excellency the Governor; and to request that you will make the communication proposed in the 6th para: to His Excellency at once.

2nd. In respect to the second subject of complaint, His Lordship in Council has been pleased to concede the first item as suggested, and instructions have been issued for precautions being taken as recommended in the 9th para: the second item requires no further notice as it appears the boat has been released.

3. I have been further desired to request that you will, at the same time, inform His Excellency the Governor of Damaun of the concession proposed, in the manner pointed out in Mr. Shaw's 8th para:

I have the honor to be,

Sir,

Your most obedient Servant,
(Signed) Illegible.
Acting Secretary to Government.Bombay Castle,
12th May, 1849.

No. 39.

From the Governor of Daman.
To the Right Hon'ble the Governor of Bombay.

Dated Dauman, 12th Dec., 1848.

Most Illustrious and Excellent Sir,

I have the honor to bring to your Excellency's notice, that being in the Government of this place for more than three years, until the month

of October last, no doubts or obstacles were ever raised by the persons, entrusted to collect Revenue under your Excellency's jurisdiction, for allowing to pass free of duty articles which are brought for the consumption of my House, such as, Fowls, Chickens, Ghee, and Butter, but now they demand duty which however, I have ordered to be paid. Considering however, that this is not done by your Excellency's orders, given to the Collector of Revenue but that it is rather the act of the Parsee, who is entrusted with the business of collections, and that it is he who thus imposes at his own pleasure, I have thought it proper to enquire by this means, whether such has been the order of Your Excellency in which case I shall rest satisfied on the point—should, however, such not be the case, I trust that, Your Excellency will cause orders to be issued to the Collector to take cognizance of these vexations; because if I am thus used, what will they not do to the poor inhabitants.

And your Excellency is well aware, that European subjects are constantly passing through my territory, and no duty is ever asked from them upon any article whatever. I am certain that your Excellency, will not permit that an employee should be doing as he pleases, demanding duty upon every thing, as if he wished by this means to enrich the Hon'ble Company.

I beg, at the same time, to bring to your Excellency's notice that having under date the 3rd, 14th and 24th October, and 15th November last past, addressed your Excellency's Agent at Surat regarding the retention of a Boat, which was seized by the said Parsee, I have not as yet received any reply to my letters, and I therefore request, that your Excellency will be pleased to order its release, and that the Parsee be cautioned against interfering with the Portuguese subjects because the River Colleque is the property of the two allied nations, viz., the British and the Portuguese—I now expect your Excellency's decision on this matter.

May God preserve your Excellency—Palace of the Damaun Government.

12th December, 1848.

(Signed) Illegible.

True Translation.

(Signed) Illegible.

Portuguese Translator to Government.

Extract para. 1 to 9 of a letter from the Revenue Commissioner's N.D. dated 19th April, 1849, No. 760.

Para. 1. In reply to your letter No. 2, 448, of the 9th Instant, transmitting a report from the Deputy Collector of Continental Customs, relative to the claim of the Damaun Government to exemption from payment of duties on goods, the produce of Nuggur Havailee, passing through the Company's district, required for internal consumption at Damaun, and directing me to report on the whole subject, I do myself the honor to state for the information of the Right Hon'ble the Governor in Council that, there is a voluminous correspondence on this matter on

the records of this Department, which has become so mixed up with other subjects and, numerous unanswered references, it becomes difficult to convey the real merits of the case under enquiry,—I shall therefore endeavour to divide it into three heads.

1st. The agreement between the Bombay and Demaun Governments to allow the produce of Nuggur Havailee to be transported through the Company's territories duty free for internal consumption at Demaun, on condition that no duty was charged by the Demaun Government on Timber exported from Nuggur Haveilee for building purpose, and fuel to be used at Bugwara.

2nd. The complaint of His Excellency the Governor of Demaun, that a frontier duty was demanded on the Fowls, Ghee, Butter, required for the consumption of His Excellency's Household.

3rd. The fraudulent exportation of Damaun salt into the Hon'ble Company's Territories.

2. Regarding the first of these considerations it would appear by a letter from Mr. Secretary, Reid No. 3260, of 12: November, 1833, that as far back as A.D. 1819, an agreement had been entered into by the British Government to allow the produce of Nuggar Havailee, which is a small district belonging to the Portuguese but separated from the Demaun State, to pass duty free for internal use thro' the company's territory, provided that no export impost was charged by the Demaun Government on Timber exported from Nuggur Haveli for building purposes and fuel for consumption in Bugwara.

3. From Mr. Luard's letter No. 735, of the 12 June, 1847, para. 7, it is evident His Excellency the Governor of Demaun abused this indulgence, and that 29 maunds of Rice, the produce of Government villages were detected in the attempt to pass them over the frontier as the produce of Nuggar Havailee.

4. Out of this circumstance some immaterial correspondence continued until June, 1848, on the 10th of which month Mr. Bettington reported to Government by letter No. 252, that during "the last year the value of the goods so passed was Fifty-five thousand six hundred, and fifty-nine Rupees, and one anna, the amount of customs that should have been paid thereon, Rupees four thousand two hundred, and forty, thirteen annas, and four pies, fortunately this is not a case, the proof of which depends on the validity of an account kept by an inferior carcoon, and might be open to denial. I have the passes of the Governor of Demaun to prove the fact." Upon which Mr. Bettington at once issued orders prohibiting further goods passing over the frontier duty free on the pass note of His Excellency the Governor of Demaun.

5. Hence arose a correspondence noted in the margin, in which it will be observed that, the Bombay Government, called upon the Collector of Continental customs to furnish a report of the value of the exportable produce of Nuggur Havailee, which Mr. Bettington in the 10th para. of his letter No. 38 of the 10th February last, states that he is unable to do, while His Excellency the Governor of Demaun in his reply to Mr. Andrews the Government agent at Surat, who had called upon the Demaun Government for the same information, reports that he has referred the subject to the notice of His Excellency the Governor General

Rs. 55,659.1
Rs. 4,240.13.4

The
correspondence
is omitted

of Portuguese India as intimated to Government on the 11th September last by Mr. Andrews.

6. In reviewing the above proceeding it is, I apprehend, conclusive His Excellency the Governor of Demaun (who by his letter to Mr. Andrew declined an explanation) has abused the indulgence of the Bombay Government, and as no necessity in the present day can exist of allowing the inhabitants of Bagwara the privilege of getting their building timber and fuel from the Nuggur Havellee duty free, an arrangement which Mr. Bettington shows in the 3rd para. of his letter to Mr. Secretary Lumsden No. 252 of the 10th June last, was attended with a loss of customs dues to Government of Rupees Four thousand, two hundred and forty, annas thirteen and pies four, this discussion, I respectfully venture to submit might be brought to a close by His Excellency the Governor of Demaun being informed, that as it had been discovered numerous abuses (probably on both sides), had taken place, in defrauding the Customs, the agreement entered into in A.D. 1819, of permitting the produce of Nuggur Havailee to pass duty free over the British frontier into Demaun, upon the Demaun Government allowing Building Timber and fuel to be similarly exported from Nuggur Havailee into Bugwara, was to cease, and that henceforth the British Government would not expect the continuance of this indulgence or grant its equivalent to the state of Demaun.

7. Adverting to the second cause of complaint contained in the letter of His Excellency the Governor of Demaun of the 12th December last, addressed to the Right Hon'ble the Governor of Bombay, I beg to observe it refers to two subjects:—

1. That articles for the consumption of his house, such as, Fowls, Chickens, Ghee and Butter, which were formerly passed duty free are now taxed on the Frontier and

2. That a Portuguese Boat had been detained by a Custom House officer in the river Coileque. Regarding the latter point contained in His Excellency's letter, Mr. Bettington in the 2nd para. of his report of the 14th of last month No. 3, addressed to Mr. Luard, and before Government satisfactorily explains the circumstance, and had released the Boat.

8. With reference to the first complaint, I would with deference take the liberty of proposing the matter should be conceded to His Excellency the Governor of Demaun, and that he should be informed it never was the intention of the British Government to put His Excellency's household to any personal inconvenience and that the stoppage and demand for duties on such articles as mentioned by him passing the frontier, had arisen from the abuse of the privilege formerly granted, by which the custom dues had been considerably defrauded, but that orders would now be issued to pass duty free all such articles as those enumerated by His Excellency, on the production of his certificate intimating they were for his private consumption.

9. To prevent an unfair advantage of this indulgence, the Collector of Continental customs may be directed to take such precautions as are necessary, short of withdrawing without its sanction, the privilege

granted by the Government, as other procedure (the Demaun Government following the same course, and throwing the responsibility of a discourteous act on a subordinate) might lead to inconvenience, inasmuch as the local position of Demaun is such that the Portuguese authorities may cast many vexatious impediments in the way of travellers passing through their state, and as it cannot be the desire of a magnanimous and powerful Government to be fastidious about non-essentials, so also am I of opinion, that, it would not be politic to be over rigid in demanding our dues on trifling articles, the produce of our own districts imported into Damaun for internal consumption.

True Copy & Extract.

(Signed)

Act. Secy. to Government.

No. 90 of 1849.

Political Department.

To:

His Excellency the Governor of Daman.

Illustrious Sir,

With reference to your letter to me of the 20th May, 1848, No. 11, and to your letter to the Right Hon'ble the Governor of Bombay dated 12th December last No. 39 complaining of certain acts of the Collector of Customs I am directed by the Right Hon'ble the Governor in Council to inform your Excellency that as it has been discovered that numerous abuses (probably on both sides) have taken place, in defrauding the customs, the agreement entered into in A.D. 1819, of permitting the produce of Nuggur Havelee to pass duty free over the British frontier into Demaun, upon the Demaun Government allowing Building Timber and fuel to be similarly exported from Nuggur Havailee into Bugwara, is to cease, and that henceforth the British Government will not expect the continuance of this indulgence or grant its equivalent to the state of Daman.

2. I am further instructed to acquaint Your Excellency that it never was the intention of the British Government to put Your Excellency's Household to any personal inconvenience, and that the stoppage and demand for duties on such articles as are mentioned by you passing the frontier, had arisen from the abuse of the privilege formerly granted, by which the custom dues had been considerably defrauded, but that orders will now be issued to pass duty free all such articles as those enumerated by Your Excellency, on the production of Your certificate intimating they were for your private consumption.

I have, etc.,

Surat.

(Signed) W. C. ANDREWS,
A.G.

Office of Agent, etc.
25th May, 1849.

Annex C. No. 35

Record Office, Bombay

POLITICAL DEPARTMENT

Vol. 8 of 1859. Poll. Cons. 3 June, 1859, No. 3326.

(Page No. 287.)

To

The Most Illustrious Senhor Anderson,
Secretary to the Government of Bombay.

Most Illustrious Sir,

Agreeably to the instructions I have received from my Government, and in accordance with fresh suggestions which reached me yesterday by the Electric Telegraph, I beg to draw the attention of your Government to the duties which are enforced on articles, the produce of Purgunna Nagar Avely, belonging to the jurisdiction of Demaun, in their transit to that settlement through the territories of the British Government.

These duties which for some time past had been abolished are now not only again levied but at so enhanced rates as to fall very heavily on the poor and miserable inhabitants of the above jurisdiction.

On the other hand, my Government has permitted the free transit through the Portuguese territory of all articles which may have to pass through it, for the use of the British Railway Works.

Thus it appears to my Government just that there should be reciprocity on the side of the British and that the enforcement of the transit duties above alluded to, should be suspended until the decision which may be passed, on information to be collected on the spot by the British and Portuguese Commissioners.

I have the honour to be Etc.,

(Signed) J. H. DE CUNHA RIVARA,
Secretary to the Govt. of Goa on Special Commission.

Bombay,
23rd April, 1859.

RESOLVED.

That Mr. Rivara be informed that immediate enquiries will be made relative to the transit duties alluded to by him.

That the Collector of Tannah be furnished with a copy of this letter and requested to report on the subject adverted by Mr. Rivara.

(Signed) Illegible.

Poll. Cons. 1859 No. 3328 (Page No. 289).

No. 1653 of 1859.

Poll. Department.

To

Senhor J. H. De Cunha Rivara,
Special Commissioner for the Settlement of
disputes at Demaun &c.

Most Excellent Sir,

I am directed by the Right Hon'ble The Governor in Council to acknowledge the receipt of your letter dated the 23rd of last month relative to transit duties levied on produce passing through British territory from the Portuguese Purgunna of Nagar Avely, and in reply to inform you that immediate enquiries will be made on this subject.

(Signed) Illegible.

B. Castle,
2nd May, 1859.

Poll. Cons. 1859 No. 3329 (Page No. 291).

No. 1654 of 1859.

Political Department.

To

The Magistrate of Tanna.

Sir,

I am directed by the Right Hon'ble the Governor in Council to forward to you, copy of a letter from Senhor J. H. de Cunha Rivara, Portuguese Commissioner for the settlement of Demaun disputes etc., dated the 23rd ultimo, relative to transit duties levied on produce passing through British territory from the Portuguese Purgunna of Nagar Avely, and to inform you that Government awaits your report on the subject.

(Initialled) Illegible.

B. Castle,
2nd May 1859.

Poll. Cons. 3 June 1859 No. 3621 (Page No. 293)

No. 786 of 1859.

From,

J. R. C. Morgan Esquire,
Acting Magistrate of Tanna.

To,

H. L. Anderson Esquire,
Secretary to Government,
Bombay.

Tanna Magistrate's Office Political Departt.
Matheran 4th May, 1859.

Sir,

In acknowledging the receipt of your letter No. 1654 of the 2nd Instant with accompaniment I have the honour to state that no transit duties whatever are levied by the Revenue Department on goods passing through the British territory—and beg to suggest that the Portuguese Commissioner Senhor J. H. de Cunha Rivara—be requested to state at what villages these duties are levied, and on what produce. I have instructed the Sunjan Mamlutdars to make immediate enquiry on the subject and report the result.

I have the honour to be,

Sir,

Your most obedient servant,
(Signed) Illegible
Acting Magistrate.

No. 3622.

RESOLVED:—

That copy of this letter be forwarded to Lt. Col. Pope with a request that he will obtain the necessary information from Mr. Rivara.

(Signed) Illegible.

Poll. Cons. 1859 No. 3623. (Page No. 295)

No. 1779 of 1859.

Political Department.

To

Lieutt. Colonel G. Pope
Commissioner on the part of
the British Government.

Sir,

I am directed by the R.H.G.C. to forward to you copy of a letter from the Acting Magistrate of Tanna, No. 786 dated the 4th instant,

and to request that you will obtain the information required by that officer from Senhor J. H. de Cunha Rivara on the subject of the duties said to be levied in British territory on goods passing from Damaun.

(Initialled) Illegible.

B. Castle,
11 May 1859.

Poll. Cons. 3 June, 1859, No. 3945 (Page No. 297)

From

Lt. Col. G. Pope,
Commissioner.

To

H. L. Anderson Esq.,
Secretary to Govt. Pol: Department,
Bombay.

Sir,

I have the honour to acknowledge your letter No. 1779 of the 11th inst. with copy accompanied of one to your address from the Acting Collector of Tanna No. 786 of the 4th idem.

In reply I have the honour to state, for the information of the Right Honourable the Governor in Council, that I have communicated your letter to the Portuguese Commissioner Senhor Rivara, but that I am able to report, from my own knowledge, that duties are levied not by officers of the Tanna Collectorate but by those under the Commissioner of Customs, Bombay, on articles the produce of the Portuguese territory in the Nugur Havelie while passing through British territory, on their way to Daman.

I ascertained this in person on the 11th inst. by proceeding to Koonta, where an Inspector of the Customs Department is stationed who gave me, orally, all the information I desired, but, apparently with perfect propriety, did not feel himself at liberty to give me a detailed statement in writing without orders from his superiors.

I yesterday applied, officially, to the Commissioner of Customs, Bombay, for the necessary information which, when it has been received, it shall be duly laid before Government with my report on the subject.

I have the honour to be,

Sir,

Your most obedient servant,
(Signed) G. POPE,
Lt. Col. Commissioner.

Daman,
13th May, 1859.

Poll, Cons. 1859 No. 3946. (Page No. 301.)

No. 1970 of 1859.

Political Department.

To

R. Spooner Esquire,
Commissioner of Customs Salt
and Opium,
Bombay.

Sir,

I am directed by the Right Hon'ble the Governor in Council to forward to you copy of a letter from Lieutenant Colonel G. Pope, British Commissioner for the settlement of Demaun disputes etc., dated the 13th instant, relative to transit duties levied on produce passing through British territory from the Portuguese Pergunna of Nagar Avelly, and to inform you that Government awaits your report on the subject.

(Initialed) Illegible.

B. Castle,
20th May, 1859.

 (Page No. 303.)

From

J. H. De Cunha Rivara.

To

H. L. Anderson Esquire,
Secretary to the Government
of Bombay.

28th April, 1859.

Most Illustrious Sir,

Having, according to communications from this Government, to proceed with Lieutt. Colonel Pope to Diu tomorrow (29th April), for the purpose of putting into full execution the convention relative to limits, approved of by the two Governments, British and Portuguese, and as we, the two Commissioners, will have to go from Diu to Daman, with the view to regulate and terminate there also the disputes existing in that jurisdiction, I take the liberty to submit for your consideration, that, according to the understanding between the Governor General of Portuguese India and Lord Elphinstone, Governor of the Presidency of Bombay, it would be of the greatest importance and mutual convenience, if the British Commissioner, Lieutenant Colonel Pope, were furnished with the necessary powers, not only to decide the so called question of limits, on the above mentioned jurisdiction of Damaun, but also to enquire into and agree as to what may seem most convenient, with regard to the levying of duties, as recently fixed, upon the produce of the Portuguese

territory in its transit to some other point, of the same territory, situated beyond the British territory.

It is equally the wish of my Government, that, the British Commissioner will endeavour to suggest a plan for circumscribing the territory within the jurisdiction of Damaun, whereby, (after the same shall have been approved of by the two Governments) further disputes, similar to those which have hitherto so much annoyed the said Governments and troubled the inhabitants of the two territories, may be prevented.

I have the honor to be,

Sir,

(Signed) J. H. DE CUNHA RIVARA.

True translation,

(Signed) N. FERNANDES,

Portuguese Transtr. to Government.

(Page No. 307.)

No. 1746 of 1859.

Political Department.

To

Lieutt. Coll. G. Pope,
on special duty.

Sir,

Referring to my letter, No. 1567, dated 26th April last, I am directed by the Right Hon'ble the Governor in Council, to transmit to you, translation of a communication from Senhor Rivara, Secretary to the Government of Portuguese India, dated the 28th of the same month, relative to the disputes at present existing between Damaun and the Tanna Collectorate.

2. In forwarding this communication, I am desired to state, that, His Lordship in Council considers it very desirable, that, all questions, pending between the two Governments, should be settled forthwith, and accordingly requests that, you will extend your enquiries to the subject of levying duties alluded to by Senhor Rivara.

3. The Right Hon'ble the Governor in Council requests, that, you will consult with the Commissioner of Customs and the local Revenue Officers before recording a final opinion.

4. A copy of the letter from the acting Collector of Tanna, dated the 11th April last, and of my reply of this date, is enclosed for your information, and I am desired to request that, you will have the goodness to communicate the views of Govt. to Senhor Rivara.

I have the honour to be etc.

(Signed) H. L. ANDERSON,
Secretary to Government.

Bombay Castle.

7th May, 1859.

Political Consultation 1859 No. 590. 3A. (Page No. 309 to 327.)

From

Lieutenant Colonel G. Pope,
Commissioner.

To

H. L. Anderson, Esquire
Secretary to Government.

Political Department,
Bombay.

Sir,

In continuation of my letter to your address of the 20th instant, I proceed after having communicated, as directed, with the Commissioner of Customs, to report on the duties levied by the British Government on articles the produce of the Portuguese Perguna of Nugur Havelee, which necessarily cross a portion of British territory during transit to the Portuguese district of Daman.

2. I forward a Memorandum on the subject by Senhor Rivara, Commissioner on the part of the Portuguese Government and give an abstract of its contents, marked by inverted commas the document is marked B. he therein states:—

3. "That the Perguna of Nugur Havelee was ceded to the Portuguese by the Peshwa, by a treaty dated 17th December, 1779, in which is an article guaranteeing the perfect freedom of commerce between the two Governments."

4. Copy of the article, translated into Portuguese is annexed to the Memorandum, No. 1.

5. That after some time, doubts, and disputes having arisen on the subject of duties, the Peshwa by his Sunud dated 26th April, 1779, ordered that rice, teakwood and other articles passing through his territories by land or water from the Perguna to Daman, should not be subject to any payment whatever.

6. Copy of the Sunud, with translation in Portuguese, is annexed to the Memorandum No. 2.

7. "That when the territory between the Nugur Havelee Perguna and the Daman district, passed from the Peshwa to the East India Company objections were raised to the free transit of the produce of the Portuguese districts, on which account the Governor of Daman addressed the Governor of Bombay on the 11th November, 1818, and that the latter, after the necessary enquiries, replied on the 1st May, 1819, that the request of the Governor of Daman should be complied with, at the same time indicating certain precautions which it would be necessary to take against frauds, and stating that according to the reports made to him by his officers, no impediment had in reality been offered to the free transit through the British territory of the produce of the Nugur Havelee Perguna to Daman."

8. Copies of the letters referred to are annexed to the Memorandum marked Nos. 3 and 4.

1799

See enclosure
in Portuguese

9. "That in the year 1833, the Governor of Daman addressed a further complaint to the Bombay Government, and that the Governor of Bombay replied, confirming the agreement of 1819, exempting from duty all articles the produce of Perguna Nugur Havelee coming to Daman."

10. Copy of the letter referred to is annexed to the Memorandum No. 5.

11. The document is a letter to the Governor of Daman from M. Vibart, in charge of the Surat Office of Agent for the Right Hon'ble the Governor, dated 15th November, 1833, embodying extract of a letter from the Secretary to the Bombay Government to his address dated the 12th idem, in which it is stated that the Bombay Government would strictly adhere to the agreement of 1819, which however, it appeared had not been really violated, as it had not been proved that the articles on which Customs had been demanded at Patulea Bunder were really the produce of the Nugur Havelee Perguna.

12. It appears from this letter that the concession made by the Bombay Government only extended to articles the produce of the Nugur Havelee Perguna intended for the "internal consumption" of Daman—the letter makes no mention of articles intended for export, or of articles sent from Daman to the Perguna. This concession was also accompanied by a condition that the Portuguese authorities should exact no duties in timber for building, and fuel, brought from Nugur Havelee for consumption in the British district of Bhugwara.

13. "That after some time the British Officer [in 1844] re-imposed taxes, and that after a fresh complaint from the Governor of Daman, the old orders were re-established."

14. Senhor Rivara here quotes document No. 6, appended to his Memorandum, being copy of a letter from the Agent for the Hon'ble the Governor at Surat, dated 30th April, 1844, forwarding copy of a letter to his address No. 102 dated 29th idem from the Deputy Collector of Continental Customs and Excise, stating that he had been authorised to rescind the orders given by Mr. Bettington and complained of by the Governor of Daman.

15. "That matters continued in this state, with trifling exceptions and annoyances on the part of subordinate Agents, till the year 1848 when the transit of articles the produce of Perguna Nugur Havelee was loaded with heavy duties, so that residents in Daman who cultivate fields in Nugur Havelee cannot now carry to their homes the product of the sweat of their own brows, without paying Customs to a foreign nation. That the Portuguese Government cannot bring a log of wood, the produce of its own forests, for the construction of a ship, or other public purpose, without paying a similar tribute, and that Portuguese subjects of Nugur Havelee cannot use the salt or other produce of the Portuguese territory of Daman, without paying duties at the British custom houses at Koonta and Pulsuth."

16. "That the appeal of the Governor of Daman was on this occasion unsuccessful, it being replied that numerous abuses (probably on both sides) had been discovered, by which the revenue had suffered; that the agreement of 1819 which was stated to have been an indulgence, must be considered at an end, but that a free transit would be granted to

articles required for the private consumption of the Governor of Daman and his household."

17. To this part of his Memorandum Senhor Rivara appends papers Nos. 7 and 8.

18. No. 7 is copy of a letter to the Governor of Daman from the Agent for the Right Hon'ble the Governor at Surat No. 159 of 31st May 1848, forwarding for information copy of a letter to his address from the Deputy Collector of Continental Customs and Excise, dated 29th idem, stating that the matter had been referred to Government; that the order complained of had been authorised by him, and it was impossible to comply with His Excellency's request.

19. No. 8 is copy of letter No. 90 of 1849 to the Governor of Daman from the Agent for the Right Hon'ble the Governor, dated 25th May, 1849, stating that he had been instructed by the Right Hon'ble the Governor of Bombay in Council to inform His Excellency that it had been discovered, that numerous frauds (probably on both sides) had taken place, whereby the Customs had been defrauded. That the agreement entered into in 1819, permitting the produce of Nugur Havelee to pass duty free over the British frontier into Daman, on the Daman Government allowing building timber and fuel to be similarly exported from Nugur Havelee to Bhugwara, was to cease, but that orders had been issued for passing duty free, all articles intended for His Excellency's private consumption, on production of His Excellency's certificate that they were intended for such purpose.

20. This settlement of the question by the Bombay Government was approved by the Hon'ble Court of Directors, vide para. 12 of their despatch No. 3 of 22nd May, 1850, and it is proper here to observe that a letter to the Agent for the Right Hon'ble the Governor at Surat from Mr. Chief Secretary Malet, dated 18th July, 1849, No. 4555, shews that the Government of Daman had been in the habit, for years, of levying duties on timber and firewood exported from Perguna Nugur Havelee to Bhugwara, in direct breach of the agreement of 1819 and 1833.

21. Consequently the putting an end to that agreement by the British Government would seem to have been justifiable on the ground of breach of it by the other party, irrespective of any inherent right a Government possesses to alter its own fiscal arrangements, and withdraw what had never been conceded as right, but only granted as an indulgence.

22. "That the allegations as to abuses and frauds can only be considered as referring to the supposed clandestine introduction into Daman of British produce, under pretext of its being that of the Portuguese territory of Nugur Havelee."

23 "That this supposition cannot easily be admitted as correct as the frontiers are watched throughout, by customs chowkees of both Governments that it would not suit to introduce British cereal [grain] into Daman for the purpose of exportation, as the same would be infallibly sent to a British Port, where duties would be levied all the heavier as the goods would have lost their nationality by being sent from a Portuguese Port, and that the exporter would further have to pay an export duty at Daman, while by sending, them direct from a British Port, he would have avoided this burden."

24. Senhor Rivara is here mistaken—the Commissioner of Customs informs me that no duty would be levied at Bombay on grain imported from Daman, and that the clandestine passing of British grain over the Daman frontier would defraud Government of the duty leviable, it being viewed as an article "exported" when passed into a foreign territory.

25. "That the Portuguese Government meets similar cases in the following manner.

26. Firstly. It holds in Daman the monopoly of spirituous liquors, and the importation of such by any person not an Agent of Government is contrary to law; but such liquors passing through the Portuguese territory for consumption in that of Britain are exempt from duties. The Portuguese Government sends a guard with them to the frontier to see that they are not diverted from their route, and consumed within its territory.

27. Secondly. The same course is pursued with other British produce and manufactures, which daily traverse the Portuguese Perguna of Nugur Havelee, or Daman and its adjacent territory by land or water; all pass entirely free of duty.

28. Thirdly. Lately large quantities of very valuable stores for the Northern Railway on account of a private company, not on that of the British Government, also stores for the Electric Telegraph, pass through the Portuguese territory without paying any duty whatever.

29. That it had been hoped that a well understood reciprocity would have been established as to exemption from transit duties, but that suddenly, about a month since, the duties in question were greatly increased, thus aggravating the evil and injustice.

30. That the document annexed No. 9 is a list of the goods which pay these duties, and of the amount of duties charged.

31. That the Portuguese Government hopes that the British Government, not only for the sake of the alliance and friendship which unite the two Nations, but on grounds of pure justice, will replace matters as regards transit duties, in the same state as before the year 1848."

32. I have given a faithful abstract of Senhor Rivara's Memorandum, if a detailed translation is required, the same can more conveniently and with more official regularity be furnished by the Portuguese Translator to Government.

33. The sudden rise in the duties to which Senhor Rivara alludes, is owing to the Notification published in the Bombay Government Gazette Extraordinary of the 14th March last.

34. I forward with this report an original letter to my address from the Inspector under the Collector of Continental Customs and Excise, stationed at Koonta; where the British territory intervenes between that of the Daman district, and the Portuguese Perguna of Nugur Havelee.

35. This document is marked C. It is a reply to queries of mine as to what duties were levied; when these duties were imposed, when they were waived, and when and by what authority they were re-imposed. The Inspector's statements on the above points are substantially correct;

his recommendation which is, in effect, that the Portuguese Government should be induced to forbid its subjects to manufacture salt, need not be dwelt upon; as I have satisfied myself that no proposition of the sort would be entertained.

36. This document and the paper No. 9 appended to Senhor Rivara's Memorandum, afford the information called for in your letter to my address No. 1779 of the 11th May last, which was partly replied to by me on the 13th idem.

37. I have not thought it necessary to translate the rates in the two statements, as in a personal conference between the Inspector in question, Senhor Rivara, and myself, the accuracy of the rates given by the former was not questioned, and as it is the levying of customs duties at all that is complained of; ... if an exact translation is desired, it can be more authentically given by the official translator.

38. The amount of duty realised on the Portuguese frontier in 1857/58 under the system introduced in 1848, and complained of by the Portuguese Government, was Rs. 7162—the Establishment maintained for the Collection cost Rs. 476 per mensem, or Rs. 5712 per annum, being a net gain of only Rs. 1450 per annum; but the Commissioner of Customs, informs me that the whole or great part of the Establishment must be kept up for the protection of the Salt Revenue, even if the duties levied on the Portuguese produce of Nugur Havelee be discontinued.

39. It may notwithstanding be maintained by the Portuguese Government that the net produce of the taxes complained of is only Rs. 1450 per annum, for the British Government would not admit that it taxed Portuguese produce, grain etc. for the purpose of paying Establishments required for the protection of its own salt Revenue.

40. I do not suppose that the right of the British Government to levy duties on goods belonging to a foreign State, passing through its territories, can be denied, though the policy of doing so, especially considering the liberal conduct of the Portuguese Government as shewn in the 28th paragraph of this report, may be worthy of the consideration of Government, in view to its alteration, as I respectfully submit it is.

41. But as Government, in the event of its seeing fit now to revert to the agreement on the subject of the duties under consideration, made on the 1st May, 1819, and confirmed on the 12th November, 1833 (Vide paras. 7 and 11 of this report), would not probably abandon its right to act on any future occasion as it might see fit, I submit that such a settlement of the question could not be considered final, which I understand from the 2nd paragraph of your letter to my address No. 1746 of the 7th May last, His Lordship in Council wishes any settlement now effected to be.

42. I would therefore respectfully solicit His Lordship's attention to the proposition made by Senhor Rivara in the concluding paragraph of his letter to Your address of the 27th April last, suggesting such an exchange of territory between the two Governments as would secure to that of Portugal an uninterrupted transit through its own ground from the Perguna of Nugur Havelee to that of Daman.

43. If such an exchange could be effected, further disputes or difficulties of the nature now under consideration could not arise.

44. It would probably be necessary to reserve to the British Government the ground marked out for the Northern Railway and as much on each side of the same as might be considered necessary, as the line passes through the tract of which part must be given up to connect the Portuguese Nugur Havelee Perguna with that of Daman.

45. Mr. Spooner the Commissioner of Customs informs me that he sees no objection to the measure under consideration, provided the Customs Station of Koonta is not given up as it is conveniently situated for guarding against contraband trade in salt. There will be no necessity for giving up Koonta in effecting the exchange of territory suggested by Senhor Rivara.

I have the honor to be

Sir,

Your most obedient Servant,

(Signed) G. H. POPE,

Lieutt. Colonel.

Commissioner.

Bombay,

23rd June, 1859.

POLITICAL DEPARTMENT

Vol. 26 of 1860. Pages 159 to 161.

Poll. Cons. 1860 No. 3583.

No. 138

From

The Governor General of Goa,

To

The Right Hon. Lord Elphinstone,
Governor of the Presidency of Bombay.

Most Ill. & Ext. Sir,

My greatest desire was to see the end of all every dispute which continued pending between our two Governments, and I have already had the pleasure to see some of them concluded with advantage as to peace and good harmony which should exist between friendly and allied nations, a conclusion which, with the greatest satisfaction, I confess, is due to the just and generous spirit of your Excellency.

2. And, as I reckon upon a continuance of the same spirit of justice and generosity, I take, on this occasion, the liberty to request your Excy. will be pleased to cause an early decision being passed on the question which is still pending, of exemption from transit dues of Portuguese merchandize from Nagar Aveli, which are at present paid at the British Customs Houses when such merchandize is conveyed from the said Pargana to the Fort of Daman.

3. Upon this subject the Secretary of this Government, Mr. Joza Heliodoru da Cunha Rivara while acting as a Commissioner in the settlement of pending questions, handed over to Lieutt. Coll. Pope, a memorandum the decision on which is still under the consideration of Your Excellency in Council.

I take also the liberty to transmit to your Excy. a map of the Portuguese Territory of Daman, and of the Pargana Nagar Aveli, duly compared, and request your Excy. will have the goodness to form your own judgment on it, as related to the convenience of the exchange of territories, to which the said Secretary and Commissioner alluded, and your Excy. refers in your despatch of the 12th May of this year.

The exchange of a narrow piece of land which should unite the Pargana Nagar Aveli with the other Parganas adjacent to the Fort of Damaun for a reasonable compensation made to the British Crown, in a different place, which may be agreed upon, will, no doubt, be the step, most advisable to be adopted, to prevent, in future, the ever mooted disputes, which have so long troubled the British and Portuguese Governments.

I have the honour to be,

Yours Excy's,
very attentive servant,
(Signed) Illegible.

New Goa.

12th September, 1859.

True Translation.

(Signed) Illegible,

Portuguese Translator to Government.

Daman.

26th May, 1859.

MEMORANDUM

ON THE LEVY OF TRANSIT DUTIES BETWEEN PARGANA NAGAR-AVELI AND THE CITY OF DAMAN

The Pargana Nagar-Aveli was merged with the Portuguese State in the year 1783 by cession made by the Maratha Peshwa under the Treaty of 17th December, 1779. That Treaty contains a clause which establishes the widest exemption and the freedom of trade between the Portuguese and Maratha dominions (Document No. 1). After some time certain doubts and controversies having been raised about the payment of transit duties on commodities produced in the said Pargana, and transported to the city of Daman, crossing the territories which remained in the possession of the Peshwa, and which are intermediary to that Pargana and to the city of Daman, the Peshwa, by his Sanads of 26th April, 1799, directed that the paddy, teak-wood, and any other things which the Portuguese might bring from Pargana to Daman, by water or land routes, should be allowed free passage without payment of any

duties, in accordance with the procedure observed since old times, that is, since the Treaty; and thus it was observed (Document No. 2).

With the taking over of all those intermediary territories by the British East India Company, new obstacles were raised by the tax Collectors and the same Company, against that freedom of transit for the produce of the Portuguese Territories, about which the Governor of Daman, Dom Jose Maria de Castro e Almedia complained to the Hon'ble Governor of Bombay, in his letter dated the 11th November, 1818 (Document No. 3), and the latter, after conducting the necessary enquiries replied by letter, dated 1st May, 1819, to the effect that the wishes of the Governor of Daman would be complied with, indicating at the same time certain means which he deemed necessary, in order to avoid frauds. The Governor of Daman goes even so far as to say in his letter (Para. 6) that according to the information he had received from his officials, no difficulties were put in the way of transit, exempted from duties, in respect of the produce of Nagar-Aveli to Daman (Document No. 4).

In 1833 the Governor of Daman, Julliao Jose de Silva Vieira lodged fresh protests to the Governor of the Company, complaining that that agreement had been violated, and the Governor of Bombay replied confirming the same Pact of 1819, about the exemption from duties on every thing that came from Nagar-Aveli, destined for Daman (Document No. 5).

Some time thus elapsed; but in 1844, the British Officials of the Company again introduced the levy of those duties, and on new protest lodged by the Governor of Daman, again those orders were revoked (Document No. 6) and the things went on as before; and this procedure was followed and maintained with few exceptions of some partial difficulties raised by subordinate Agents, up to the year 1848, when the transit of products from Pargana Nagar-Aveli was made subject to heavy duties, so that the inhabitants of Daman who till the lands in Nagar-Aveli, cannot take teak to their homes, the fruit of their hard labour without paying duties to a Foreign Nation; the Portuguese Government cannot send even a stick from their forest for the building of a single ship or for any other construction work of the Pargana without paying tax; the Portuguese subjects of Nagar-Aveli cannot preserve salt or any other commodity produced in the Portuguese territory without effecting payment, in the same way, at the British Customs of Cunta and Patreta.

The representations made by the Governor of Daman were this time turned down, and the reply given was that the Governor of the Company had discovered numerous cases of excesses, *probably on both the sides*, defrauding the revenues of the Customs, and that the Agreement of 1819 was declared as having ceased to exist. It is suggested that this Pact was a privilege, and finally an offer is made to the Governor of Daman to the effect that the products meant for his private use, might continue to pass freely without payment of duties. (Document No. 7 & 8.)

The reasons alleged in the Documents are the excesses committed, which cannot be explained in any way, except in relation to the introduction in Daman of the products of the British territories, under the guise and excuse of being from the Portuguese territory of Nagar-Aveli. But, such a supposition cannot be easily accepted, since all the borders of the territories are watched by means of "mettas" or Customs

Chowkies of both the Governments. It is not even convenient to introduce in Daman, for export trade, foodgrains produced in the British territory, because this trade being invariably carried out with the ports subject to the British rule, the British Government would collect in those ports the relative import duties, which would be much higher, in case the merchandise had lost its nationality owing to its entry in the Portuguese territory; on the other hand, the speculator, who might have made it pass through the Portuguese territory, would have to pay, in addition, at the same time, export duties at the Portuguese port. The direct export of such commodities through the British Ports, with the British nationality, would on the contrary exempt the merchant from that onus.

On their side, the Portuguese Government have met the above-mentioned requirements in the following manner:—

(1) The Portuguese Government hold in Daman the wine monopoly (Alcoholic beverages), and its import, on account of any individual who is not an agent, duly authorized by the Government, constitutes a contraband offence. However, the alcoholic beverages which pass through the Portuguese territory for consumption in the British territory, are exempted from duty, and are not also considered as contraband. And the Government have exercised care in watching the borders for the purpose of avoiding their being diverted, while on the way, and consumed in the Portuguese territory.

(2) The same is the case with the other British products and manufactured goods which sometimes pass through the Portuguese Pargana of Nagar-Aveli, and sometimes the City of Daman and its adjoining territory, by the land frontier and by the rivers and port, and all of which passes freely, without paying anything.

(3) Even recently, crafts from Bombay having called at the port of Daman, loaded with valuable material, for the Northern Railway and Electric Telegraphs, manufactured by a British Company (and not for the account of the Government), that material was allowed to transit through the Portuguese territory without paying any duty.

When, therefore, it appeared that things should have been so arranged as to do justice to us, and to establish a well set reciprocity regarding exemption from transit duties, it is now a month more or less that an unexpected increase in the same duties has been introduced which has aggravated the situation and redoubled the oppression. The merchandise on which such duties are levied, and the amount of the levy are listed in the Document No. 9.

In view of what has been stated, my Government hopes that the British Government will, not only in view of the spirit of alliance and friendship which binds both the Nations, but also in view of their infallible justice, restore the former system of free transit and exemption from duties, which was observed up to 1848.

Daman, dated the 25th May, 1859.

(Signed) J. H. DA CUNHA RIVARA,
Secretary of the Govt. of Goa on Special Duty.

No. 1.

(Translation of the Portuguese Original)

Copy.

Article of the Treaty between the Portuguese State and the Peshwa, concluded on the 7th of the month of Gelahis 1180 of the Muslim era and on 17th December 1779 of the Christian era.

Article One—The vessels, parangues, and boats, for trading, which come from the Portuguese dominions to those of the Sarkar, with merchandise for commerce, may do so on paying duty to the Sarkar in the manner practised from ancient times, without vexation from anyone. The merchants having sold their merchandise, may freely take with them vegetables, and other produce. In the same way the merchants from the dominions of the Sarkar, entering those of the Portuguese with their boats and parangues, will sell their vegetables and other merchandise and buy what they like in exchange, paying duty thereon according to the ancient custom established from the beginning and may withdraw freely without suffering oppression from any person whatever. And this shall be reciprocally observed.

True copy—Office of the Governor of Daman, dated the 12th May, 1859.

No. 2.

(English translation of the Marathi Text)

Bajirao Raghunath Pradhan to the Collectors of Customs of Mahals in District Bassein dated Tisa Tisein Maya Alaf (1798-1799).

Pargana Nagar Haveli has been assigned to the Firangee of Goa by the Sarkar for provisioning of Daman. He carries food grains, teak wood, etc., from there to Daman by water and land. It has now been brought to the notice of the Huzur that though this is the position obtaining from the beginning you harass him afresh for Zakat. Hence this is written to you. The Firangee of Goa should not be pressed for Zakat when he carries grains and wood by water and land from Nagar Haveli to Daman. May this be known. Dated 26th Jilkad. Orders be executed. Seal in writing.

English translation of the Portuguese "Translation of the above Sanad of the Sarkar of Punem"

I, Bajirao Raghunath Pradhan, order the Shrees Collectors Camavisdars of Duty Revenues of the jurisdiction of Bassein who are well aware that the Pragana Nagar Aveli of the said jurisdiction of Bassein has been granted to the "European" of Goa for the provisioning of Daman by this Sarkar, and since the non-collection of duties on Paddy, Teak Wood, and any other commodity, which the said "European" carries by waterways or by land routes to Daman, has been observed since the old times, and seeing that it has come under his notice that you wish to change things, and intend to collect Duties, I order you, in view of this, by means of the present Sanad, that in case the said "European" of Goa should carry Paddy, Teak Wood, and any other thing

by waterways or by land routes to Daman, he may be allowed to do so without any customs difficulties. Zanigi, dated 26th of the Moon, of the month of Gelcad, which in Portuguese means 26th April of the year 1799. Agna Pramane, which means that the orders may be executed through one of the Ministers of the said Sarkar. Sign of his "Sica".

English translation of the Marathi Text

"Permit of Sarker Rajeshri Pant Pradhan to the Kamavidars, Chaukidars, travellers, the general public and the Zakat officers of Tisa Tisein Maya (1798-99). Pargana Nagar Aveli Prant Bassein has been assigned to the Firangee of Goa by the Sarker for provisioning of Daman. Grain and Teakwood may be allowed to be carried from Nagar Aveli to Daman by water and road without pressing for Zakat. Be it known. Dated 26th Jilkad. Adhnya Praman (Orders be executed). Lekhan Sima (end of writing)."

English translation of the Portuguese "Translation of the above Dastoco from the Sarkar of Punem"

By this Dastoco of my Sarkar, I, Pant Pradhan, do hereby order the Tenants, Camavidars and the other duty-collectors, and any other person not to hinder in any way the provisions, teakwood, and any other commodities which are carried to Pragana Nagar Aveli for service in the Daman fortified city, both by waterway and by land route, seeing that the said Pragana has been granted from this Sarkar to the State of the "European" of Goa for the assistance of the said fortified city of Daman, and consequently they should not put any difficulties in the way of the collection of the duties. Zanigi, this day the 26th of the month of Gelcad which is counted as 26th of April 1799. Agna Pramane which means by one of the Ministers of the Sarkar the order may be executed—Mortobo Sima, is the sign of his small seal.

True copy—Secretariat of the Government of Daman, dated the 12th May, 1859.

The clerk of the Secretariat-General.

(Signed) Izidoro DE SILVA.

No. 3.

(Translation of the Portuguese Original)

Copy.

Illustrious Sir,

It is quite possible that Your Excellency is not unaware that by a treaty concluded between the Governor-General of Goa, in the name and on behalf of the King of Portugal, and the Ruling House of Punem, in the year 1780, the Ruler Madhav Rao Narayan Panta Pradhan, ceded to the Crown of Portugal the Pragana Nagar Aveli, situated in the neighbourhood of this city, and under the administration, from that time up to this day, of the Governor of this Citadel and City, appointed, by His Most Faithful Majesty.

As the situation of that Pragana Nagar-Aveli was such that all its local produce could not be carried to this City without passing necessarily through some villages of the Praganas of Naer Sanjana and Colona Pavary, belonging to the Marathas and adjoining the above mentioned Pragana Nagar-Aveli, it was provided in one of the clauses of the said treaty that all the commodities produced in the Pragana Nagar-Aveli, which were destined for the Portuguese possessions of Daman, should be completely exempted from any Duties or pensions, and that in all other circumstances, besides the one specified, they should be subject to Duties. And this was observed for many years, until one of the Maratha Chieftains who was entrusted with the administration of the said Praganas, bordering this city, tried to circumvent that clause with wrong interpretations, owing to which fact, this Government having informed the Ruler of Punem, Baji Rao Rogunath, the latter immediately ratified the said Clause, directing the issue of the Sanad—the copy of which Your Excellency will find enclosed herewith—in order that the said chieftain should not only take due cognizance of that Clause, but also not raise any fresh doubts, in future, regarding that matter. After some time, it so happened that one of the Maratha Chieftains entered into an arrangement with the Governor of this Citadel and City, to the effect that, in order to obviate all kinds of doubts and mistrusts, regarding the kinds of products from the Nagar-Aveli Pragana, which were to enter this City for its consumption, it would be convenient that the said commodities with their description should be specified in documents, stamped and initialled by the Governor, which was agreed to, and thus it was observed practically from that time onwards. This arrangement, however, brought in its wake certain hardships to small tenants and to the masses who, cultivating some plots of land in the said Pragana Nagar-Aveli, and still others proceeding to the said Pragana for the purpose of buying things to provide for their needs, or for buying timber for building and repairing their houses, could not very easily obtain from this Government the required documents, stamped and initialled, the absence of which made it necessary for them to pay, while passing through the Maratha villages, the Duties, and pensions, and thus it came about that the entire exemption from these Duties and pensions, on all the commodities produced in Pragana Nagar-Aveli entering the Portuguese possessions of Daman came to nought, and was applicable only to those few commodities which were covered by the above-mentioned documents stamped and initialled by this Government. In the meantime, taking cognizance of these hardships to which were subjected a large number of people of this City, the administration of which was entrusted to me by my Sovereign, I intended to put an end to them by entering into new arrangements with the Maratha Chieftains, my neighbours; but the event which occurred in the same year, whereby all the Maratha possessions were taken over by the Honourable British India Company, prevented me from giving effect to my intention, being pleased, at the same time, that I had to deal about the matter, with a European Nation, like mine, bound to the United Kingdom of Portugal by the closest bonds of friendship, and when relying on this consideration I was about to submit the matter to Your Excellency, I am forced to hasten this step, in order to represent to Your Excellency that the present Collectors of the Duties and pensions, introduced in the Pragana of Near Sanjana and of

Colona Pavary, not only claim Duties and pensions on all the commodities which are carried to this City from the Pragana Nagar-Aveli, without exemption on any article, however trifling, but also refuse to declare exemption in respect of even those same commodities which, by means of documents duly stamped and initialled by this Government, show that they are for consumption in this City. Therefore, it is my duty to demand from Your Excellency the strict fulfilment of the above-mentioned Clause of exemption from Duties, and other pensions, on all commodities and timber which may be carried from the Pragana Nagar-Aveli to this City and Citadel of Daman, by land or rivers, which I hope will be done, without vexations, because it is a well-known fact that the wise British system advises that no practice established by the former Maratha Government should be changed, and much less that the treaties concluded between that Asian Government and a European Nation, their closest ally, should be violated. And being assured on this point, and above all on the justice of this cause, I request an early decision of Your Excellency, to the effect that the present doubts or discords of the said Collector of Duties and pensions will be ended, so that I may have further reasons to increase the consideration with which I have the honour to be, Your Excellency, Evan Nepean.

Yours faithfully,

(Signed) Dom José Maria DE CASTRO E ALMEIDA.

Residence of the Government of Daman, dated the 11th November, 1818. Registered on page forty two of the Book of the Factory. True Copy. Secretariat of the Daman Government, dated the 12th May, 1859.

The Clerk of the Government Secretariat,

(Signed) Izidoro DA SILVA.

No. 4.

(Translation of the Portuguese Original)

Copy.

To

His Excellency, Dom Jose Maria de Castro e Almeida,
Governor of Daman.

Illustrious Sir,

First—I had the honour to receive your letter, dated the 11th November last, in which you request me to issue orders to declare exempted from the payment of Duties, all the articles produced in Pragana Nagar-Aveli, North Konkan, which might pass through the British Territories, and which are for consumption in the City of Daman, a privilege which was granted under a Treaty concluded by the Governor General of Goa with the Government of Punem, in the year 1780, and subsequently amended under an arrangement with the local Maratha authorities, requiring that all articles exempted should be listed in certificates issued by the Government of Daman, before they were allowed to pass, exempted from payment of Duties. You desire that this arrangement should

be declared invalid, in some way or the other, as it involves difficulties, and that the original terms of the Treaty should be observed. Second— I regret the delay in replying to your request, a circumstance which was unavoidable, as the result of inquiries which I was bound to conduct about this matter, and I am now happy to inform you that your wishes shall be satisfied, hoping that you will establish the necessary regulations to prevent effectually any articles, other than those which are *bona-fide* fruits and produce of Pragana Nagar-Aveli, and destined for use in Daman, from being clandestinely introduced within the boundaries of your jurisdiction. Third—In case the signing of those certificates gives you, personally, any trouble, there is no objection to your entrusting that work to any official of your Government, and I hope that, in this case, I may be informed of the appointment of the said official to whom that work may be entrusted. I request also that the Certificates may be issued both in Marathi and Portuguese, because few officials in Charge of the collection of revenues in Konkan understand the latter language. Fourth—It is necessary to explain to you that at the time of cession of the North Konkan by the Peshwa to the British Government, no communication was made about any reservation of privileges to the Portuguese Government. Consequently it follows that any exemption that might have been granted, cannot be considered in any way, as binding on the British authorities; however in view of the friendly relations which fortunately exist between the two Governments, you may assume that we are willing to satisfy your wishes always, whenever possible, taking into consideration the interests of my Hon'ble superiors. Fifth—In order to avoid any transgression of the laws of finance of both the British and Portuguese Governments, I am convinced that you will have no objection to the local finance officers exercising the powers of examining packages which are carried, whenever they have good reasons to suspect that they contain contraband articles. Sixth—From the reply received from the officials of this Government to whom your application was submitted, I am told that there has been no difficulty in the transport, free of duty, to Daman of the Nagar-Aveli products, on production of certificates issued by you, owing to which fact I am doubtful about the truth of the information which you have received, stating the contrary. Seventh—It is understood that the inhabitants of the Pragana of Bagavara shall invariably enjoy such a privilege in the transport of the commodities for their consumption from the district of Nagar-Aveli to that of Bagavara against a certificate issued by the Thanadar, and as that Pragana now belongs to this Government, it is hoped that you will authorise the continuation of this privilege as it exists at present.

I have the honour to be, Sir,

Castle of Bombay.

Dated the 1st May, 1819.

True Copy.

Secretariat of the Government of Daman.

Dated the 12th March, 1859.

The Clerk of the Government Secretariat,

with sincere respect and esteem,

Your humble servant,

(Signed) EVAN NEPEAN.

(Signed) Izidoro DA SILVA.

No. 5.

Copy.

To

His Excellency Senhor Juliao Jose de Silva Vieira, Governor General of Daman.

Most Illustrious Sir,

With reference to Your Excellency's letter of the 11th Ultimo, I have the honor to intimate Your Excellency extract of one dated the 12th instant from the Secretary to the Rt. Hon'ble the Governor-in-Council as follows: "That the British Government will strictly adhere to the arrangement made between the two Governments in 1819; by which it was agreed that all goods the produce of Nuggur Huwelee, passing the Hon'ble Company's district, and required for the internal consumption in Damaun, should be exempt from customs, while no customs should be levied by the Portuguese authorities on Timber for building and fuel brought from Nuggur Huwelee for consumption in Bugwara. In the case in question, His Lordship in Council conceiving that the agreement has not been infringed by a demand for the usual customs on Timber exported from Patullea, Bunder, which has not yet been proved to be the produce of Nuggur Hawelee, which is the condition on which alone its claim to exemption can be admitted." I have the honor to be Your Excellency's most obedient and humble servant. J. Vibart, in charge of the Agency—Surat Office of Agent for the Rt. Hon'ble the Governor, 15th November, 1833.

True copy. J. H. DA CUNHA RIVARA.

No. 6.

Copy.

No. 104 of 1844.
Political Department.

To His Excellency the Governor of Damaun. Illustrious Sir. With reference to your predecessor's letters to my address dated the 2nd and 5th January, and 5th March 1844, I have the honor to transmit for your information copy of an answer received to my communication on the subject from the Acting Deputy Collector of Continental Customs and Excise, dated the 29th instant, No. 102. I have the honor to be, Illustrious Sir, your most obedient servant—R. Arbuthnot. A. G. Surat Office of Agent for the Hon'ble the Governor. 30th April 1844.

Enclosure

No: 102 of 1844. Territorial Department Revenue.
To Sir R. K. Arbuthnot Bart. Agent for the Hon'ble Governor — Surat.

Sir,

With reference to my letter of the 15th instant, No: 94, I have the honor to inform you that I have received instructions from the Collector

of Continental Customs authorising me to rescind the orders given by Mr. Bettington which were complained of by the Government of Damon and that I have, in consequence, directed the Sircarcoon of Bhugwara to pass free of duty under the usual permits from the Governor, all articles the produce of Nuggur Havelee which may be brought through the Company's districts for the consumption of Damaun. I have the honor to be etc. Signed W. A. Jones. Acting Deputy Collector of Continental Customs and Excise. Surat, Office of the Deputy Collector of Continental Customs and Excise, 29th April 1844—True copy. R. Arbuthnot A. G.

True Copy, J. H. DA CUNHA RIVARA.

No. 7.

No: 159 of 1848
Political Department.

To His Excellency the Governor of Damaun: Illustrious Sir. In acknowledging the receipt of Your Excellency letters No: 11, dated 20th instant, I have the honor to forward for your Excellency's information copy of one from the Deputy Collector of Continental Customs and Excise, received in answer to my communication made to him on the subject. I have the honor to be your most obedient servant H. C. Andrews—Surat Office of Agent for the Rt. Hon'ble the Governor. 31st May, 1848.

Enclosure

From the Deputy Collector of Continental Customs and Excise. To the Agent to the Right Hon'ble the Governor. Sir. I have the honor to acknowledge your letter with enclosure and in reply beg to inform you that the matter referred to by the Governor of Daman has been laid before Government. 2nd. The orders complained of were authorised by me, and it is impossible to comply with his Excellency's request. I have the honor etc. Signed A. Bettington D.C. Surat 29th May, 1848.

True copy (*Signed*) H. C. ANDREWS.
True copy, J. H. DA CUNHA RIVARA.

No. 8.

No. 90 of 1849.
Political Department.

To His Excellency the Governor of Damon. Illustrious Sir. With reference to your letter to me of the 20th May 1848 No. 11 and to your letter to the Right Hon'ble the Governor of Bombay dated 12th December last No. 39, complaining of certain acts of the Collector of Customs, I am directed by the Right Hon'ble the Governor-in-Council to inform your Excellency that as it has been discovered that numerous abuses (probably on both sides) have taken place in defrauding the customs, the agreement entered into in A.D. 1819 of permitting the produce of Nuggur

Haveilee to pass duty free over the British frontier into Damon, upon the Damon Government allowing building timber and fuel to be similarly exported from Nuggur Haveilee into Bugwara, is to cease, and that henceforth the British Government will no expect the continuance of this indulgence, or grant its equivalent to the state of Damon.

2nd. I am further instructed to acquaint your Excellency that it never was the intention of the British Government to put your Excellency's household to any personal inconvenience, and that the stoppage and demand for duties on such articles as are mentioned by you passing the frontier had arisen from the abuse of the privilege formerly granted, by which the custom dues had been considerably defrauded; but that orders will now be issued to pass duty free all such articles as those enumerated by your Excellency, on the production of your certificate intimating they were for your private consumption. I have the honor to be, Illustrious Sir, your most obedient servant. W. Andrews. Surat, Office of Agent for the Right Hon'ble the Governor. 25th May 1849. True copy J. H. da Cunha Rivara.

No. 9.

Copy

Statement showing that duty is at present levied in the English Customs of Cunta on articles in Transit from Nagar Aveli to Daman.

"On each 'ara' of paddy or vegetables, one rupee and half and two annas; or two annas on every Bengal maund, equal to two and half 'paras' of Daman, corresponding to eight and half per cent.

"On each 'andarvet' or three and half 'arrobas' of butter, on the basis of its value at twenty rupees the 'andarvet' the duty amounts, at three per cent to half a rupee and one and half annas—

"On each 'Surrate' Kandy of firewood, equal to twenty two and half 'arrobas' valued at three rupees the Kandy, the duty amounts to two annas and six sevenths—

"On each 'andarvet' or three and half 'arrobas' of Carapat or Gingilly oil, valued at ten rupees the 'andarvat', the duty amounts to half rupee, two annas, and three fifths—

Bees' honey

Hides

Timber and bamboos

Linseed

Dry grass

Raw Wax

Carapat and Gingilly seeds

Bark for dyeing nets

Charcoal

Hemp

Beef Cattle

Goats and sheep

Poultry

And other live animals

Sugar Cane Jaggery

} three per cent
of relative appraisal
about which precise data
could not be obtained.

} Freely

On articles in transit from Daman to Nagar Aveli

Salt, on every Bengal maund, equal to two and half 'paras' of Daman, three fourths of a rupee.

Dry fish, ten per cent on the basis of its value at two rupees per 'andarvet' or three and half 'arrobas', the duty amounts to three annas and a quarter.

Cocoanuts, on the basis of their value at twenty rupees per mille, the duty per mille amounts to two rupees at ten per cent.

Cloth from Daman at twenty per cent ad valorem.

Customs of Daman, dated the 26th May 1859—

The Clerk, Joaquin DE SOUZA BARROS.—

True Copy—Office of the Daman Government, dated the 26th May 1859—

The Clerk of the Government Secretariat
Izidoro DA SILVA.

Poll. Cons: 1860. No. 7359. (Page No. 249.)

To

His Excellency the most Illustrious
General Viscount de Torres Novas
Governor General of Portuguese India,
Goa.

Most Illustrious & Excellent Sir,

With reference to my predecessor's letter dated the 25th May last to Your Excellency's address, I have the honor to inform your Excellency that after full enquiry and consideration, the proposed cession of any portion of the British territory between Damaun and the district of Nuggur Havelee has been found to be impracticable.

2. I beg, most Illustrious and Excellent Sir, that you will accept the assurance of profound respect with which I have the honor to be,

Your Excellency's most obedient Servant.

For Approval,
(Signed) Illegible.
Chief Secretary.

Bombay Castle.
28th Sept., 1860.
(Signed) Illegible.

Annex C. No. 36

National Archives, New Delhi

FOREIGN DEPARTMENT

Internal A. 1895. Nos. 7-26.

No. 11. No. 164, dated Surat, the 27th November, 1861.

Memo. from—R. P. Robertson, Esq.,

Deputy Commissioner of Customs, N.D.

To—The Inspector in charge of Bagwara Frontier.

Under instructions received from the Commissioner of Customs in his No. 1571 of the 14th November, 1861, forwarding copy of letter No. 3656 of the 12th idem, from Government in the Political Department, and its accompanying extract paragraph 4 from the Despatch No. 35 of the 6th September, 1861, from the Secretary of State for India sanctioning that the produce of Nagar Haveli may be allowed to pass free of duty for use in Daman, the Inspector in charge Bagwada Frontier is directed that all goods being the produce of Nagar Haveli and accompanied by a pass from His Excellency the Governor of Daman certifying that the goods are the produce of Nagar Haveli, stating the nature, quantity, number of packages of goods and the names of persons carrying them, and that the said goods are to be carried to Daman, should after due examination and comparison with the details given in the pass be allowed to pass across the Kunta and Patharpunja Nakas free of duty.

2. Care should be taken that goods, being the produce of any other Taluka are not passed duty free across the Frontier, under this concession.

3. The date from which this exemption is brought into force should be reported to this office.

4. A monthly statement showing the particulars of the goods, the number of packages, weight and the approximate value of goods so passed free of duty, should be submitted to this office, and a consolidated statement should be submitted at the end of the year.

5. These goods should only pass through the Kunta and Patharpunja Nakas, and a register, paged and sealed with the Deputy Commissioner's seal, should be kept at these two Nakas. The passes accompanying such goods signed by His Excellency the Governor of Daman should be numbered consecutively and filed with the Register.

6. The rule requiring the importers of goods to be passed across several Nakas in transit to declare at the first Naka that they will be duly passed through the other Nakas, should be enforced under these orders also.

Annex C. No. 37

Surat Agency. Volume 29

No. 64 of 1851.

From

J. M. Davies Esquire,
In charge of the Agency at Surat.

To

His Excellency the Governor of Daman.

Political Department.

Dated June, 1851.

Illustrious Sir,

I have the honor to forward copy of an application made to me by the Magistrate of the Zillah of Surat dated the 31st May last and to request the exercise of Your Excellency's good offices on the subject so far as it may appear to Your Excellency just and proper.

I have the honor &c.

(Signed) Illegible,
In charge of the Agency.

Surat
Office of Agent &c.
4th June, 1851.

 GOVERNMENT OF DAMAUN

Illustrious and Excellent Sir,

In reply to Your Excellency's letter of the 4th Instant No. 64 giving cover to one from the Magistrate of the Zillah of Surat with accompaniments from the Police Officer of the Bhugwarah Pwga^a relative to robberies perpetrated in the villages of that pwga^a by subjects of this Government, those of the British, and of the Rajah of Dhurumpore, some recently perpetrated and some at a distant period. The Judge of this city to whom I had submitted all the papers connected with the case in question, as they relate to his authority, I have the honor to hand up to Your Excy. two Copies of the replies received from the Judge to my communication made to him on the subject, with which I am persuaded both Your Excy. and the Magistrate will agree. I request Your Excy. will have the goodness to cause necessary orders for the apprehension of Dooblah Sanero from the villages belonging to your Government also the transmission to this City of Dooblah Gopla Nanah, who is in Custody at Bhugwarah, or at least, his confession in full, as requested by the Judge.

I am sorry I cannot give my assent to the request of the Magistrate to permit his officers to enter the villages belonging to this settlement for the purpose of apprehending offenders, but I shall punctually give effect to all your requisitions, as I have hitherto done in apprehending

offenders, who committed offences in villages belonging to Your Government and afford such information as will throw light on the subject Your Excy. may require. Further I beg to assure Your Excellency that I have the services of a well organised Police at my command, but the cause why all offenders are not apprehended, is because they commit offences and fly away from this territory or conceal themselves in the villages belonging to Your Excellency's Govt. for such has often been the case.

May God preserve Your Excy.

To

His Excellency the Governor of Surat.

(Signed) Illegible,
Governor of Damaun.

True Translation,
(Signed) W. E. FRERE,
Acting A. G.

Damaun Castle,
17th June, 1851.

Annex C. No. 38

National Archives, New Delhi

For. Secret No. 521 of 27 Nov., 1857.

Fort William,
Foreign Dept.,

27th November, 1857.

No. 4781.

To

His Excellency the Govr. Genl., of the Portuguese Possessions in
India.

Excellency,

It has given the Supreme Govt. great satisfaction to learn from the Bombay Govt. of Your Excellency having permitted a detachment of British Troops, destined for the Southern Maharatta Country, to pass through the Goa Territory, and of the authorities there having rendered the detachment every assistance in its transit.

2. I beg Your Excellency will accept the thanks of the Supreme Govt. for the ready and cordial assistance afforded by yourself, and the authorities under you, on the occasion referred to, and be assured that the Govt. looks upon it as a real proof of Your Excellency's desire to carry out the instructions which have been sent to you by the Govt. of Portugal in reference to the revolt in British India.

I have etc.

(Signed) CANNING.

Annex C. No. 39

Record Office, Bombay

1859

POLITICAL DEPARTMENT

Volume 8. No. 1022.

DAMAUN

Regarding to the case of two Portuguese Soldiers who were deprived of their Bayonets by the Police of Tarrapoor in the Tanna Collectorate

No. 80 Pol. Cons. 3 June, 1859. No. 4502A.

Page No. 259 to 260.

From

The Governor General of Goa.

To

His Excellency Lord Elphinstone Governor of the Presidency of Bombay.

Dated New Goa. 16th May, 1859.

Most Ill. and Exct. Sir,

I have the honor to bring to your Excellency's notice, that the Government of Daman informs me, that having sent to Bassein two Soldiers with broad belts and bayonets and furnished with the necessary passes bearing the Government seal on them, for the purpose of escorting thence to Damaun, the Judge, Mr. Cartano de Souza Varconcellov, expected from Bombay, and also of serving him as interpreters of the Gozarathee Language they (the Soldiers) were disarmed of their bayonets by the Police Officers at Tarrapoor, notwithstanding that they produced their passes to him. They were moreover told, their bayonets would not be given to them, but that if they wished they might proceed onwards or go back—The soldiers then returned to Damaun with the said Judge, without their bayonets. This circumstance has been represented to the Magistrate of Tanna but no reply has yet been received.

I regret the occurrence of such a case, and request that your Excellency will issue the requisite instructions with the view to prevent a recurrence of the same. In the territories of Damaun and Goa, English soldiers carrying arms are allowed to pass unmolested, and it is not to be expected that Portuguese soldiers will be stopped from doing the same within British territories particularly as there is this additional circumstance connected with Damaun, viz., that there are several Portuguese villages situated within the limits of the British Territory.

I have the honor to be

Your Excellency's

Very Attentive Servant.

(Signed) Illegible.

(True Translation)

(Signed) Illegible,

Portuguese Translator.

POLITICAL DEPARTMENT

Vol. No. 8 of 1859, Page No. 262.

RESOLVED—

That the Magistrate of Tanna be directed to send the bayonets of the two Portuguese soldiers to Damaun with as little delay as may be practicable and with a letter intimating that the soldiers were deprived of their arms through a misapprehension of orders. Portuguese soldiers having passes should be permitted to retain their arms.

The Governor General should be informed of the issue of these orders with an expression of the regret of this Govt. that the inadvertence should have occurred.

POLITICAL DEPARTMENT

Vol. No. 8 of 1859.

Pol. Cons.: 1859 No. 4502C. Page No. 267 to 268.

IMMEDIATE.

No. 2547 of 1859.

Political Dept.

To:

J. R. Morgan, Esquire
Magistrate of Tanna.

Sir,

I am directed by the R.H.G.C. to forward to you the enclosed translation of a letter from H.E. the Governor General of Goa dated the 16th of last month, No. 80, relative to the case of two Portuguese Soldiers who were deprived of their Bayonets, by the Police of Tarrapoor in the Tanna Collectorate, and to request that you will after making the necessary enquiry report to Government the circumstances under which the two soldiers were so disarmed.

2. I am at the same time desired to request that you will direct the restoration of the arms to the Portuguese authorities at Damaun with the least practicable delay.

(Initialed) Illegible.

Bomba y Castle,
22nd June, 1859.

POL. DEPT.

Vol. No. 8 of 1859. Page No. 269-70.

No. 1,001 of 1859.

From:

J. R. Morgan, Esquire,
Magistrate of Tanna.

To:

Tanna Magistrate's Office,
Matheran.
3rd June, 1859.

Political Department. Bombay.

Sir,

In acknowledging the receipt of your letter No. 1962 of the 2nd Instant—I have the honor to state for the information of Govt. that on receipt of a report from the Sunjan District Police Officer dated the 25th of April last—that two Seapoys belonging to the Daman Government had been stopped by the Police at Dhanoo, and that tho' they were furnished with a pass no mention was made about arms—and that two bayonets had been detained. I immediately instructed the District Police Officer on the 2nd May last that the arms had been improperly detained and that they were to be immediately conveyed to Deman—this was done and their receipt acknowledged under date the 19th ultimo. I also beg to state, that on the receipt of a letter from the Governor of Demaum, dated the 28th April last on this subject, a reply was returned on the 2nd ultimo, that the Police Officer had been instructed to convey the arms to Deman.

I have the honor to be,

Sir,

Your most obedient Servant,
(Signed) Illegible,
Magistrate.

POLITICAL DEPARTMENT

Vol. 8 of 1859.

Pol. Cons: 1859, No. 5237. Page No. 273.

No. 2536 of 1859.

To

J. R. Morgan Esquire,
Magistrate of Tanna.

Sir,

I am directed by the R.H.G.C. to acknowledge the receipt of your letter No. 1001 dated the 3rd instant relative to the detention of the

bayonets of two Portuguese Soldiers by the district Police Officer of Tarrapoor.

2. In reply I am desired to inform you that your proceedings are approved by Govt. and that a communication to the effect of your letter will be made to the Governor General of Goa.

(Initialled) Illegible.

B. Castle,
21st June, 1859.

POL. DEPARTMENT

Vol. 8 of 1859.

Pol. Cons. 1859, No. 5361. Page No. 275-76.

To

His Excellency the Most Illustrious
General Viscount De Torres Novas
Governor General of Portuguese India.
Goa.

Most Illustrious and Excellent Sir,

I have the honor to acknowledge the receipt of your letter No. 80 dated the 16th ultimo relative to the case of two Portuguese Soldiers who were deprived of their bayonets by the Police of Tarrapoor in the Tanna Collectorate.

2. In reply I beg to inform your Excellency that in a communication received from the Magistrate to Tanna that Officer states that on the 25th April last he received a report from the District Police Officer at Dhanoo to the effect that the bayonets of two Portuguese soldiers had been detained by him because in the Pass they carried no mention was made of arms.

3. The Magistrate further states that immediately on the receipt of the above report he instructed the District Police Officer to cause the bayonets to be sent to Demaun as they had been improperly detained, and that the arms were accordingly sent to, and made over to the authorities at that place by whom their receipt was duly acknowledged.

4. From the foregoing statement your Excellency will perceive that the arms of the two Portuguese Soldiers were detained through an inadvertence which this Government regrets and which I hope will not occur again.

(Initialled) Illegible

B. Castle,
24th June, 1859.

For approval
(Signed) Illegible.
Secy. to Government.

POLITICAL DEPARTMENT

Vol. 8 of 1859, Comp. 1022.

Translation of letter from the Governor General of Goa to the Governor of Bombay (done on 5/2/1957).

The General Viscount of Torres-Novas, Governor General of Portuguese India, to His Excellency, Lord Elphinstone.
Governor of the Bombay Presidency.

Ill. and Exc. Sir,

I have the honour to inform you that the Governor of Damão has stated to me that having sent from there, with the necessary authorizations sealed with the Government seal, two soldiers to Bassein, armed with broad belts and bayonets, in order to escort to Damao the judge Caetano de Souza e Vasconcellos, who was in Bombay, and to act for him as Gujrati interpreters, they were disarmed, their bayonets having been taken from them, by the police officer of Trapor, despite the fact that he was shown the said authorizations; furthermore he declared to them that he was not ordering the return to them of their bayonets, and that they should either proceed or go back; accordingly the soldiers returned to Damão with the said judge, without their bayonets; and a representation having been made to the Magistrate of Thana the latter did not reply.

Regretting that such an incident should have taken place, it behoves me to request Your Excellency to take steps with a view to prevent such incidents, in view of the fact that in the territory of Damão and in that of Goa English soldiers come and go armed without anybody causing them hindrances when they hold the necessary authorizations issued by the English authorities; and consequently it is not to be expected that the same procedure should not be adopted in respect of the Portuguese soldiers in the British territories, inasmuch as in Damão it so happens that there are many Portuguese villages surrounded by British territory.

I have the honour to be, Sir, yours faithfully,

(Signed) VISCOUNT OF TORRES-NOVAS,
Nova Goa, dated the 16th May, 1859.

NOTE:—Contemporary translation is already in the file. It, however, differs slightly from the above translation which is more accurate.

Annex C. No. 40

National Archives, New Delhi

FOREIGN POLITICAL A. SEPTEMBER, 1881

Nos. 81-90

TREATY OF COMMERCE AND EXTRADITION

BETWEEN HER MAJESTY AND THE KING OF PORTUGAL AND THE ALGARVES
WITH REFERENCE TO THEIR INDIAN POSSESSIONS

Signed at Lisbon, December 26th, 1878.

(Ratifications exchanged at Lisbon, August 6th, 1879.)

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and his Most Faithful Majesty the King of Portugal and the Algarves, being equally animated by the desire to draw closer the ancient ties of friendship which unite the two nations, and to improve and extend the relations of commerce between their respective dominions, and judging it convenient to substitute for the privileges accorded to Portuguese commerce at Surat a system more in harmony with the fiscal interests of British India and those of Portuguese India, Their Majesties have resolved, with these objects, to establish a Customs Union between the possessions of their respective Crowns in India, and to conclude a Treaty of Commerce and Extradition for the said possessions.

And for these purposes have named as their Plenipotentiaries, that is to say:—

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, Robert Barnet David Morier, Esquire, Companion of the Most Honourable Order of the Bath, Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty at the Court of His Most Faithful Majesty, &c., &c., &c.,

And His Most Faithful Majesty the King of Portugal and the Algarves, Senhor Joao de Andrade Corvo, Councillor of State, Peer of the Realm, Minister and Secretary of State for Foreign Affairs, Professor in the Polytechnical School of Lisbon, Lieutenant-Colonel of Engineers, Knight Grand Cross of the Ancient, Most Noble and Illustrious Order of St. James for the reward of Scientific, Literary and Artistic Merit, Knight Commander of the Order of Christ, Companion of the Military Order of Aviz, Effective Knight Grand Cross of the Order of the Rose of Brazil, Knight Grand Cross of the Legion of Honour of France, of Leopold of Austria, of Saints Maurice and Lazarus of Italy, of the Royal Order of Charles the Third of Spain, of the Order of the Polar Star of Sweden, Officer of Public Instruction in France, &c., &c., &c.,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following Articles:—

ARTICLE I.

There shall be reciprocal freedom of commerce, navigation and transit between the Indian dominions of the High Contracting Parties.

Such freedom of commerce, navigation and transit shall not extend to contraband, articles of war, or to articles of which the exportation or importation is prohibited by this Treaty, or by any law not inconsistent therewith, now or for the future in force in the Indian dominions of either Party.

ARTICLE II.

The subjects of each of the High Contracting Parties shall be entitled to enter into and to travel and reside in the Indian dominions of the other; to have and own lands and houses therein; to open warehouses and wholesale and retail shops, and otherwise to trade with perfect freedom therein.

The subjects of each of the High Contracting Parties availing themselves of the above permission shall enjoy in the Indian dominions of the other, in respect of commercial and industrial pursuits, all privileges, immunities and other advantages which are or may be accorded to the subjects of the other, and shall not be liable to any general, special or local imposts whatever, except those which are or may be imposed on such subjects; but they shall be in all respects amenable to the general laws and statutes in force in such dominions.

ARTICLE III.

The ports, harbours, roadsteads, basins, creeks and rivers in the Indian dominions of each of the High Contracting Parties shall be open to the commerce and navigation of the subjects of the other, on the same conditions as those on which they are open to the subjects of the Party in whose dominions they are.

The coasting and carrying trade, between one port and another in the Indian dominions of each of the High Contracting Parties shall be open to the vessels of the other, without any restriction except such as is or may be imposed upon national vessels.

No vessel of one of the High Contracting Parties shall be subjected by the other to any harbour or navigation dues of any description whatsoever, or to any regulations for stationing, loading, unloading, or otherwise, to which national vessels are not equally subject, or shall be denied any privilege which is accorded to such vessels.

The High Contracting Parties reserve to themselves respectively the right of retaining, increasing, modifying and abolishing the dues and charges on navigation in their respective Indian dominions, and of establishing new dues and charges of a like nature.

ARTICLE IV.

The privileges and engagements comprised in Articles I, II and III of this Treaty shall extend to Native States which, by Treaty with Her Britannic Majesty or otherwise, may be entitled to be placed, in the matters referred to therein respectively, on the same footing as British India. The Governor-General of British India will, from time to time, communicate to the Governor-General of Portuguese India a list of such Native States.

ARTICLE V.

The High Contracting Parties agree to use their best endeavours to establish between their respective systems of moneys, weights and

measures the harmony desirable for the development of commercial relations between their respective dominions.

The detailed measures to be adopted shall form the subject of a separate Convention between the Governor-General of British India and Portuguese India, to be executed within two years from the date when this Treaty comes into force.

ARTICLE VI.

The High Contracting Parties, being equally animated by the desire of procuring for their respective subjects new facilities of communication, and of extending the external commerce of India, agree to the following stipulations:—

(A) Whenever His Most Faithful Majesty shall give notice to Her Britannic Majesty that a joint company has been formed for the construction of a railway from the port of Marmagaum to the town of New Hubli, and that His said Majesty proposes to give to the said company a concession of powers and facilities for the construction and maintenance of the portions of the said railway lying within Portuguese India, and the rendering of the said port safe and suitable for purposes of commerce, Her Britannic Majesty engages, upon being satisfied that such concession is suitable and sufficient, and that the capital necessary for the undertaking is forthcoming, and upon the said concession being actually granted by His said Majesty, to enter into a contract with the said company, providing for—

(1) The grant, upon the same terms as those upon which land has been granted to guaranteed railway companies in British India, of whatever land may be temporarily or permanently necessary for the construction and maintenance of the portion of the line lying within British territory.

(2) The use of Her Majesty's best endeavours to obtain from any Native State whose territory the line is intended to traverse the grant on the same terms of whatever land may be so necessary for the said purpose, but subject to Her Britannic Majesty's Imperial jurisdiction and sovereignty.

(3) The affording of all usual and reasonable facilities for the making and working of the line.

(4) The conveyance by the said company, on the whole line of railway between Marmagaum and New Hubli, or any part thereof, upon terms similar to those on which the same are conveyed upon the guaranteed railways in British India, of Her Britannic Majesty's mails, post-office officials, police, artisans, and stores, and also (subject in the case of transit through His Most Faithful Majesty's territory to the provisions of Article XVIII of this Treaty) of her troops, arms and munitions of war.

(5) The right of Her Britannic Majesty to construct and maintain an electric telegraph on such whole line, or any part thereof.

(6) The right of Her Britannic Majesty to construct from any point or points of the said whole line a line of railway to Karwar, and lines to any other places in British India, and the use, with engines, carriages, and otherwise, for the purposes

of any such lines, of the whole or any part of the company's said whole line, and the stations, works, watering places, and conveniences thereof upon such terms and considerations as may be mutually agreed upon or settled by arbitration.

(7) The exercise by Her Britannic Majesty, in respect of the portion of the said whole line situated within British India, of all powers usually exercised, or provided to be exercised, over any of the guaranteed railways aforesaid and the subjection of the said company to any enactment for the regulation of the affairs of railways which may be passed by the Legislative Council of the Governor-General of British India.

(B) In the event of a contract, as contemplated in clause (A) of this Article, being entered into within two years from the date of this Treaty coming into force, or otherwise previous to the completion by Her Britannic Majesty of an Imperial State railway between the towns of New Hubli and Bellary, Her Britannic Majesty further engages to include in such contract, should the said company so desire, the further right to complete and maintain the line of railway between the said towns, upon the same terms as those applicable to the line between the Portuguese frontier and New Hubli, together with the addition of an engagement on the part of the said company to take over on equitable terms to be mutually agreed upon or settled by arbitration, any portion of the said line then completed or under construction, and the works, stock or appliances appertaining thereto.

(c) Whenever either of the High Contracting Parties may be desirous of ascertaining the feasibility and the expediency of constructing a railway from the port of Marmagaum to the town of New Hubli and the advantages of such a railway to commerce generally, as compared with a railway from the port of Karwar to the said town, the said parties shall in concert appoint a Mixed Commission under the provisions of Article XVI of this Treaty, which shall cause a thorough survey to be made of the routes available, and any other investigations which may be necessary, and shall submit a report on the question. Each of the High Contracting Parties shall pay the salaries of its own engineers or officers engaged on the Commission or investigations, together with the expenses which the Commission may occasion in its own territories.

(D) In the event of His Most Faithful Majesty not finding it practicable or expedient to grant a concession to any joint stock company as contemplated in clause (A) of this Article, but on the report of a Commission appointed under clause (c) of the same establishing to the satisfaction of both Governments that a railway can be constructed from Marmagaum to New Hubli at a reasonable cost and with fair prospects of becoming remunerative, and that such a railway would be preferable, in the interests of commerce generally, to one from New Hubli to Karwar, the High Contracting Parties engage to adopt, in concert, such measures as may be compatible with their respective financial circumstances, with the view to ensure the construction thereof at as early a date as may be practicable.

ARTICLE VII.

In order, further, to carry out the desire of the High Contracting Parties that their respective Indian dominions shall become one territory in all matters relating to commerce, it is agreed as follows:—

All Customs duties, whether on import or export, now levied on the frontier lines between the Indian dominions of the High Contracting Parties shall be abolished, and all Customs establishments connected therewith shall be discontinued. All articles of commerce of whatever origin, which according to the provisions of this Treaty, may be imported into or exported from the Indian dominions of either party shall pass freely into or out of such dominions across such frontier lines, without being subject to any import, export or transit duty, and shall be in all respects treated not less favorably than similar national products.

All goods, the growth, produce or manufacture of the Indian dominions of one of the High Contracting Parties, or which have been legally imported into such dominions, may be conveyed by sea out of such dominions into the Indian dominions of the other without payment of duties of Customs.

With the view of preventing injury to the joint interests of the High Contracting Parties for the passage free of duty, of dutiable articles across those frontiers of Portuguese India which march with Native States not entitled to the same Customs' privileges as British India, and by the import from, and export to, such States, by sea, of such articles, the Government of Portuguese India will levy, on all goods passing such frontiers, or so imported or exported, duties at the rates for the time being in force under this Treaty in respect of similar goods respectively imported into, or exported from, Portuguese India from or to foreign countries.

The Governor-General of British India will, from time to time, communicate to the Governor-General of Portuguese India a list of the Native States entitled to the same Customs' privileges as British India.

ARTICLE VIII.

In order to insure that the complete freedom of intercourse between their respective Indian dominions, which it is the desire of the High Contracting Parties, to provide, shall produce beneficial results, without prejudice to the financial interests of either, it is hereby agreed that there shall be a Customs union between the said dominions on the following terms:—

The laws and regulations relating to the levy of Customs' duties on goods exported or imported by sea, and the administration of the Department of Customs, shall be uniform throughout the said dominions, in so far as the High Contracting Parties, acting in concert, may deem practicable after taking into consideration any special circumstances which may exist in the case of the dominions of either of them.

The Tariff of Customs duties to be levied on goods exported or imported by sea shall, except as hereinafter provided, be uniform throughout the said dominions.

The Tariff annexed to this Treaty shall come into force upon the same date as the Treaty itself.

ARTICLE IX.

In order that each of the High Contracting Parties may preserve its legislative independence as regards its own dominions, without interfering with either the interests of the other or the objects of the Union, it is agreed as follows:—

(A) His Most Faithful Majesty reserves to himself the right to increase, reduce or abolish the export duties on any articles grown, produced or manufactured in Portuguese India. The Portuguese Indian origin of any articles for which any such privilege is claimed shall be duly established at the Custom-house of the port of exportation.

(B) His Most Faithful Majesty also reserves to himself the right to increase, reduce or abolish the import duties on such quantity of any articles as may be bona fide required for consumption within Portuguese India.

The quantity so required shall be from time to time determined by a Mixed Commission. The Commission shall be guided in its decision either by the consumption in the said dominions previous to the Union, with an augmentation, if necessary, for subsequent increase of population and resources, or by the consumption per head of population in other parts of India, the circumstances of which are generally similar.

The whole quantity of any such articles which may be imported shall, in the first instance, be subjected to the payment of duty, and the amount of duty recovered upon any quantity for which exemption has been granted under the provisions of the preceding clauses shall at the end of the year be handed over out of the common receipt to the Government of Portuguese India, to be by them refunded *pro rata* to the several importers.

(C) A fixed quantity of the wines of Portugal, intended exclusively for consumption in His Most Faithful Majesty's Indian dominions, shall be admitted into the said dominions, on payment of the same import duty as at present, that is to say, at the rate of two xerafins and two tangas per almude, or two annas nine pies per gallon. The quantity entitled to this privilege is now fixed at 500 pipes or 41,500 imperial gallons, but shall, so long as this Treaty remains in force, be open to revision by a Mixed Commission, at the expiration of successive periods of three years.

(D) Wines of Portugal intended for consumption in British India shall not be subjected to duties different from or higher than those to which the wines commonly known as "Claret and Burgundy" may, from time to time, be subjected.

(E) Subject to the reservations contained in clauses (A), (B), (C) and (D) of this Article, His Most Faithful Majesty engages to give effect, in all Customs-houses in Portuguese India, to any modifications in the Tariff which the Government of British India may deem necessary; Provided always, that if the said modifications reduce

or abolish duties on importation, and His Most Faithful Majesty does not concur in them, the amount of loss of duty occasioned thereby on the quantity of any articles bona fide required for consumption within Portuguese India, as compared with the duty previously levied on such quantity, shall be added to the share of His Most Faithful Majesty in the common receipt which may be determined under the fourth paragraph of Article X of this Treaty. The said quantity shall, in the event of any difference of opinion, be determined under clause (B) of this Article.

ARTICLE X.

The produce of the said Customs duties at the ports of British India and at the ports of Portuguese India, or at all of such ports as may from time to time be found to be practically affected by the present Treaty, shall constitute a common receipt.

The said common receipt, after deduction of refunds (if any), but not of expenses of collection, shall be divided at the close of each year, upon the principle of securing to His Most Faithful Majesty the whole of the duties collected, at both British Indian and Portuguese Indian ports, on all dutiable articles consumed in or produced in Portuguese India.

Such registers and accounts of traffic shall be kept at the Custom-houses of both the High Contracting Parties, and upon any railway which may now or hereafter serve to connect their respective Indian dominions, as may be necessary to facilitate the division of the said common receipt.

The said division shall be practically effected either in accordance with the actual ascertained traffic from year to year or upon the basis of the estimated consumption per head of the population of Portuguese India, or otherwise, as the Governments of Bombay and of Portuguese India may from time to time determine, after full and fair consideration of all the circumstances of the case. In the event of any difference of opinion between them on the subject, the question shall be determined by a Mixed Commission.

The share of His Most Faithful Majesty in the common receipt, as thus ascertained, shall be augmented from the said receipt by three-fourths of its amount; the remainder shall constitute the share of Her Britannic Majesty.

ARTICLE XI.

The High Contracting Parties reserve to themselves respectively the right to maintain, modify, increase or abolish all internal duties of excise, or otherwise on production, manufacture or consumption existing in their Indian dominions, and to establish new duties of a similar nature: Provided always that the products of the Indian dominions of the one shall not be subject, in the Indian dominions of the other, to any duties except such as may be imposed on similar national products.

The High Contracting Parties recognise, however, that in the case of all products subjected to a duty sufficiently heavy to cause a serious difference in the price to the consumer, it is highly important to adopt in their respective dominions, as far as may be practicable, a uniform system of administration and duties.

Consequently, and with the view as well of preventing injury to the revenues of Her Britannic Majesty from a diversity of systems, as of

securing for His Most Faithful Majesty's Indian dominions the advantages of uniformity, the High Contracting Parties respectively engage to carry out the following stipulations regarding salt, spirits and opium.

ARTICLE XII.

His Most Faithful Majesty engages to grant to Her Britannic Majesty's Government of Bombay, for the period during which this Treaty may remain in force, the exclusive privilege of regulating or undertaking the manufacture and sale of salt in Portuguese India under the following conditions:—

(A) The proprietors or tenants of salt-works may, under the direction of the agents of the said Government, and subject to conditions mutually agreed upon between them, continue to manufacture salt on their own account, or manufacture salt on account of the said agents, or farm out their salt-works to them.

(B) If the said proprietors or tenants cannot arrive at a voluntary agreement with the said agents, the Government of Portuguese India will take such measures as may be necessary to let the said salt-works in farm to, and under the direction or administration of the said agents, so that the said agents may be able to cause salt to be made there in such manner as they may judge most suitable: Provided that when, on the expiration of the farm, the said proprietors obtain possession of the salt-works, they shall be entitled to compensation for damage (if any) resulting thereto from the farm, but shall not be liable to payment of compensation for improvements which may have been effected therein.

(C) The agents shall have the right to use the land adjacent to all salt-works for the purpose of transporting or depositing salt or other operations connected with the manufacture, provided that they do not interfere with the cultivation of the same. The proprietors or tenants of the said land, on their part, shall have the right to derive from the salt-works the same advantages, in respect of the cultivation of rice or other crops, as they have enjoyed hitherto, provided that they do not interfere with the manufacture of salt. The relations in this matter between the said proprietors or tenants and the said agents shall be determined by special rules made by the Government of Portuguese India.

(D) The Government of Portuguese India will cause the suppression of any salt-works which, in the opinion of the said agents, may be difficult to superintend or guard, or cannot be worked with profit.

(E) The Government of Portuguese India will secure to the said agents the acquisition, at a fair and reasonable price, of all the salt existing, or in course of manufacture, in Portuguese India at the time this Treaty comes into force: Provided that if the said agents do not wish to purchase the whole of the said salt, the owners thereof shall have the right of selling it locally, or of exporting it under the same conditions as hitherto.

(F) His Most Faithful Majesty will prohibit the manufacture and sale of salt, the collection of salt spontaneously produced, and

the transit and exportation thereof both by sea and land, by any persons not delegated in this behalf by the said agents, or who have not obtained from the said agents a permit in due form; and he will adopt in Portuguese India the procedure and penalties in force in British India for the repression of smuggling and contraband practices in respect of salt, with such modifications as the Portuguese Indian system of legislation and administration, or the diversity of circumstances, may necessitate.

(g) In order to insure the effective exercise of the privileges granted by this Article, His Most Faithful Majesty invests the said agents with the right—

(1) To enter and inspect at any time any salt-work or any warehouse or premises used for storing salt, or any vessel which has been or is proposed to be laden with salt.

(2) To search all persons, animals, carriages, vessels, goods and packages in or upon which they may have reason to believe contraband salt to be, or to be concealed.

(3) To arrest any person found in the act of smuggling or contraband practices, and any accomplice present: Provided that such person or accomplice shall be immediately delivered over to an officer appointed under paragraph (6) of this clause, or the nearest revenue or police station, or to the administrative authority of the parish.

(4) To seize any salt which they may have reason to believe to be contraband, and any animals, carriages, or vessels used in transporting it, or in or upon which it may be found, and all goods and packages in or among which it may be contained or concealed: Provided that everything so seized shall be retained in provisional custody, pending orders for the disposal thereof by competent Portuguese authority, to whom the seizure and the circumstances thereof shall be reported.

(5) To obtain from the competent local Portuguese authority, on written application, the arrest of any person whom such authority may have reason to believe to have been guilty of smuggling or contraband practices, and the search of any house, building, premises or vessel in which there may be reason to suspect that contraband salt is, or is concealed.

(6) For the purpose of co-operating with the said agents in the proceeding contemplated under the preceding paragraphs (1) to (5) inclusive, and of repressing smuggling and contraband practices in respect of salt, His Most Faithful Majesty engages to appoint such number of officers as he may from time to time deem fit, to reside at or near the several salt-works. The said officers shall, when called upon by the said agents, be legally bound to assist them in their proceedings aforesaid, and the said agents shall, except as otherwise permitted in paragraph (3), hand over to them all persons arrested and property seized, for delivery to the charge of higher Portuguese authority, or for provisional custody, as the case may be.

(7) It is to be understood that the said agents will be subject in every respect to the laws of Portuguese India, and will be

responsible, in accordance with those laws, for all abuses that may be committed by them, as also for all acts done on their requisition by the officers referred to in the last preceding paragraph.

(H) In consideration of the preceding stipulations of this Article, Her Britannic Majesty engages to pay just compensation to the proprietors of salt-works which have been let in farm to the said agents or suppressed, under the provisions of clauses (B) or (D) of this Article.

The compensation shall be awarded by a Mixed Commission, and shall be either in the form of an annual payment, or in some other form if the two parties interested prefer it. With respect to the amount, the Commission shall take specially into consideration:—

(1) The average annual proceeds of the salt-works during a series of years, up to ten if ascertainable.

(2) The average price of salt in the locality and (excluding duty) in the neighbouring districts of British India, during the preceding ten years.

(3) The damage (if any) caused to the proprietors by the suppression of their salt-works, or by deprivation of the free use of them with respect to other cultivation, or with respect to the exercise of other vested rights of property.

But with regard to salt-works which have been suppressed, the Commission shall make a deduction for the proceeds (if any) which the proprietors may gain from the lands if otherwise employed.

The Commission shall add to the sum determined on the above principles fifteen per cent. on the amount thereof. The total shall be the compensation awarded by the Commission to the proprietors.

The compensation so awarded shall be paid to the proprietors, who shall be responsible for the satisfaction of all just claims of other persons connected with them.

Provided always, that if the proprietors are dissatisfied with the award of the Commission, they shall be at liberty to have recourse to the ordinary procedure for expropriation established by the local law of Portugal. The amount of compensation so awarded to them by any local tribunal, whether more or less than that awarded by the Commission, shall alone be paid to them accordingly. But, in the event of such amount being in excess of the amount awarded by the Commission, the difference shall be defrayed by the Government of Portuguese India.

(i) Her Britannic Majesty engages also—

(1) To deliver to the Government of Portuguese India at the price of manufacture in those possessions respectively, the quantity of salt necessary for the domestic use and consumption of the inhabitants of the various Portuguese possessions in India.

This quantity shall be calculated annually at the rate of 14 lbs. per head of the ascertained population.

It is understood that His Most Faithful Majesty reserves to himself the right of causing the said quantity of salt to be sold to consumers at whatever price he may think proper.

(2) To sell to cultivators at a fair and reasonable price, and free of all duty, such quantity of inferior salt or salt spontaneously produced as they may bona fide require for the cultivation of the cocoanut tree, or for such other cultivation as may need this kind of manure.

(3) To supply the markets of Portuguese India, under conditions similar to those which may be from time to time in force in the neighbouring British Indian districts, with the quantity of salt which trade may require.

(4) To furnish the salt necessary to the fish salting trade under the most favourable conditions from time to time accorded to the same industry in British India.

(J) All differences arising with regard to the price of salt under the preceding clauses, (E) and (I), shall be determined by a Mixed Commission, or in such other manner as may be mutually agreed upon by the Governments of Bombay and Portuguese India.

ARTICLE XIII.

His Most Faithful Majesty engages to take such measures as may be necessary to insure that the system of excise on spirituous liquors, including toddy, whether in its fermented or unfermented state, sanctioned by law in the Presidency of Bombay, shall be introduced into, and effectively maintained in, Portuguese India.

The rates of excise duty levied accordingly in the several Indian possessions of His Most Faithful Majesty shall not, except in so far as may be mutually agreed upon between the Governments of Bombay and Portuguese India, be less than those levied for the time being in the British districts nearest to them respectively.

The Government of Bombay shall render cordial assistance to the Government of Portuguese India for the accomplishment of this end, by affording full information to Portuguese officers who may be deputed to study the British system, or otherwise, as may be in accordance with the wishes of the said Government.

ARTICLE XIV.

His Most Faithful Majesty engages, on receipt of a request from Her Britannic Majesty—

(A) To prohibit the exportation by sea or land of raw opium, or any preparation or admixture of opium, or any intoxicating drug made from the poppy.

(B) To prohibit the cultivation and manufacture of opium except on account of the Government of British India, and under restrictions and limitations similar to those for the time being in force in the Presidency of Bengal, the arrangements in this case being made through the Government of Portuguese India.

ARTICLE XV.

In consideration of the stipulations contained in Articles XI, XII, XIII and XIV of this Treaty, Her Britannic Majesty engages to pay

annually to His Most Faithful Majesty the sum of four lacs of rupees. The said payment shall be made quarterly, in equal instalments, by the Government of Bombay, within ten days after presentation to the said Government of bills of exchange drawn upon it by the Government of Portuguese India.

ARTICLE XVI.

Whenever it shall be necessary, under the provisions of this Treaty, to appoint a Mixed Commission, the Government of Bombay and the Government of Portuguese India shall each appoint not more than two Commissioners.

It shall be at the discretion of either Government to delegate its powers of appointing Commissioners to any officer whom it may think fit, and to cancel such delegation.

In cases of compensation, the Government of Portuguese India, or any officer delegated by it may invite the proprietors or others interested to nominate persons for appointments as Commissioners on their behalf, and may appoint such persons, or any of them, accordingly.

In the event of the death, resignation, prolonged absence, or incapacity of any Commissioners, the Government appointing him shall forthwith appoint another Commissioner in his place.

The Commissioners shall, before proceeding to any other business, select another person as President of the Commission.

If they shall be unable to agree, the selection shall be made by the majority of votes, and if the votes shall be equal, the Commissioner or Commissioners on behalf of each Government shall name one person, and it shall be decided by lot which of the two persons so named shall be President.

In the event of the death, resignation, prolonged absence, or incapacity of any President, another person shall be selected in the same manner to be President in his stead.

The President and Commissioners shall then proceed to the investigation of the matters referred to them, and the decision shall, in the event of difference of opinion, be according to the opinion of the majority, and shall be given in writing.

The Commission shall be competent to decide all questions which may arise regarding the payment of the expenses of the Commission, and may impose the payment thereof upon either of the High Contracting Parties, or upon persons to whom compensation is awarded.

The High Contracting Parties engage, except as otherwise provided in clause (H) of Article XII, to consider the decision as conclusive, and to give full effect to it.

ARTICLE XVII.

Each of the High Contracting Parties shall appoint one or more delegates for the purpose—

(A) of visiting the Custom-houses in the Indian dominions of the other, and taking note of all arrangements relating to the import and export of goods and the collection of duties; and

(B) of taking cognisance generally of all matters of administration connected with the freedom of commerce, navigation and transit, and the community of interest, established by the present Treaty.

The instructions to such delegates shall be framed in concert by the Governments of British India and Portuguese India, on the principle that the Government to which they are accredited shall with full sincerity afford to them every facility and all information which concern the objects for which they have been appointed, and that the delegates acting in concert, when necessary, shall use their best endeavours to overcome all difficulties, and to adjust all differences of system or opinion in a manner consistent with the common end and the ties which unite the two nations.

The delegates shall, with the least possible delay, prepare a complete system of statistics for Portuguese India, affording means of comparison, for the purposes of this Treaty, with the existing British Indian statistics.

ARTICLE XVIII.

The High Contracting Parties mutually agree to adopt in their respective territories suitable measures for the prevention and punishment of smuggling; or other evasion of the spirit of the arrangements relating to navigation, customs, salt, spirituous liquors and toddy, and opium effected by this Treaty.

The revenue, magisterial and police authorities of the Indian dominions of the High Contracting Parties shall cordially co-operate with each other for the maintenance, on the common lines of traffic and elsewhere, of perfect security of persons and property; and in the pursuit of criminals and persons engaged in smuggling and contraband practices, the said authorities of the one High Contracting Party may cross the frontier and enter the dominions of the other High Contracting Party: Provided that in such dominions they shall act in accordance with the local laws and the provisions of this Treaty.

The armed forces of one of the two High Contracting Parties shall not enter the Indian dominions of the other, except for the purposes specified in former Treaties, or for the rendering of mutual assistance as provided for in the present Treaty, or except in consequence of a formal request made by the party desiring such entry to the other.

The exportation of arms, ammunition or military stores from the Indian dominions of one of the High Contracting Parties into those of the other shall not be permitted, except with the consent of, and under rules approved of by, the latter. The Governments of British India and Portuguese India shall co-operate to enforce all such rules as are herein contemplated.

The Governor-General of British India will from time to time communicate to the Governor-General of Portuguese India a list of the Native States to be placed, in respect of arms, ammunition and military stores, upon the same footing as British India.

ARTICLE XIX.

The High Contracting Parties engage to deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall be found in the Indian dominions or jurisdiction of the other party.

The circumstances and conditions under which, and the crimes for which, such persons are to be delivered up shall form the subject of a separate Convention between the Governors-General of British India

and Portuguese India, to be executed at the earliest date possible after the ratification of this Treaty.

Such Convention shall have the same binding character as the present Treaty, and shall continue in force for the same period.

ARTICLE XX.

The High Contracting Parties engage that Commissions issued in criminal trials and inquiries, and in civil suits and proceedings by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, shall be executed according to the provisions of the laws of the dominions where the witness resides.

ARTICLE XXI.

The High Contracting Parties engage to recommend to the Legislatures of their respective dominions all such projects of law, and to adopt such other measures as may now or hereafter be necessary for the due fulfilment of the several obligations contracted by them respectively under the provisions of this Treaty.

ARTICLE XXII.

The present Treaty shall come into force at the expiration of three months after the day of the exchange of ratifications, and shall remain in force for the period of twelve years; and in case neither of the High Contracting Parties shall have notified to the other, twelve months before the expiration on the said period of twelve years, its intention to put an end to its operation, the Treaty shall continue in force for another period of twelve years, and so on for successive periods of twelve years, until the expiration of a year counting from the day on which one or other of the High Contracting Parties shall have announced its intention to put an end to it.

ARTICLE XXIII.

The present Treaty shall be submitted for the ratification of the High Contracting Powers, and the ratifications shall be exchanged at Lisbon or at London as soon as possible.

In faith whereof the respective Plenipotentiaries have signed it, and have affixed thereto the seals of their arms.

Done in duplicate at Lisbon, on the twenty-sixth day of December, in the year of our Lord, 1878.

(L.S.) R. B. D. MORIER.

(L.S.) Joao DE ANDRADE CORVO.

Annex C. No. 41

National Archives, New Delhi

FOREIGN DEPARTMENT

1895. Nos. 7-24.

No. 58.

Dated New Goa, 27th May, 1892.

From—

The Governor-General of Portuguese India.

To—

His Excellency the Governor of Bombay.

With the object of solving certain difficulties that have arisen in connection with the free transit of merchandise in the Portuguese District of Daman, which is not a continuous territory, but is intercepted by villages belonging to the dominions of the Raja of Dharampur, a feudatory of Her Britannic Majesty's Government, I have the honour to request Your Excellency's attention to the follows:—

From the aforesaid solution of the continuity of the territory of Daman, which comprises two districts—Daman Proper and Nagar Haveli, the latter supplying the cereals and other products for consumption by the inhabitants of the former, it happens that in the transit from one district to the other, it is necessary to pass through foreign territory; a transit that was free while the Anglo-Portuguese Treaty of 26th December, 1878, was in force, and it was so before the Treaty. The transit was only subject to passes issued by the Portuguese Authorities of the District of Daman, with the concurrence of the British Authorities; this practice was reciprocally observed at the customs posts, both Portuguese and British, and it was therefore in letter of 10th May, 1869, that the Governor of Daman was directed to levy no duty on merchandise entering or leaving the Daman territory.

After the expiration of the Treaty it has been observed that at the British fiscal posts, the free transit of merchandise between the two above-named districts is not permitted; and this gives rise to serious inconvenience to the inhabitants of the villages in the said districts.

In bringing the above fact to Your Excellency's notice I request that Your Excellency will be so good as to issue the necessary instructions with a view to all products leaving any part of the Portuguese territory of Daman, and passing from one district to the other, being allowed transit free of duty in British territory, or territory belonging to the Raja of Dharampur.

As regards the Portuguese Authorities, I assure Your Excellency that this condescension on the part of the British Authorities will be duly returned by an equal exemption from duty of products passing from British territory or territory under British protection.

Confiding in Your Excellency's benevolent disposition I expect this subject will meet with due attention; the request is justifiable, looking to the practice followed and observed formerly, before the Treaty of

26th December, 1878, it being certain also that at present British trade in Goa enjoys the benefit of paying no transit dues, when from British posts it passes on to the Ghauts, crossing the Marmagao Railway Line.

Should Your Excellency agree with my proposal as I trust you will, I shall direct that the transit of products or merchandise be deemed licit only under printed passes signed by the Governor of Daman, when proceeding from Daman to Nagar Haveli, and vice versa by the Administrator of Nagar Haveli; both these authorities leaving their respective signature at all the British fiscal posts now existing between the two districts. It will be convenient also, that the same practice be observed with regard to British products which may have to pass through Portuguese territory.

Your Excellency will greatly oblige me by a short reply to this letter.

FOREIGN DEPARTMENT

Dec. 1895. Nos. 7-24.

No. 3894.

Dated Poona, 3rd August, 1892.

Memo. from the Commissioner of Customs, Salt, Opium and Abkari, Bombay

In this Despatch the Governor General of Portuguese India requests that the necessary instructions may be issued "with a view to all products leaving any part of the Portuguese territory of Daman and passing from one district to the other being allowed transit free of duty in British territory or territory belonging to the Raja of Dharampur". In return His Excellency offers "an equal exemption from duty of products passing from British territory or territory under British protection".

If this request be acceded to, a serious loss of revenue will result. Salt, liquor and other dutiable goods will be taken in large quantities under the Governor's passes from Daman to Nagar Haveli outside the Preventive Line and Land Customs Stations, and the bulk of it will be consumed in British territory. Undersigned solicits a reference to his letter No. 2826, dated 14th June last, giving the past history of the exemption from duty accorded to the produce of Nagar Haveli. That exemption was limited to goods the produce of Nagar Haveli brought under the Governor's passes from Nagar Haveli to Daman and the vernacular orders* issued for the guidance of the establishment after receipt of the Secretary of State's despatch of 6th September, 1861, allowed no exemption to goods carried from Daman to Nagar Haveli nor up to the coming in force of the Treaty of 1878 was any exemption allowed in respect of such goods.

* Translation: attached.

In 1869 the Governor of Daman applied to Mr. Faulkner, then Deputy Commissioner of Customs, N.D. for permission to pass two casks of wine free of duty from Daman to Nagar Haveli. Mr. Faulkner refused stating in a letter No. 392, dated 24th June of that year, that he was "only authorised to exempt from the payment of duty articles the produce of Nagar Haveli when taken from that place to Daman and covered by a pass under Your Excellency's signature". The Governor remonstrated,

but Mr. Faulkner reiterated his refusal, though in compliance with a subsequent request from the Governor he gave permission for the wine to be taken back from the Naka at which it was stopped to Daman.

3. The exemption in favour of the produce of Nagar Haveli was extended to the produce of Dabel, a village on the main road from Wapi to Daman, by Mr. (now Sir Charles) Pritchard's letter to the Governor, No. 4460, of 24th July, 1877, on condition that the goods were covered by a certificate of origin and conveyed by the made road between Dabel and Daman pass the Custom House at Kunta. His Excellency was at the same time requested to take special precautions against abuse of the concession and to secure that no goods except those actually produced in Dabel should be presented for free transit.

This concession was not inconsistent in any way with the limitations placed up to that time on the exemption under consideration, as the village of Dabel is not entirely detached from Daman territory and its produce could, therefore, be conveyed to Daman, without passing through any part of British India. The concession merely enabled the inhabitants of the village to make use of the made road and relieved them of the inconvenience of having to send their produce by a circuitous route over bad roads.

4. The correspondence, copy of which is annexed, to this report will explain the letter of 10th May, 1869, from the Governor-General of Portuguese India to the Governor of Daman referred to by Senor Teixeira da Silva. It may be briefly summarised as follows:—

On 1st April, 1869, Mr. (now Sir Theodore) Hope, as Collector and Agent at Surat, called upon Mr. Faulkner for an explanation of the detention at the Kunta Naka of certain goods in transit from Nagar Haveli to Daman. In his reply dated 17th idem, Mr. Faulkner stated that no goods of any description passing from one part of Portuguese territory to another and covered by the Governor's pass were ever "prohibited" at the Kunta or other Nakas on the Bagwara Frontier. A copy of this reply was sent by Mr. Hope to the Governor, who in his answer dated 23rd idem stated that he would "give the convenient mandates in order that the permits covering the goods from Portuguese Pargana to Daman be made out correctly in all details."

Subsequently on Mr. Faulkner, as above related, refusing exemption to a consignment of wine sent from Daman to Nagar Haveli, the Governor informed him under date 25th June, 1869, that upon receipt of a copy of his letter to Mr. Hope of 17th April, he "solicited immediately and obtained from His Excellency the Governor-General of Portuguese India that likely all the goods of any description by Portuguese Nakas of the jurisdiction of Daman from whatever part of the British Territory to any other should never be prohibited and might pass free of duty".

This no doubt was the Goa letter of 10th May, 1869, referred to in the Governor-General's despatch of 27th May last now under report. Mr. Faulkner in his reply dated 1st July of the same year explained that his letter of 17th April on which the Governor had acted "had reference only to the passing of goods from Nagar Haveli to Daman under Your Excellency's passes, as will be seen by a perusal of all the correspondence that has taken place on the subject."

5. It will thus be seen that the account given by His Excellency the Governor-General of the practice in vogue before the Treaty is incorrect

in some important particulars and the general and unrestricted exemption he now asks for would go far beyond any previous concessions regarding the traffic between Nagar Haveli and Daman.

6. Undersigned would strongly deprecate any exemption from duty being now granted to goods forwarded under the Governor's passes from Daman to Nagar Haveli as abuses which it would practically be impossible to control would inevitably spring up.

As regards the exemption from export duty of rice, the produce of Nagar Haveli when taken to Daman for consumption in that place, undersigned would point out that even that concession would involve a not inconsiderable sacrifice of revenue, as Mr. Pogson reports that the duty on rice levied at these Nakas since the 15th January last amounts to more than Rs. 5,000. The whole of the rice on which duty was paid was not the produce of Nagar Haveli, but as the Customs Officers have no means of knowing where rice brought for export was produced, but must trust to the Governor's passes which, as past experience shows, are very easily obtained, it is probable that the collections will dwindle very much if the exemption is granted.

7. So far as undersigned is aware there are no special grounds for relinquishing without equivalent the revenue which will be sacrificed if the exemption asked for is granted, and past experience in connection with the abolished firman privileges as well as with the Aujediva and Nagar Haveli exemptions from duty goes to show that arrangements with the Portuguese of the kind proposed by the Governor-General invariably lead to complications and loss of revenue.

It is true that goods from British posts taken above the Ghauts via the Marmagoa Railway are not charged duty, but this is owing to the fact that the application of the Portuguese tariff to such goods would at once put a stop to all goods traffic on the West of India Portuguese Guaranteed Railway and thereby seriously add to the already heavy burden on the finances caused by this Railway. The remission of their customs duty on through goods is, therefore, dictated by an enlightened self interest, a motive which does not seem to apply in the case of the remission, asked for, of the Customs duties levied on the frontier of Daman.

FOREIGN DEPARTMENT

Dec., 1895.

Extract from the Proceedings of the Government of Bombay in the Political Department, No. 1251, dated Bombay Castle, the 21st February, 1893.

Letter from the Governor-General of Portuguese India No. 58, dated the 27th May, 1892. Suggesting, with the object of solving certain difficulties that have arisen in connection with the free transit of merchandise in the Portuguese District of Daman, which is intercepted by villages belonging to the dominion of the Raja of Dharampur, that this Government will be so good as to issue the necessary instructions with a view to all products leaving any part of the Portuguese territory of Daman and passing from one District to the other, being allowed transit

free of duty in British territory or territory belonging to the Raja of Dharampur. Intimating that this condescension on the part of the British authorities will be duly reciprocated by an equal exemption from duty of products passing from British territory or territory under British protection. Stating that if his proposal is agreed to, he will direct that the transit of products or merchandise be deemed licit only under printed passes signed by the Governor of Daman, when proceeding from Daman to Nagar Haveli, and vice versa by the Administrator of Nagar Haveli, both these authorities leaving their respective signatures at all the British fiscal ports now existing between the two districts; and adding that it will be convenient also that the same practice be observed with regard to British products which may have to pass through Portuguese territory.

Memorandum from the Revenue Department, No. 6752, dated the 22nd August, 1892—Forwarding, with reference to this Department memorandum No. 4051, dated the 21st June, 1892, copy of a memorandum No. 3894, dated the 3rd August, 1892, and of its accompaniments from the Commissioner of Customs, Salt, Opium and Abkari, who states, for the reasons given, that, so far as he is aware, there are no special ground for relinquishing without equivalent the revenue which will be sacrificed if the exemption asked for by the Portuguese Government is granted, and that past experience in connection with the abolished firman privileges as well as with the Anjdiva and Nagar Haveli exemptions from duty goes to show that arrangements with the Portuguese Government of the kind proposed by the Governor General invariably lead to complications and loss of revenue. Adding that Government in that Department concur in the view expressed by the Commissioner of Customs, &c.

Further memorandum from ditto ditto, No. 9593, dated the 8th December, 1892—Transferring, with reference to this Department memorandum No. 6470, dated the 14th October, 1892, copy of a report No. 5767, dated the 28th idem, from the Commissioner of Customs, &c., who explains the meaning of the term "transit duty" as used by the Portuguese Government and the term "Customs import duty" as used by the British authorities, and states that by whatever name the duties imposed on Portuguese goods in transit through British or British protected territory may be distinguished, the result on the revenue of British India of relinquishing them would be that described in his memorandum No. 3894, dated the 3rd August, 1892.

Further memorandum from ditto ditto, No. 799, dated the 28th January, 1893—Transferring, with reference to this Department memorandum No. 8231, dated the 23rd December, 1892, copy of a report No. 174, dated the 12th January, 1893, from the Commissioner of Customs, &c., who states that he is unable to suggest any precaution for the identification of rice as really the produce of Nagar Haveli, except that all rice for which the privilege is claimed should be covered by a certificate of origin bearing the official seal and signature of the Administrator of that Pargana, but that the precaution is, however, of little, if any, practical use as local Portuguese officials grant certificates conveying exemptions from payment of British duty with extreme facility; observes that it is for Government to decide whether, as the concession is not a nominal one but involves a substantial sacrifice of Customs revenue, it might not be made subject to withdrawal in the

event of rice which is not really the product of Nagar Haveli being brought for exportation under cover of passes issued by the Governor of Daman; adds that accounts should be kept at the Frontier Custom Houses of the quantity of rice which is passed free under Portuguese passes in order that any abnormally large free exportation may attract attention. Transferring also a minute recorded in that Department by the Honourable Mr. A. C. Trevor on the subject.

RESOLUTION.—The Governor-General of Portuguese India should be informed in reply to his letter No. 58, dated the 27th May, 1892, that the Goa Treaty of 1878 having lapsed, this Government is prepared to restore the status quo ante and allow rice, the produce of Nagar Haveli, to pass free of duty into Daman whether for local consumption or for export, as was done before the Treaty came into force, subject to such precautions for its identification as really the produce of Portuguese territory as may from time to time be found necessary; beyond this concession, this Government regrets that it cannot go.

W. LEE-WARNER,
Secretary to Government.

Annex C. No. 42

National Archives, New Delhi

INTERNAL A. DECEMBER, 1895

Nos. 7-26.

PROPOSAL TO WITHDRAW THE CONCESSION PERMITTING THE PASSAGE, FREE OF DUTY, INTO DAMAN, THROUGH INTERVENING BRITISH TERRITORY, OF RICE PRODUCED IN THE PORTUGUESE DISTRICT OF NAGAR HAVELI

From Bombay Government, No. 5224, dated the 21st August, 1895.

Forwards for orders certain papers regarding a proposal to cancel the orders of the Bombay Government permitting the export duty free from the Portuguese District of Nagar Haveli to Daman, through British territory, of rice being bonâ fide the produce of the Nagar Haveli District

ASSISTANT SECRETARY.

In February, 1893, the Bombay Government, on the representation of the Governor-General of Goa, ordered that rice produced in the Portuguese District of Nagar Haveli should be allowed to pass duty free through the intervening British territory into Daman, whether for local consumption or for export, provided the consignment was covered by (i) a certificate from the Administrator of Nagar Haveli, stating that the rice was the produce of that district, and (ii) by a pass from the Portuguese Governor of Daman.

The Commissioner of Customs, Salt, Opium and Abkari now reports that it had long been suspected that rice produced in British villages was being fraudulently exported into Daman under cover of Portuguese passes, and that this has now been proved to be a fact. No blame is attached to the Administrator of Nagar Haveli, but it is said that it would be impossible for him to prevent fraud in this direction, and that as British revenues are suffering, the concession should be put a period to.

The Bombay Government propose to accept the Commissioner's suggestion, but as this action might possibly lead to friction with the Portuguese Government and the concession concerns Imperial revenues, the orders of the Government of India are solicited.

To Finance Department for consideration in the first instance.

A. T. W.,—29-8-95.

C. E. P.,—30-8-95.

DEPUTY SECRETARY.

From 1861 to 1878 rice was allowed, so long as it was the produce of Nagar Haveli, to pass thence to Daman free of duty. Whilst the treaty was in force (up to February, 1892) articles of commerce passed free between the ten places under Articles VII of the treaty. Afterwards, till the Resolution* of the Bombay Government was passed, it is not quite clear what the position was, but as the Governor-General of Portuguese India alludes to difficulties having arisen in connection with the free

Secret I., July, 1891, Nos. 22-36.

* No. 1251, dated 21st February, 1893.

transit of merchandise, and the Resolution above quoted restored the "*status quo ante*" as regards the transit of rice, we may assume that during that period free transit was not allowed, by pass or otherwise.

The Resolution of 1893 made the Portuguese a substantial concession which had practically been in force for some 17 years before the treaty of 1878, and this concession having been made, its withdrawal is not unlikely, as the Bombay Government itself observes, to lead to friction with the Portuguese Government.

It is unfortunate that no remedy can be suggested to obviate its abuse; if such could be found, it would doubtless offer the best solution of the difficulty, for the present proposal seems somewhat harsh and sudden.

I venture to suggest whether it might not be found possible to pass free, a fixed amount of rice annually, from Nagar Haveli to Daman, calculated on the outturn deducting local consumption, and on the returns, which would be furnished by the Portuguese authorities, of this commodity, exported in past years from Nagar Haveli.

This would put a stop to British rice being passed through, for the amount to be passed free being fixed, it will be to the interest of the Nagar Haveli people to see that they get the full benefit of the concession themselves, and not allow British subjects to participate in it. The papers may be sent to the Finance Department for favour of consideration and advice.

J. H. SADLER.

30-8-95.

Yes. The Finance Department will no doubt consider Major Sadler's suggestion. (In the case of the Burma-China tariff the Honourable Finance Member remarked: "The export duty on rice is of no consequence." But I am not sure to what extents that remark was intended to apply.)

2. The Honourable Finance Member's note of the 6th instant on the Travancore case (which I came on after writing the above and have now linked) appears to indicate the necessity for guarding ourselves against excessive export through Daman.

H. DALY.

14-9-95.

To Finance Department unofficial No. 2189-I., dated the 16th September, 1895.

Finance Department, unofficial R. No. 6447, dated the 17th September, 1895.

ASSISTANT SECRETARY.

For orders.

C. C. M.,—19-9-95.

J. O. P.,—20-9-95.

SECRETARY.

There is no special reason for making any concession to the Indo-Portuguese Government which have never shown themselves well disposed to aid us in fiscal matters. On the contrary, in connection with the Goa Treaty they behaved very badly.

The Governor General in his letter No. 58, dated 27th May, 1892, says that free transit was not allowed.
J. H. SADLER.

Page 7, K.-W. Secret E., June, 1894, Nos. 387-422.

When dealing with them in such cases we ought simply to stand upon our rights and make no concession unless one of equal value can be extracted from them.

In the present case it appears clear from the final paragraph of the letter from the Commissioner of Customs dated the 8th March that the concession has been much abused. Probably the Portuguese themselves could not prevent the abuse if they tried, but they are certainly not the people to try. The only course open seems to be to tell the Goa authorities how the matter stands, and say that if any practical suggestion for the prevention of abuse can be made, it will be fully considered, but that meanwhile and provisionally to prevent further loss of revenue, the concession will be withdrawn one month after the date of the letter to the Governor-General at Goa.

O'CONOR.

23-9-95.

HONOURABLE MEMBER.

J. F. FINLAY.

24-9-95.

(1) I would like to have a map shewing how these territories lie.

(2) I understand we have no preventive line between Nagar Haveli and British territory.

J. W(ESTLAND).

25-9-95.

ASSISTANT SECRETARY.

(1) Please see the map tied to this file. The Revenue and Agricultural Department, from which it has been obtained, has asked that it may not be folded.

(2) It would appear from paragraph 10 of the letter from the Commissioner of Customs, Bombay, of the 9th April, 1892, that there is no preventive line between Nagar Haveli and British territory. It has been ascertained from the Expenditure Branch that no later proposals have been received from Bombay than those contained in the Proceedings of October, 1893, for the establishment of preventive lines on the frontiers of the Portuguese possessions in that Presidency.

J. O. P.,—8-10-95.

SECRETARY.

O'CONOR.

8-10-95.

HONOURABLE MEMBER.

J. F. FINLAY.

9-10-95.

I agree in Mr. O'Conor's note. It is for the Portuguese authorities to propose a means of preventing the abuse of the concession. The fact that it is abused is sufficient warrant for our withholding it.

J. W(ESTLAND).

11-10-95.

To Foreign Department unofficially.

Finance Department unofficial I. No. 6675, dated the 14th October, 1895.

Draft for approval.

A. T. W.,—18-10-95.

22-10-95.

J. H. SADLER.

26-10-95.

H. DALY.

To Bombay Government, and endorsement to Finance Department, * Nos. 3584-5-1., dated the 29th October 1895.

* With copy of office notes.

Recorded and indexed by M. Cartland—4th December, 1895.

No. 7.

No. 5224, dated Bombay Castle, the 21st August, 1895.

From—

The Honourable Mr. G. W. Vidal, I.C.S., Acting Chief Secretary to Government, Bombay,

To—

The Secretary to the Government of India, Foreign Department.

I am directed to transmit herewith, for submission to the Government of India, a copy of Government Resolution No. 1251, dated the 21st February, 1893, and of the papers underlying it, from which it will be seen that this Government allowed rice, the produce of the Portuguese district of Nagar Haveli, to pass free of duty through intervening British territory into Daman, whether for local consumption or for export, as was done before the Goa Treaty of 1878 came into force, subject to such precautions for its identification as being really the produce of Portuguese territory as might from time to time be found necessary.

2. The Commissioner of Customs, Salt, Opium and Abkari, Bombay, had now brought to notice in his letter No. 1223, dated the 8th March, 1895 (copy of which and of its accompaniments is also enclosed) that the concession granted by the Resolution quoted above is abused, and suggests that the concession be discontinued as no other effective remedy for the abuse complained of can be taken. The Governor in Council proposes to accept the Commissioner's suggestion, but as the concession concerns Imperial revenues and the action of this Government in withdrawing it might possibly lead to friction with the Portuguese Government, I am to state that His Excellency in Council has thought it advisable to enquire if the Government of India have any objection to the withdrawal of the concession.

No. 21.

No. 1223, dated Bombay, 8th March, 1895.

From—

The Honourable T. D. Mackenzie, Commissioner of Customs, Salt, Opium and Abkari,

To—

The Chief Secretary to Government, Revenue Department, Bombay.

Collector of Salt Revenue No. 458, dated 29th January, 1895, with accompaniment. Commissioner of Customs, Salt, Opium and Abkari No. 686, dated 17th February, 1895.

Adverting to Government Resolution in the Political Department, No. 1251, dated 21st February, 1893, I have the honour to submit for the consideration of Government copies of the correspondence marginally noted which has passed between the Collector of Salt Revenue and myself on the subject of the concession to the inhabitants of Nagar Haveli of transport of rice free of duty purporting to come from villages in that pargana to Daman.

Collector of Salt Revenue, No. 1085, dated 5th March 1895.

2. It seems clear that the anticipations of my predecessor as to complications arising and loss of British revenue ensuing on the grant of that concession have been fully realised, and there can be no reasonable doubt not only from the specific instance brought to notice by Mr. Jenkins, but by the steady increase of so-called Nagar Haveli rice and the corresponding decrease of British rice passing our Nakas that the concession is abused, that much British rice evades payment of the duty on export by passing as Portuguese rice, and that British revenues suffer correspondingly.

3. I find from summarising the information submitted by the Collector of Salt Revenue with his letter No. 1085, dated 6th instant, that from April, 1893, the earliest month for which record of the Portuguese export has been kept up to January, 1894, 19,369 maunds of so-called Portuguese rice passed our Nakas; from February, 1894, to January, 1895, the quantity had risen to 41,170 maunds, while during the period from February, 1893, to January, 1894, 29,043 maunds of British rice passed as against 18,366 maunds in the corresponding period from February, 1894, to January, 1895; in short that in the space of two years Portuguese rice exports have risen by 21,800 maunds while British rice exports have fallen by 10,677 maunds. These figures tell their own tale, and I submit that the concession should no longer be continued.

No. 22.

No. 458, dated Kharaghada, the 29th January, 1895.

From—

J. L. Jenkins, Esq., Acting Collector of Salt Revenue,

To—

The Commissioner of Customs, Salt, Opium and Abkari.

* Political Department.

I have the honour to bring to your notice the following circumstances arising out of the concession granted by Government* Resolution

No. 1251 of the 21st February, 1893, under which rice the produce of the Portuguese Pargana of Nagar Haveli may be exported from British territory into Daman free of export duty provided it is covered (a) by a certificate from the administrator of Nagar Haveli, stating that the rice is the produce of that Pargana and (b) by a pass from the Government of Daman.

2. It has long been suspected that rice produced in British villages was being fraudulently exported under cover of Portuguese passes. It was found to be a common practice of merchants to bring consignments of rice close up to the frontier, in British territory, and to keep them there, while the merchant or his agent proceeded to Daman to obtain passes. In such cases there was a strong presumption that the rice had never been in Nagar Haveli at all, and I directed that duty should be charged in all cases that were detected. But the only result was that the rice is now kept a little further from the frontier beyond the observation of our Customs Officers.

3. On the 16th January a merchant Desai Akhu Gosai, brought five cart loads of rice to the Challa Naka and produced the certificate and pass, of which translation are attached. The certificate which is written by the administrator of Nagar Haveli states that 74 maunds of rice contained in five carts were the produce of Nagar Haveli. When the carts reached the Naka it leaked out that two of the five cart loads came from the British village of Udwa. An inquiry was instituted by the Assistant Collector, and it was established beyond doubt by the evidence of the man who sold the rice to Akhu Gosai, of the two cartman, and of a respectable resident of Udwa, that the rice contained in two of the carts is not the produce of Nagar Haveli, but comes from British territory. It follows therefore that the certificate granted by the administrator of Nagar Haveli is false.

4. I am not disposed to blame the administrator. It is the system which is in fault. The concession must necessarily be attended by fraud and I am unable to suggest any precaution by which it can be prevented. When applications for certificates are made to the administrator, it is quite impossible that he should be able to satisfy himself that the rice to which they relate is actually the produce of Nagar Haveli. Even if he himself saw and weighed the rice in Nagar Haveli in each case, which is hardly possible, there would be no guarantee that it had not been brought from adjoining British villages for the purpose of obtaining the certificate.

5. It is pretty certain that the case now brought to notice is *one of many* which have passed undetected. In fact detection is impossible, except by the merest accident, and it is in evidence that the same merchant has previously brought consignments from Udwa in the same way.

6. As matters now stand not only is the British Revenue defrauded of a considerable sum every year, but the traders and owners of vessels in Daman are subsidised to the detriment of those living in British territory.

7. Now that the worthlessness of the certificates granted by the Portuguese Authorities has been so fully demonstrated, I trust that Government will see fit to withdraw the concession.

No. 26.

No. 3584-I.

From

The Assistant Secretary to the Government of India,

To

The Chief Secretary to the Government of Bombay, (Political
Department).

Simla, the 29th October, 1895.

Sir,

Foreign Dept.

I am directed to acknowledge the receipt of your letter No. 5224, dated the 21st August, 1895, relative to the passage free of duty into Daman, through intervening British territory, of rice produced in the Portuguese district of Nagar Haveli.

2. It appears clear that the concession has been abused, and I am to request that, with the permission of His Excellency the Governor, the position may be explained to the Government of Portuguese India, who should be informed that any practical suggestion for the prevention of the abuse will receive careful consideration, but that meanwhile, to prevent loss to British revenue, the concession will be provisionally withdrawn one month after the date of the letter.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed) J. HAYES SADLER,

Officiating Assistant Secretary to the Government of India.

 No. 3585-I.

A copy of the foregoing correspondence is forwarded to the Finance Department for information.

By order, etc.,

(Signed) J. HAYES SADLER,

Officiating Assistant Secy. to the Govt. of India.

Foreign Department,

Simla,

The 29th October, 1895.

CUSTOMS DUTY—DAMAN

Provisional withdrawal of the concession exempting rice, the produce of Nagar Aveli from Daman

No. 7831

POLITICAL DEPARTMENT

Bombay Castle,
7th December, 1895.

Memorandum from the Revenue Department, No. 5329, dated the 13th July, 1895:—

Transferring a report No. 1223 dated the 8th March, 1895, from the Commissioner of Customs, Salt, Opium and Abkari, who submits copies of certain correspondence which has passed between the Collector of Salt Revenue and himself on the subject of the concession made to the inhabitants of Nagar Haveli to transport free of duty rice purporting to come from villages in that Pargana to Daman, states that it seems clear that the anticipations of his predecessor as to complications arising and loss of British revenue ensuing on the grant of that concession have been fully realized, and that there can be no reasonable doubt, not only from the specific instance brought to notice by Dr. Jenkins, Collector of Salt Revenue, in which it was discovered that two out of five cart loads of rice brought to Challa Naka under a pass granted by the Administrator of Nagar Haveli, contained rice grown in the British village of Udwa, but by the steady increase of so called Nagar Haveli rice and the corresponding decrease of British rice passing the nakas, that the concession is abused; that much rice evades payment of the duty on export by passing as Portuguese rice and that the British revenues suffer correspondingly; suggests for reasons given, that the concession should no longer be continued. Transferring also further reports on the subject from the Commissioner of Customs, Salt, Opium and Abkari, Nos. 2760, and 3160, dated respectively, the 15th June and 5th July, 1895, together with the notes and minutes recorded thereon in the Revenue Department for the necessary action.

Letter from the Asstt. Secretary to the Govt. of India Foreign Department, No. 3584—I, dated the 29th October, 1895:—

"I am directed to acknowledge the receipt of your letter No. 5224, dated the 21st August, 1895, relative to the passage, free of duty into Daman, through intervening British territory of rice produced in the Portuguese District of Nagar Aveli.

"2. It appears clear that the concession has been abused and I am to request that with the permission of His Excellency the Governor, the position may be explained to the Government of Portuguese India, who should be informed that any practical suggestion for the prevention of the abuse will receive careful consideration but that meanwhile, to prevent loss of British Revenue, the concession will be provisionally withdrawn one month after the date of the letter."

RESOLUTION.—The Governor General of Portuguese India should be addressed in accordance with paragraph 2 of the above letter from the Government of India.

(Signed) A. SHEWAN,
Ag. Secretary to Government.

To

The Commissioner of Customs, Salt, Opium and Abkari.
The Governor General of Portuguese India
(by letter No. 7832 dated 17th December, 1895).

No. 64 of 1896.

Camp Bareja.
9th January, 1896.

The orders of the Government of India were communicated to the Portuguese Government under the Bombay Government letter No. 7832 of the 17th December, 1895.

(Signed)
Ag. Collector of Salt Revenue.

Annex C. No. 43

Record Office, Bombay

COMMR.

1900.

Dis.

Case No. 105.

COLLR. S.R. BOMBAY.

Translation.

Nova Goa.

2nd September, 1897.

To

His Excellency Lord Sandhurst,
Governor of the Presidency of Bombay.

Most Illustrious and Excellent Sir,

The inhabitants of the District of Daman being in a very miserable condition owing to the plague which has been raging there with virulence for the last few years, and in consequence of great scarcity of rain this Season, I venture to request Your Excellency the kindness of informing me whether Your Excellency's Government could, at least while this state of affairs continues, allow the product of the Portuguese territory of Nagar Avaly, with the exception of Country liquor, to be carried to Daman and vice versa, free from customs duties at present levied under the regulations of the Presidency on account of their being conveyed through the British territory intervening between the Portuguese territory. If the reason for collecting such duties is not due only to the transit through British territory, but simply to avoid the Portuguese products from being carried clandestinely to the British territory without paying customs duties, it seems to me that necessary precautions leading to the same end can be adopted without any need of such taxation.

For instance, it could be ordered that the products above referred to be conveyed free (a) escorted by Portuguese soldiers who shall be responsible for any diversion of such products whilst crossing the British territory; (b) or when conveyed in carts, closed and sealed, the seals may be examined at the British post on the Frontier; (c) or on condition of their being weighed at the outgoing frontier post and a transit pass granted, stating the quality and weight of the goods which may be verified at the next frontier post and the goods confiscated, if short.

Requesting your Excellency's kind attention to this subject on behalf of the Indian population of the district above referred to, and chiefly prompted by the sense of humanity, I feel confident that Your Excellency's enlightened Government will take into consideration the impropriety of such a taxation and the fact of the Portuguese Government not levying any tax either on goods which go through the Marmagoa harbour to the British districts, or on those which, coming from the said district, cross the Goa territory for shipment at the Marmagoa harbour.

Accept, most Illustrious and Excellent Sir, the assurances of the highest consideration with which I have, etc.

(Signed) J. MACHADO,
Governor General.

Encl. No. 6468.
Political Depart.
Bombay Castle.

Forwarded to the Revenue 23rd September, 1894.

(Below Government Endorsement No. 7005 dated 4th October, 1899.)

No. 5660 of 1899.

Bombay,
9th October, 1899.

Forwarded to the Collector of Salt Revenue, for favour of report.

(Signed) Illegible.
Ag. Commissioner of Customs,
Salt, Opium and Abkari.

No. 5889 of 1899.

Bombay,
11 October, 1899.

With reference to the above, the undersigned has the honour to report that there would appear to be some misapprehension as to the actual situation with regard to the isolated pargana of Nagar Haveli.

2. There are no British Customs posts on the frontier of Nagar Haveli. Imports into and exports from that tract of Portuguese territory are absolutely unrestricted.

3. In respect of exports into Daman, Nagar Haveli is treated exactly as though it were British territory. All such exports except rice are free of duty.

4. It will be seen therefore, that, except with regard to rice, the trade between Nagar Haveli and Daman, already enjoys all the facilities which the Governor General of Portuguese India desires to secure for it; and no special measures are required in that behalf.

5. When Customs posts were established on the Daman frontier, privileges were under certain conditions accorded to rice the produce of Nagar Haveli exported to Daman. It was found however that the concession was abused, and after a peculiarly gross case of fraud had been brought to light, it was withdrawn by the Government of India (Government Resolution No. 7831 of the 17th December, 1895, Political

Department). Mr. Jenkins cannot recommend that the concession should be renewed.

J. L. JENKINS,
Collector of Salt Revenue.

(Below Govt. Endorsement, Rev. Deptt., No. 7005 of 4th October, 1899.)

No. 5806 of 1899.

Bombay,
17th October, 1899.

With reference to the above the undersigned has the honour to transcribe below report No. 5889 dated the 11th instant from the Collector of Salt Revenue:—

“There would appear to be some misapprehension as to the actual situation with regard to the isolated pargana of Nagar Haveli.

2. There are no British Customs posts on the frontier of Nagar Haveli. Imports into and exports from that tract of Portuguese Territory are absolutely unrestricted.

3. In respect of exports into Daman, Nagar Haveli is treated exactly as though it were British territory. All such exports except rice are free of duty.

4. It will be seen therefore, that, except with regard to rice, the trade between Nagar Haveli and Daman, already enjoys all the facilities which the Governor General of Portuguese India desires to secure for it; and no special measures are required in that behalf.

5. When Customs posts were established on the Damaun Frontier, privileges were under certain conditions accorded to rice the produce of Nagar Haveli exported to Damaun. It was found however that the concession was abused, and after a peculiarly gross case of fraud had been brought to light, it was withdrawn by the Government of India (Government Resolution No. 7831 of the 17th December, 1895, Political Department). Mr. Jenkins cannot recommend that the concession should be renewed.”

2. The Acting Commissioner concurs with Mr. Jenkins.

(Initialled)
Ag. Commissioner.

(Translation.)

No. 26 of 1900.

New Goa,
6th March, 1900.

From

His Excellency Colonel Joaquim Jose Machado,
Governor-General of Portuguese India.

To

His Excellency Lord Northcote of Exeter,
Governor of the Presidency of Bombay.

Most Illustrious and Excellent Sir,

With regard to the subject of transit of goods between the two tracts of Portuguese territory which form the district of Damaun (the one called Damaun and the other Pargana Nagar Avely), about which correspondence was exchanged with Your Excellency's predecessor, Lord Sandhurst, referred to in His Excellency's letter No. 8397, dated the 9th December last, I have the honour, availing myself of the courteous assent expressed in paragraph 3 of the same letter, to submit to Your Excellency's consideration the following.

2. As the tract of Damaun is separated from Nagar Avely by a tract of British territory, I requested Your Excellency's Government to allow the transit of goods between these two tracts of Portuguese territory, free from customs duties by adopting, if necessary, such measures as may be deemed advisable to protect the lawful British interests. In paragraph 2 of the above quoted letter from Lord Sandhurst it is stated "that in respect of exports into Damaun Nagar Avely is treated exactly as though it (Nagar Avely) were British territory, and all such exports, except rice, are exempted from the payment of duty"; and in paragraph 1 of the same letter it is stated "that there are no British Customs posts on the frontier of Nagar Avely, and that imports into and exports from that district are absolutely unrestricted."

3. It is a fact that there are no British Customs posts on the frontier of Nagar Avely, but there are on the frontier of Damaun and in these duties are collected both for the goods going to Nagar Avely and for the rice which coming from Nagar Avely, Portuguese territory, enters into Damaun, also Portuguese territory.

4. The rice produced at Nagar Avely is allowed to be exported to the British territory free from duty, but when it is intended for the Portuguese territory, it is liable to certain taxes in favour of the British treasury. It is this fact which seems to me to be unfair and highly detrimental to the population of Damaun, which, being fed exclusively with this cereal, is however, unable to pay a high price for it on account of the poverty to which it has been reduced by the epidemic of the bubonic plague and the great scarcity of rain during the last two years.

5. I beg Your Excellency to confront this exaction under the regulations of the Presidency intrusted to Your Excellency's enlightened administration, with the fact that any goods are allowed to be exported,

for instance, from Bombay, by sea route, travelling free by the Mormagao Railway (in the Portuguese territory) and entering into the Deccan or into any other British district exempted from the payment of duty and *vice versa*.

6. The import of rice at Damaun from Nagar Avely, free from the payment of duty at the British Customs posts, was allowed up to December, 1895, but since then a new rule was enforced owing to the fact that a British subject, misleading the good faith of a Portuguese official, succeeded in importing into Damaun a portion of rice which had not come directly from Nagar Avely, but from a British district. For this offence might have been held responsible the transgressor or the official who allowed himself to be misled, or, at the most, the Government of my country who would be willing to pay any compensation equivalent to the tax which was due to the British Customs on the frontier of Damaun. Instead of such being the case the matter took another course, so that the offender was left unpunished and the punishment fell upon the innocent inhabitants of Damaun and Nagar Avely.

7. In support therefore of the lawful Portuguese rights and the interest of the Damaun people, who are struggling at present with the famine, I beg to request Your Excellency, in case it should be impossible to allow free transit to all goods between Nagar Avely and Damaun and *vice versa*, to grant the exemption at least as regards the rice produced at Nagar Avely and exported to Damaun, and the fish exported from Damaun to Nagar Avely, under such legal formalities and restrictions which Your Excellency's Government may deem convenient.

Accept, Most Illustrious and Excellent Sir, the assurances of the highest consideration with which I have the honour to be,

Your Excellency's most obedient servant.
 (Signed) J. MACHADO,
 Governor-General.

No. 2445 of 1900.

Political Department.
 Bombay Castle.
 30th March, 1900.

Copy forwarded to the Revenue Department for consideration, with reference to that Department memorandum No. 8037, dated the 11th November, 1899.

W. T. MORISON,
 Acting Secretary to Government.

No. 2460 of 1900.

Revenue Department,
Bombay Castle,
18th April, 1900.

Forwarded to the Commissioner of Customs, Salt, Opium and Abkari, for favour of early report with reference to the correspondence ending with his Memorandum No. 5806, dated 17th October, 1899.

H. S. LAWRENCE,
Under Secretary to Government,

(Below No. 2331 of 20th April, 1900, from the Commr. of Customs &c.)

No. 1935 of 1900.

Camp Talewadi,
29th April, 1900.

With reference to the above the undersigned has the honour to state that it has been clearly proved that fraud is the necessary concomitant of any concession for the export of rice purporting to be the produce of Nagar Haveli into Daman without payment of duty. That this would be the case was sufficiently evident before the experiment was tried; but the British Govt. with their usual regard for Portuguese susceptibilities, determined that the concession should be allowed until experience should show that it was abused.

2. From the time the concession was granted the exports of so called Nagar Haveli rice began to go up by leaps and bounds; while there was a corresponding decrease in the exports of British rice. The figures are given in the Commissioner's letter to Govt. No. 1223 of the 8th March, 1895. It was evident that large quantities of British rice were being exported, under fraudulent certificaties obtained from the Portuguese authorities; but it was very difficult to prove any specific case of fraud. At last however a case was detected in which an attempt was made to export five cart loads of rice, produced in a British village, under cover of a pass granted by the Administrator of Nagar Haveli certifying that it was the produce of that Pargana. The facts were then reported to Government & the concession was withdrawn.

3. The Govr. Genl. of Portuguese India represented this as an isolated case; whereas it was, in fact, one of very many, though the only one detected. The figures show clearly that upwards of 10,000 maunds of British grown rice had been exported to Daman free of duty under false certificates of origin granted by the Portuguese authorities.

4. If the concession is renewed the same results will inevitably follow. The circumstances are such that it is quite impossible to prevent fraud. The mere fact that, in spite of the utmost vigilance, and all the efforts of one of the ablest officers of the Department, so great a quantity

of rice was fraudulently exported before a specific case could be proved is sufficient to show how easily frauds can be committed. An arrangement which offers such temptations to successful fraud is demoralising both to the Customs Establishment & to the people of the British villages in the vicinity of Daman & Nagar Haveli.

5. The Portuguese Authorities do not appear to realise the full extent of the benefit which results to the Pargana of Nagar Haveli owing to the absolute freedom which it enjoys from all British Customs restrictions. This may be taken as a full set off against all the inconveniences to which the trade between Nagar Haveli & Daman is necessarily subjected owing to the establishments of Customs posts on the frontier of Daman. It is of far more importance to Nagar Haveli that it should have free & unrestricted traffic with British territory, than that it should be able to export rice free of duty to Daman, & receive goods from Daman free of duty. It is unreasonable to expect that Nagar Haveli should, in respect of British Customs arrangements, be treated just as though it were a British district, & at the same time be granted special concessions on the ground that it is part of Portuguese India.

(Signed) J. L. JENKINS,
Collr. of Salt Revenue.

No. 5518

POLITICAL DEPARTMENT

Bombay Castle,
21st July, 1900.

To

His Excellency
Colonel Eduardo Augusto Rodrigues Galbarido,
Governor General of Portuguese India,
New Goa.

Most Illustrious & Excellent Sir,

I have the honour to acknowledge the receipt of the letter No. 26 dated the 6th March, 1900, from your Excellency's predecessor, regarding the proposal to allow rice to be exported from Nagar Haveli into Daman free of duty, and in reply to say that my Government regret that they are unable, after a careful consideration of the question to grant the concession asked for as past experience has shown that it is sure to be abused. That this would be the case was sufficiently evident before the experiment was last tried, but my Government out of deference to the wish of your Excellency's Government decided to make the trial. Your Excellency has remarked that the concession then granted was withdrawn on the detection of an isolated case of fraud but I beg leave to explain that though only one case was detected, there were very many other cases which really occurred but which could not be brought home owing to the difficulty of proving them. From the time the concession was granted

the exports to Daman of so called Nagar Aveli rice began to go up by leaps and bounds while there was a corresponding decrease in the exports of British rice and from the figures which were furnished to my Government by the Commissioner of Customs, it was evident that upwards of 10,000 maunds of British grown rice had been exported to Daman free of duty under false certificates of origin.

2. If the concession is renewed, same results will my Government feel convinced inevitably follow, as the circumstances are such that it is quite impossible to prevent fraud. The mere fact that in spite of the utmost vigilance, and all the efforts of one of the ablest officers of the Customs Department of my Government so great a quantity of rice as that mentioned in paragraph 1 above was fraudulently exported before a specific case could be proved, is sufficient to show how easily frauds can be committed, and with what little risk of detection. An arrangement which offers such temptations to successful fraud is, your Excellency will agree with me, demoralising both to the customs establishment and to the people of the British villages in the vicinity of Daman and Nagar Haveli.

3. I have the honour in this connection to invite your Excellency's attention to the extent of the benefit which results to the pargana of Nagar Haveli from the absolute freedom it enjoys from all British customs restrictions. This appears to my Government to be a full set off against all the inconveniences to which the trade between Nagar Haveli and Daman is necessarily subjected owing to the establishment of customs posts on the frontier of Daman. For it is evidently of far more importance to Nagar Haveli that it should have free and unrestricted traffic with British territory than it should be able to export rice to, and receive goods from Daman free of Duty. And it can not reasonably be accepted that Nagar Haveli should in respect of British customs arrangements be treated just as though it were a British District and at the same time be granted special concessions on the ground that it is part of Portuguese India.

4. In conclusion I venture to express the hope that your Excellency will be satisfied with the soundness of the reasons for which my Government are unable to grant the concession desired by you.

Accept most Illustrious and Excellent Sir,
the assurances of profound respect with which I have the honour to subscribe myself,

Your Excellency's most obedient, humble servant,
NORTHCOTE.

No. 5519

POLITICAL DEPARTMENT

Bombay Castle,
21st July, 1900.

Copy forwarded to the Revenue Department for information with reference to the correspondence ending with that Department memorandum No. 3333 dated the 28th May, 1900.

W. T. MORISON,
Ag. Secretary to Government.

No. 4942 of 1900

REVENUE DEPARTMENT

Bombay Castle,
9 August, 1900.

Copy forwarded to the Commissioner of Customs, Salt, Opium and Abkari for information with reference to the Correspondence ending with his Memorandum No. 2613, dated 4th May, 1900.

H. S. LAWRENCE,
Under Secretary to Government.

Annex C. No. 44

National Archives, New Delhi

1907

GOVERNMENT OF INDIA

FOREIGN DEPARTMENT

INTERNAL—A

Proceedings, April, 1907, Nos. 38—40.

Proposed measures for the prevention of smuggling of liquor from the Portuguese possessions of Daman and Nagar Avelly into the adjoining British districts.

Pro. No. 38.

ENDORSEMENT FROM THE FINANCE DEPARTMENT, NO. 2783, DATED THE 28TH (RECEIVED 30TH) MAY, 1906

Forwards, for information, copy of a letter addressed to the Government of Bombay calling for the views of that Government on the proposal made by the Government of Portugal for a reciprocal arrangement with a view to the prevention of smuggling of liquor from the Portuguese possessions of Daman and Nagar Avelly into the adjoining British Districts.

A further communication from the Finance Department may be awaited.

C. H. C.,—31-5-1906.

C. E. P.,—31-5-1906.

V. GABRIEL,—9-6-1906.

(Notes in the Finance Department.)

FROM THE GOVERNMENT OF BOMBAY, NO. 10352, DATED THE 1ST NOVEMBER, 1906

Submits a report on the proposal made by the Government of Portugal for the carrying out of a reciprocal arrangement with the British Government with a view to prevent the smuggling of liquor from the Portuguese possessions of Daman and Nagar Avelly into the adjoining British districts.

The previous history of the case is summarised in the notes by Mr. Gabriel, dated 7th July, 1904, and by Mr. Campbell, dated 23rd July, 1904, on pages 3-5 of notes of Internal A, November, 1904, Nos. 51-52. In accordance with the decision stated in the latter note, the Bombay Government and the Secretary of State were addressed in Nos. 51 and 52 of the Proceedings above referred to, and their replies are recorded in the Finance Department Proceedings A, May, 1906, Nos. 171-179. These papers should be read *in extenso*.

2. In them the Bombay Government were asked to state:—

(A) Whether the proposed prohibition of the export of mhowra flowers into the Portuguese possessions of Daman and Nagar Avely would be effective and practicable; and if so,

(B) Whether it would not be preferable to levy an export duty upon mhowra and other materials for distillation taken from British India to the territories in question, so as to equalise the British and Portuguese rates of duty upon the manufactured spirit.

The Local Government's reply to the first question was that the prohibition of the export of mhowra flowers could be made absolutely effective as regards Daman and practically so as regards Nagar Avely; while as regards the second question they stated that although it would be practicable to impose a duty on exports to Daman, this would not be the case as regards exports to Nagar Avely, and that consequently if the plan of taxing exports was adopted, it would be necessary to have recourse to a composite arrangement, *viz.*, export duties for Daman and prohibition for Nagar Avely. On the whole, they recommended total prohibition of the export of mhowra flowers as the simplest and most effectual method of attaining the object aimed at, and this view was accepted by the Government of India.

3. The Secretary of State was asked to enter into diplomatic negotiations with the Portuguese authorities in Europe through the medium of the Foreign Office, in view to an amicable settlement of the matter; and in reply he forwarded in April last a note by the Portuguese Minister of Foreign Affairs in which that authority pointed out:—

(A) That the smuggling of liquor from the Portuguese Indian possessions of Daman and Nagar Avely into the adjoining districts of Bombay was an impossibility in consequence of the strict watch kept by the British authorities on the frontier.

(B) That the Goa Government had all along shown a sincerely accommodating spirit in the matter of prevention of such smuggling, but that to fix a minimum sale price of liquor and to limit the number of shops in the Portuguese possessions of Daman and Nagar Avely would mean a serious loss to the Portuguese revenues.

(C) That nevertheless, if, as compensation for that loss, the British Government would permit the free passage through their territory of salt, rice and other dutiable products from Daman to Nagar Avely, and *vice versa*, the Portuguese Government would in their turn be prepared to fall in with the views of the Bombay Government in the matter of the liquor arrangements and a *modus vivendi* would be possible.

4. The Secretary of State desired to be furnished with the views of the Bombay Government on the above proposals, and the letter under disposal contains these. The Bombay Government observe:—

(1) That the statement that the smuggling of liquor from Portuguese into British districts is an impossibility is not correct, for it is incontestable that the British revenues suffer not only through the actual consumption of Portuguese liquor by British subjects within Portuguese territory, but also by reason of the quantity of liquor which they smuggle across the frontier.

Finance
Department
Proceedings A.
Separate
Revenue,
February, 1895.
Nos. 38 to 47
Proceedings A,
Internal,
December,
1895,
Nos. 7 to 26
Finance
Department
Proceedings A.
Separate
Revenue,
December,
1902,
Nos. 355 to 358
Finance
Department
Proceedings A.
August, 1901,
Nos 336 to 338,
page 22 of
correspondence

(2) That the Goa Government are not justly entitled to the revenue which they at present derive from this smuggling trade, and that they cannot therefore equitably claim any compensation for the loss of this revenue.

(3) That the *quid pro quo* claimed by the Portuguese Government would only result in the creation of the same difficulties in regard to salt and rice as it is sought to remove in respect of liquor (*vide* papers specified in the margin)* and should therefore most emphatically not be granted; while there is nothing else of tangible value which the British Government can offer as a set-off against the revenue which the Portuguese claim.

(4) That the Portuguese Government have never shown any "accommodating spirit" or a desire for an amicable settlement of the question; and that further negotiation with them on the subject being useless we should at once issue the notification proposed by the local Government in 1901, prohibiting the export of mhowra flowers to Daman and Nagar Avely, this step being supplemented by the following supplementary measures:—

(A) Opening on the British side of the frontier as many shops as the Portuguese have permitted on their side, the number to be reduced as the Portuguese reduce theirs.

(B) Colouring all spirit to be supplied to the frontier tracts both in Surat and Thana.

(C) Reducing the still head duty in the frontier tracts to an uniform rate of R1-4-0 per gallon 25° U. P. and annas 10 per gallon 60° U. P., the maximum selling price being proportionately reduced.

(5) That although the above action would not be altogether in consonance with the Government of India's ideal of a unified Customs and Excise system for all India and the abolition of all internal Excise and Customs lines, it should be taken not as an end in itself, but as a means of enabling the British Government in treating with the Portuguese, to offer something of value as an inducement to co-operate with them.

(6) That in the event of any further negotiations being, however, decided upon, the Portuguese Government should be asked not only (A) to raise the selling price of liquor in their districts of Daman and Nagar Avely to the level of that obtaining in the adjacent British districts, and (B) to limit the number of shops and remove them within a prescribed distance from the British frontier, but also (C) to restrict retail sales in the shops to one bottle at a time to each individual, and (D) to control the traffic in mhowra flowers by prohibiting their import except under permit and for use only at licensed distilleries.

5. We may perhaps generally concur in the views of the Bombay Government and ask the Secretary of State for permission to issue the notification prohibiting the export of mhowra flowers to Daman and Nagar Avely as recommended by that Government. In doing so, we may add that we do not approve of the subsidiary measure (a) referred to in clause (4) of the preceding paragraph, and that we propose to instruct the Local Government not to adopt it. The measure in question appears to

The despatch
should issue
from the
Foreign
Department

be objectionable on temperance grounds; and we have no definite information (beyond the statement of the Bombay Government) as to its being in force in Madras. It is presumed that the Bombay Government do not desire at present to prohibit the export to Daman and Nagar Avely of other articles for distillation than mhowra flowers; but to make sure the enquiry suggested in paragraph 3 of Mr. Campbell's note of the 13th December, 1904, on page 2 of Finance Department Proceedings A, May, 1906, Nos. 171-179, may perhaps be made of them while we are awaiting the Secretary of State's reply.

6. The Foreign Department should see the case before issue of orders.

B. B.,—16-12-1906.

I agree with the above. We must presumably obtain the Secretary of State's approval before the Bombay Government takes any further action, in view of his request to be informed as to whether the proposal suggested by the Government of Portugal can be made to serve as the basis of an arrangement.

2. With reference to the proposal made in paragraph 8 (1) of the Bombay letter to open further shops on the British side of the frontier, we may perhaps also ask the Madras Government demi-officially as to the facts as regards the alleged adoption of a similar measure in that Presidency.

3. As regards the reduction of the still-head duty in the frontier tracts suggested in paragraph 8 (3) of the letter, it appears that the Portuguese possessions of Daman and Nagar Avely adjoin the Pardi (and possibly the Bulsar) Talukas of the Surat district and the Umbargaon Petha of the Thana district, *vide* map after page 18 of the Bombay Excise Report of 1905-1906 and Proceedings cited in the margin. In these tracts the existing rates of duty on country spirit are as follows (*vide* column 16 of Imperial Form IV attached to the Excise Report):—

Finance Department Proceedings A August, 1901, Nos. 336 to 337, page 1 of correspondence
Finance Department Proceedings A May 1906, Nos. 176-179 page 5 of correspondence

	<i>Per gallon</i>					
	25° U.P.			60° U.P.		
	R.	a.	p.	R.	a.	p.
Bulsar	1	12	0	and	0	13
Pardi	2	4	0	and	1	2
Umbargaon	1	12	0	and	0	14

There need perhaps be no objection to the proposed reduction of the still-head duty to Rs-4-0 per gallon 25° U.P. and annas 10 per gallon 60° U.P. in the frontier areas.

H. F. HOWARD,—24.12.1906.

We may tell the Secretary of State, in reply to his despatch No. 68 of 6th April, 1906, that, for the reasons stated in the Bombay Government's letter, we are entirely opposed to the acceptance of the Portuguese Government's proposal that, as a *quid pro quo* for their meeting our wishes in respect to their liquor arrangements in Daman and Nagar Avely, we should allow the free transit of rice and other articles between these Settlements. As the Bombay Government point out, such "transit"

would, in the case of salt and rice, inevitably degenerate, as formerly, into unauthorised free import of these articles into British territory.

2. The Bombay Government have a legitimate grievance against the Portuguese authorities in the liquor matter; but when they want them—

- (1) To limit the number of their shops and have none within 3 miles of the frontier;
- (2) To enhance their taxation of country spirit;
- (3) To limit sales;
- (4) To restrict import of mhowra flowers;

they are, I think asking too much. The Portuguese are naturally sensitive in respect to the small territories left to them in India, and might reasonably object to such large modification of their excise system at the dictation of the Bombay Government

3. The main evil is the existence of the frontier shops, and if the Portuguese would agree to limit the number of these and move them back, allowing a shopless zone in the immediate vicinity of the frontier, we should get all we really want. (The Excise Committee have recommended this—paragraph 298 of Report—in the case of Native States which do not adapt their excise arrangements to ours.) Were such a zone obtained, the Bombay preventive arrangements should suffice to cope with the smuggling of liquor into British territory from the interior of the settlements.

I think we should urge on the Secretary of State that the Portuguese Government may fairly be asked to make this concession without any corresponding *quid pro quo* as it is clear that the frontier shops as at present situated are largely supported by issue of liquor to consumers in British India.

4. If the Portuguese Government will not assent to this, then we should ask Secretary of State to assent to our forbidding the exportation of mhowra flowers, and, if necessary, other articles that might be used for distillation, from British India to the Portuguese settlements in question. Such a prohibition can be generally enforced, and as Bombay point out, it would seriously affect the Portuguese *abkari* revenue and induce that Government to offer concessions with a view to its removal.

agree.
N. BAKER
is a good
plan, if
practicable.
N. BAKER

5. We should not agree to the suggestion in paragraph 8 (1) of the Bombay letter that we should retaliate on the Portuguese frontier shops by opening a like number on our side. The spirited competition to sell liquor which would thus ensue is altogether to be deprecated. There is of course no objection to colouring licit liquor in frontier areas, nor need we object so long as present conditions obtain, to a lowering of the excise rates in these tracts to check, smuggling. The Bombay Government do not, however, it seems clear, intend to try this unless and until the proposal to prohibit the export of mhowra flowers should be deemed inexpedient for diplomatic reasons by the Home Government.

6. With reference to paragraph 2 of Under-Secretary's note, it is a fact that a few years ago the Madras Government, to check an even more aggravated situation in the portion of the South Arcot district which adjoins the French Settlement of Pondicherry, and where French and English villages are very much mixed up, reduced the rate of duty there and (I think) also made some increase in the number of shops. The rate

of taxation here (it is still on the average between R3 or 4 per proof gallon) is still below that in the rest of the South Arcot district, and the Excise Committee, while they find no fault on this score, have observed that the number of shops in the South Arcot District appears to be unnecessarily large. This, however, appears to apply to the district as a whole and not specially to the French frontier tracts.

In introducing the present arrangements in the latter area which have, I believe, had a satisfactory result in diminishing smuggling, the Madras Government discreetly treated the case as matter of domestic arrangement and did not come up to us. There is no reason why we should interfere with them now. E. N. BAKER

7. The present case should of course be seen by Foreign Department and also by Commerce and Industry Department if it be decided to press the proposal *re* export of mhowra flowers.

W. S. MEYER,—27-12-1906.

I agree throughout.

E. N. BAKER],—29-12-1906.

Foreign Department.

The Foreign Department may agree to the course proposed by the Finance Department.

S. A. B.,—5-1-1907.

E. BARNES,—7-1-1907.

The reply to the Secretary of State's* despatch will presumably issue from this Department. Finance Department will perhaps oblige us with a draft. * No. 102 in Internal A. May 1906. Nos. 101-102.

J. B. WOOD,—7-1-1907.

Department of Commerce and Industry.

We may agree to the action proposed in Mr. Meyer's note dated the 27th December, 1906.

2. If it is decided eventually to prohibit the exportation to Daman and Nagar Avelly of mhowra flowers, and, if necessary, other articles that might be used for distillation, the necessary notification will be issued by this Department under section 19 of the Sea Customs Act. Legislative Department has advised that this can be done, *vide* page 2 of notes in Finance Department Proceedings A, Separate Revenue, August, 1901, Nos. 336-338. It would be necessary to include Goa and Diu in the notice to prevent consignments being sent thence by sea to Daman—*vide* paragraph 5 of Proceedings No. 336 in above Proceedings and the draft notification on page 22 of correspondence in the same Proceedings. Page 2.

B. I.,—9-1-1907.

M. M. S. GUBBAY,—10-1-1907.

W. L. HARVEY,—10-1-1907.

J. F. F[INLAY],—10-1-1907.

Finance Department.

A draft despatch to the Secretary of State is submitted. It may, if approved, be sent to the Foreign Department for issue with reference to Mr. Wood's note, dated the 7th January, 1907. The draft endorsement below may at the same time issue to the Foreign Department.

B. B.,—1-2-1907.

H. F. HOWARD,—9-2-1907.

Yes. I think the case should be seen by His Excellency, but that will be a matter for the Foreign Secretary.

W. S. MEYER,—9-2-1907.

Yes.

E. N. B[AKER],—11-2-1907.

Pro. No. 39.

ENDORSEMENT FROM THE FINANCE DEPARTMENT, NO. 932-Exc., DATED AND RECEIVED THE 13TH FEBRUARY, 1907.

Forwards a copy of a letter from the Government of Bombay, Revenue Department, communicating their views on the proposed arrangements with the Portuguese Government for the prevention of the smuggling of liquor from Daman and Nagar Avelly into the adjoining British districts.

The draft despatch prepared by the Finance Department may be submitted to His Excellency for approval.

S. A. B.,—14-2-1907.

E. BARNES,—15-2-1907.

J. B. WOOD,—15-2-1907.

His Majesty's Government were most anxious to settle this case by diplomatic action, but I agree that the Portuguese proposals are not equitable and that there is no hope of arriving at an agreement without resorting to a form of retaliation. The draft despatch is for Your Excellency's approval.

L. W. DANE,—15-2-1907.

Please circulate.

M[INTO],—16-2-1907.

Seen.

K[ITCHENER],—18-2-1907.

Denzil I[BBETSON],—19-2-1907.

H. E. R[ICHARDS],—19-2-1907.

E. N. B[AKER],—19-2-1907.

H. A[DAMSON],—19-2-1907.

May be submitted to His Excellency on his return with a signature copy.

L. W. DANE,—21-2-1907.

His Excellency has signed the despatch.

I-38-40.

L. W. DANE,—28-2-1907.

Pro. No. 40.

DESPATCH TO HIS MAJESTY'S SECRETARY OF STATE FOR INDIA,
NO. 35-INTERNAL, DATED THE 28TH FEBRUARY, 1907

States that the Government of India are entirely opposed to the acceptance of the proposal of the Portuguese Government that, as a quid pro quo for their meeting with the wishes of the Government of India in respect to their liquor arrangements in Daman and Nagar Avelly, the Government of India should allow the free transit of rice and other articles between these districts. Suggests, for the reasons given, that the Portuguese Government may be urged to allow a shopless zone in the immediate vicinity of the British India frontier without any corresponding quid pro quo; and says that in the event of the Portuguese Government refusing to assent to this measure, the Government of India request sanction to their prohibiting the exportation of mhowra flowers, and, if necessary, of other articles that might be used for distillations, from British India to the Portuguese Settlements in question.

ENDORSEMENT OF THE FINANCE DEPARTMENT, NO. 859-I.A., DATED THE
8TH MARCH, 1907

Forwards a copy of the foregoing despatch for information

Pro. No. 38.

No. 2783-Exc., dated Simla, the 28th (received 30th) May, 1906.

*Memo. by the Under-Secretary to the Government of India,
Finance Department.*

Copy forwarded to the Foreign Department, for information, with reference to the communication from that Department, No. 1876-I.A., dated the 9th May, 1906.

Dated Simla, the 28th May, 1906.

From:

H. F. Howard, Esq., I.C.S., Under-Secretary to the Government of India, Finance Department,

To:

The Secretary to the Government of Bombay, Revenue Department.

In continuation of the correspondence ending with my letter No. 1339-Exc., dated the 2nd May, 1906, I am directed to forward a copy of Despatch No. 68 (Revenue), dated the 6th April, 1906, from the Secretary of State for India, and of its enclosures, regarding a proposal made by the Government of Portugal for a reciprocal arrangement with a view to the prevention of the smuggling of liquor from the Portuguese possessions of Daman and Nagar Avelly into the adjoining British districts. I am to request that, as desired by the Secretary of State, the Government of India may be favoured with the views of His Excellency the Governor in Council on the proposal.

Pro. No. 39.

No. 932-Exc., dated Calcutta, the 13th (received 13th) February, 1907

Memo. by the Under-Secretary to the Government of India, Finance Department.

Copy forwarded to the Foreign Department, with reference to the communication from that Department. No. 1876-I.A., dated the 9th May, 1906.

Encl. Pro. No. 39.

No. 10352 of 1906.

Revenue Department,
Bombay Castle,
1st November, 1906

From :

R. P. Barrow, Esq., I.C.S.,
Secretary to the Government of Bombay;

To :

The Secretary to the Government of India,
Finance Department.

Sir,

Pro No. 38.

I am directed to acknowledge the receipt of the letter from the Government of India, No. * 2783-Exc., dated 28th May, 1906, forwarding copy of a despatch (with enclosures) No. 68, Revenue, dated 6th April, 1906, from the Secretary of State for India, regarding the reciprocal arrangements which the Government of Portugal suggest might be effected in order to put an end to the smuggling of liquor from the Portuguese possession of Daman and Nagar Avelly into the adjoining British districts, and to submit the following remarks on the proposals made.

2. The Government of Portugal claim that the Government of Portuguese India have throughout shown a sincerely accommodating spirit in the matter of the settlement of this question which has been so long outstanding, and intimate that an agreement is not impossible, provided that the Government of India will, as compensation for the loss of revenue which must follow, permit, free of all duty, the passage of salt and other Portuguese products, when transported under observation, from one to the other of the two districts of Daman and Nagar Avelly. I am to draw attention to the fact that the revenue which will be lost is revenue to which the Government of Portuguese India have no equitable claim; it is derived from liquor consumed by British subjects dwelling in British territory. It is only because the Portuguese liquor monopolist is permitted to set up taverns near the frontier without any restrictions whatever, and to charge for his liquor a price appreciably lower than that at which British licensees can afford to sell, that the Government of Portuguese India are able to divert to themselves revenue which should accrue to the British Government, and it is not easy to understand on what principle compensation can be claimed for the loss of revenue which is improperly earned.

3. The Governor in Council, I am to say, regrets that he can find in the course of the correspondence which has been going on for the last ten years, no evidence of a desire on the part of the Government of Portuguese India to show an "accommodating spirit" or a desire for a settlement. At no time has that Government been willing to take either of the two measures which would have at once removed all inducement to British subjects to go out of their way to consume Portuguese-made country spirit, and have checked the administrative evil of which complaints has been made, viz., (a) limiting the number of shops and permitting none within a prescribed distance from the frontier, and (b) enhancing the taxation on country spirit within Portuguese territories, thus raising the selling price to the level of that obtaining in the adjacent British districts. The potential effectiveness of these measures is unquestionable. For the fewer the shops in close proximity to the frontier, the less the likelihood that people would be tempted to resort to them; while if Portuguese liquor could be obtained no cheaper than British, the Portuguese shops would altogether cease to attract purchasers from the other side of the frontier. It is incorrect to say that smuggling is impossible owing to the strict watch kept by the British authorities at the frontier—for it is incontestable that the interests of this Government suffer, not only through the actual consumption within the Portuguese territories by their subjects, but also by reason of the quantity of liquor which they smuggle across the frontier for consumption at home.

4. Two further measures which would have materially assisted towards checking smuggling and preventing the illicit manufacture and sale of liquor within Portuguese territories are (c) prohibition of the sale at any one time and in any one day to any one person of more than a fixed small quantity of spirit, *e.g.*, one bottle, and (d) the control of the traffic in mhowra flowers by prohibiting their importation into Daman and Nagar Avely except under permit, and for use only at licensed distilleries. So far the Government of Portuguese India have not been invited to adopt measures (c) and (d). But had they been invited there is little reason to suppose that they would have been more inclined to adopt them than measures (a) and (b). I am to say that in any further negotiations all four measures should in the opinion of this Government be specially pressed on the acceptance of the Portuguese Government.

5. Even were it held that the Government of Portuguese India would be entitled to compensation for loss of revenue following on the adoption of measures advocated by this Government, the particular form of compensation suggested by the Government of Portugal is, I am to say, one, which, in the opinion of the Governor in Council, should most emphatically not be granted. The passage between the two districts of Daman and Nagar Avely lies through British territory, and the transport really in question is that of salt from Daman to Nagar Avely, and of rice from Nagar Avely to Daman. Regarding the former, I am to solicit attention to the correspondence underlying the Notification of the Government of India, No. 475-S.R., dated 25th January, 1895. It will be observed that notwithstanding a clear demonstration of the facts, that salt was manufactured in Daman far in excess of local requirements, and that the licit imports of the article into British India were insignificant, the Portuguese Government declined to take any steps whatever to prevent the salt being used to the detriment of British revenues; that is to say, they

refused to interfere with practices which brought revenue to their own coffers at the expense of British interests. An effective remedy was, therefore, found in the prohibition of import by land of Daman salt into British India. The proceedings underlying the letter to the Government of India, No. 6554, dated 18th September, 1902, show that the Portuguese Minister subsequently advocated, *but unavailingly*, the relaxation of this restriction. To remove the prohibition now would result in a revival of the difficulties and loss of British revenue in respect of Daman salt, which it is sought to remove in the present case in respect of Daman country spirit, and it would be idle to discuss the removal of trouble in connection with one article by reviving an exactly similar trouble in connection with another one. The case of rice in transit from Nagar Avely to Daman has formed the subject of much correspondence, and I am to invite a reference to the letter from the Government of India, Foreign Department, No. 3584-I., dated 29th October, 1895, which directed the withdrawal of the concession by which rice produced in Nagar Avely was allowed to pass free of duty to Daman through intervening British territory. Although every effort has been made, it has never been possible to devise any practical method of guarding the concession, if granted, from abuse. This Government, accordingly, would strongly deprecate any departure now from the decision not to grant the concession. Put into other words, the proposal of the Portuguese Government is that in return for surrendering to the British Government a revenue from country spirit which is improperly diverted into the Portuguese treasury, the abuses, which in former years were found intolerable, and have happily for some time past been prevented by suitable action on the part of the British Government, should be allowed to revive. Such a proposal is obviously one which cannot be accepted as the basis for negotiating an agreement.

6. From a perusal of the despatch of the Portuguese Minister of Foreign Affairs, which forms an enclosure to the letter from the Government of India under reply, it is clear that the Portuguese Government are not prepared to relinquish the revenue derived from the sale of their liquor to British subjects unless it is made worth their while. The only proposal which that Government have put forward has been found inadmissible, and as matters stand, there appears to be nothing of tangible value which the British Government can offer as a set off against the revenue which they claim. It appears to the Governor in Council that it is useless to attempt further negotiations with the Government of Portugal, until the British Government have taken such action as will place them in a position to offer something in return for what they wish to obtain. What that action should be seems to be clearly indicated by the precedent of the Daman salt referred to above. In that case the issue of a notification under section 19 of the Sea Customs Act, followed by an improvement of the frontier line, had reduced to a minimum the trouble in connection with salt in the neighbourhood of Daman, the smuggled quantity detected having been 735 maunds in 1893-94 (the year before the notification) and 41 and 14 maunds in 1904-05, and respectively (the years following the improvement in the frontier line). Similarly, a prohibition of the export of mhowra flowers by land or sea to Daman can be enforced strictly as regards the districts of Daman, and, though not absolutely, yet with practical efficacy, in the case of the

district of Nagar Avely (*vide* paragraph 3 of the letter from this Government to the Government of India, No. 8618, dated 5th November, 1904). I am to request that the Government of India may be moved to take early action in this direction. It is true that this action is not altogether in consonance with the Government of India's ideal of a unified customs and excise system for all India, and the abolition of all internal excise and customs lines; but it is advocated not as an end in itself, but as a means of enabling the British Government in treating with the Portuguese to offer something of value as an inducement to co-operate with them. It is highly probable that the prohibition would have such an effect on the Portuguese *abkari* revenue that the prospect of obtaining its removal would lead to the very early offer to reorganize their *abkari* administration on the desired lines; and should that result follow the absolute prohibition might by degrees be modified or removed in return for action favourable to British interests. If, for example, the Portuguese should prohibit the opening of shops within three miles of the frontier, or forbid the sale of more than one bottle at a time in a day to one person, or both of these, the prohibition might be modified, or restricted to Nagar Avely only; or, such a rate of duty might be substituted for Daman proper, as would restrict the export of mhowra flowers without stopping it altogether. Reductions in the rate of duty and abolition of the prohibition in respect of Nagar Avely would follow gradually, or at once, or not at all, in exact accordance with the progress which the Portuguese authorities might make, or fail to make, in introducing in their territory a distillery system with rates of still-head duty not less than those in force in the adjoining districts of Thàna and Surat, accompanied by the employment of a staff competent to control the shops, and check unlicensed distilling, and by the introduction of such measures for controlling the traffic in mhowra flowers as are in force in Surat and Thàna.

7. It should not be overlooked that the proposed prohibition has the further advantage that it would at once effect much of what is desired by this Government. It must tend directly to raise the cost of production of country spirit in Daman and consequently its retail price, and to reduce the revenue derivable from it. By as much as the price of Portuguese country spirit is raised, by so much will the attraction of British subjects to Portuguese shops be reduced.

8. As an additional means of bringing indirect but legitimate pressure to bear on the Portuguese Government, the Governor in Council has under his consideration proposals for introducing the following measures such as the Madras Excise authorities have, it is understood, found serviceable in dealing with an exactly similar trouble in connection with the French possession of Pondicherry:—

(1) Opening on the British side of the frontier as many shops as the Portuguese have permitted on their side; the number to be reduced as the Portuguese reduce theirs.

(2) Colouring all spirit to be supplied to the frontier tracts, both in Surat and Thàna.

(3) Reducing the still-head duty in the frontier tracts to a uniform rate of Rs. 1-4-0 per gallon, 25° U.P., and annas 10 per gallon, 60° U.P., the maximum selling price being proportionately reduced.

The Governor in Council, however, will take no action with regard to these measures until he is informed of the views of the Government of India with regard to the proposal to prohibit the export of mhowra flowers.

I have the honour to be

Sir,

Your most obedient servant.

R. P. BARROW,

Secretary to Government.

Pro. No. 40.

No. 35 of 1907.

GOVERNMENT OF INDIA

FOREIGN DEPARTMENT

INTERNAL

To

The Right Hon'ble John Morley, O.M.,
His Majesty's Secretary of State for India.

Fort William, the 28th February, 1907.

Sir,

With reference to the correspondence ending with your Despatch No. 68 (Revenue), dated the 6th April, 1906, we have the honour to forward the papers specified in the annexed schedule, on the subject of a reciprocal arrangement suggested by the Government of Portugal with a view to the prevention of the smuggling of liquor from the Portuguese possessions of Daman and Nagar Aveli into British India.

2. For the reasons stated by the Government of Bombay in their letter, No. 10352, dated the 1st November, 1906, which forms enclosure No. 2 to this Despatch, we are entirely opposed to the acceptance of the proposal of the Portuguese Government that, as a *quid pro quo* for their meeting our wishes in respect to their liquor arrangements in Daman and Nagar Aveli, we should allow the free transit of rice and other articles between these districts. As is pointed out by the Local Government, such transit would, in the case of salt and rice, inevitably degenerate, as formerly, into unauthorised free import of these articles into British territory.

3. The main evil complained of by the Bombay Government is the existence of Portuguese liquor shops in close proximity to our frontiers. It is clear from the past correspondence that these shops are, as at present situated, largely supported by the issue of liquor to consumers in British India; and we are of opinion that the Portuguese Government may reasonably be urged to allow a shopless zone in the immediate vicinity of our frontiers without any corresponding *quid pro quo*. We would suggest that they may now be addressed accordingly.

4. In the event of such a zone being established, we consider that the Bombay preventive arrangements should suffice to cope with the smuggling of liquor into British territory from the interior of the Portuguese settlements, and that it would not be necessary to press for the adoption of the other measures suggested by the Local Government in paragraphs 3 and 4 of their letter. In the event, however, of the Portuguese Government refusing to assent to this measure, we would request your sanction to our prohibiting the exportation of mhowra flowers, and, if necessary, of other articles that might be used for distillation, from British India to the Portuguese settlements in question. We are in a position practically to enforce such a prohibition, and, as the Bombay Government point out, it would seriously affect the Excise revenues of the Portuguese Government and would operate as an inducement to that Government to offer concessions to us with a view to its removal.

5. We may add, with reference to the supplementary measures specified in paragraph 8 of the Local Government's letter, that we are not prepared to accept the suggestion that we should, as a retaliatory measure, open on the British side of the frontier as many liquor shops as the Portuguese have permitted on their side. We consider that the competition to sell liquor which would ensue from such a measure is altogether to be deprecated, and we propose to inform the Local Government accordingly on receipt of your reply to his Despatch. We understand, however, that the Local Government do not intend to introduce this, or any of the other measures referred to in paragraph 8 of their letter, unless and until the proposal to prohibit the export of mhowra flowers should be deemed by His Majesty's Government to be inexpedient.

We have the honour to be,

Sir,

Your most obedient, humble Servants,

(Signed) MINTO.

„ KITCHENER.

„ H. E. RICHARDS.

„ E. N. BAKER.

„ C. H. SCOTT.

„ H. ADAMSON.

„ J. F. FINLAY.

„ J. O. MILLER.

No. 859-I.A.

Copy forwarded to the Finance Department for information with reference to the correspondence ending with the communication from that Department, No.* 932-Exc., dated the 13th February, 1907.

By order,

E. BARNES,

Assistant Secretary to the Government of India.

Foreign Department,
Fort William.

The 8th March, 1907.

Enlco. Pro. No. 40.

List of Enclosures in Secret despatch No. 35 (Internal), dated the 28th February, 1906, from the Government of India in the Foreign Department, to His Majesty's Secretary of State for India

<i>Serial No.</i>	<i>No. and date of paper</i>	<i>From whom, or to whom</i>
1	Letter to the Government of Bombay, No. 2783-Exc., dated the 26th May, 1906 (Pro. No. 38)	From H. F. Howard, Esq., I.C.S., Under Secretary to the Government of India Finance Department.
2	Letter from the Government of Bombay, No. 10352, dated the 1st November, 1906 (Pro. No. 39)	To the Secretary to the Government of India, Finance Department.

J. B. WOOD,

Deputy Secretary to the Government of India.

Annex C. No. 45*Record Office, Bombay*

1934

File No. 86/34

POLITICAL & REFORMS DEPARTMENT

B. BRANCH

SUBJECT:—CONSULS

Complaint by the Consul Genl. for Portugal at Bombay re levy of duty on rice transported from Nagar-Avely to Damao

S. R.

Bombay,
15th December, 1933.The Chief Secretary to the Government of Bombay,
Political and Reforms Department,
Bombay.

Sir,

I am directed to bring to the notice of the Government of Bombay the following facts concerning the transit of rice from the sub-district of Nagar-Avely (Portuguese India) to the Sub-district of Damão, either for local consumption in the latter or to be exported thence to the Portuguese ports of Pangim and Mormugão.

2. As you are aware, Nagar Avely and Damão are two sub-districts of the District of Damão which are separated by British territory. The rice produced in Nagar-Avely and despatched to Damão or Goa has, therefore, to pass through British territory, in transit.

3. It happens that the British Customs Authorities, considering the rice in question as exported merchandise, have been levying a duty of Rs. 1/8 & per fara, when no charge is made by them on rice produced in Nagar-Avely and exported to British India.

4. It seems, therefore, that the procedure of the British Authorities in charging the duty is based upon an incorrect interpretation of the international character of the transit, as the rice produced in Portuguese territory of Nagar-Avely cannot enter the Portuguese territory of Damão without passing through British territory. Moreover, the goods despatched from Vapi (British India) to Kunta and other British Indian villages situated in the middle of Portuguese District of Damão, are exempted of Customs duty when they pass in transit through the Portuguese territory of Dabel.

5. Under the circumstances I have the honour to request you to move the competent Authorities to allow free transit to rice despatched from Nagar-Avely to Damão.

6. I may add that the Government of Damão will be prepared to take all the measures necessary to prevent abuses by determining that no rice be despatched from Nagar-Avely without special permits issued by the Authorities of that Sub-district, in which mention might be made of all the particulars of each despatch, such as destination, number of bags, names of the seller and buyer, etc.

I have the honour to be,

Sir,

Your most obedient servant,
Antonio ALVES,
Consul General for Portugal.

No. o/14364—B

Political and Reforms Department.

Bombay Castle,
21st December, 1933.

From

C. W. A. Turner, Esquire, C.S.I., C.I.E.,
Chief Secretary to the Government of Bombay,
Political and Reforms Department.

To

The Consul General for Portugal at Bombay.

Subject:—Transport of rice from Nagar-Avely to Damao.

Sir,

I am directed by the Governor in Council to acknowledge the receipt of your letter No. 825—DV. Proc. 548, dated the 15th December, 1933, on the subject noted above, and to state that it is receiving attention.

I have the honour to be,

Sir,

Your most obedient servant,
(Initialled) Illegible. 20/12.
For Chief Secretary to the
Government of Bombay, Political
and Reforms Department.

(Below a copy of a letter from the Consul General for Portugal at Bombay
No. 825—DV. Proc. 548, dated the 15th December, 1933.)

No. O/14364—B.

Political and Reforms Department.

Bombay Castle,
21st December, 1933.

Forwarded with compliments to the Collector of Surat for favour of report.

By order of Governor in Council,
(Initialled) Illegible. 20/12.
For Chief Secretary to the
Government of Bombay, Political
and Reforms Department.

No. M.S.C.

From,
B. Mardhekar, Esquire, M.A.,
Collector of Surat.

To
The Chief Secretary to Government,
Political and Reforms Department,
Bombay.

Surat,

12 February, 1934.

Subject:—Transport of rice from Nagar Aveli to Daman.

Sir,

With reference to your No. O/14364—B of 21-12-34 on the subject mentioned above, I have the honour to forward herewith copies of Assistant Collector, Salt Revenue Surat's No. S/21-4 of 28-1-34 to Deputy Collector Salt Revenue Bombay and Collector of Salt Revenue Bombay's No. 88-103 of 3-2-34 with accompaniments.

I have the honour to be,

Sir,

Your most obedient servant,
V. B. MARDHEKAR,
Collector of Surat.

(Below No. M.S.C. of 3-1-34 from the Collector of Surat.)

No. S.21/4.

Surat,

28th January 1934.

Dy. Collr. S. R. Bombay.

Forwarded with compliments.

2. With reference to paragraph 3 in Consul General's letter, duty at Rs. 0-2-3 per B.Md. is charged at all customs stations on export of rice and paddy from British territory to foreign territory and not at Rs. 1-8-0 per "Fara".

3. It has been pointed out in para. 4 that goods despatched from Vapi to Kunta and other British villages situated in the middle of Portuguese territory of Daman are exempted from customs duty when they pass in transit through the Portuguese territory of Dabel. But from inquiries the S.K.D.F. reports that rice and paddy removed to British villages on the strength of passes issued from the Sarkarkun D.F.'s office, Challa, are charged at the Portuguese Land Customs station at Dabel at Rs. 2-13-0 per "Candi" of 20 Portuguese "curos".

4. The concession now asked for was at one time in force on the D.F. under which rice and paddy produced in Nagar Aveli Pargana and under removal to another part of same territory, viz. Daman under cover of certificates of origin issued by Portuguese authorities through the intervening British territory was allowed to pass free of duty at British Land Customs stations. When it was discovered that the concession given was abused in as much as large quantities of rice grown in British territory was removed by the public free of duty on the strength of false certificates with the result that the British revenue suffered to a great extent the Government of India had to consider advisability of withdrawing the concession. A copy of G.R.P.D. No. 7831 dated 17-12-1895 under which the concession was withdrawn is herewith submitted.

5. In the year 1900 the Portuguese authorities attempted to obtain revival of the concession but the request was not granted on the grounds set forth in letter No. 5518 of 21-7-1900 from the Government of Bombay to the Governor General in Portuguese India, the copy of which is also enclosed.

6. The practical difficulties experienced then in preventing frauds to avoid payment of duty on British produce which will have to be faced remain the same. Moreover, the present time, when the import into British India of all dutiable goods from Nagar Aveli is prohibited, is the most inopportune for considering the grant of a concession. I would thereof recommend that for the reasons set forth in the G.Rs. quoted above, the question may not be re-opened.

7. The Collector of Surat may please be informed as you deem fit.

(Signed) D. V. MORAY.

Assistant Collector of Salt Revenue,
Surat-Viramgam Range.

No. 88-103.

Bombay,
3rd February, 1934.

F. W. C. to the Collector of Surat.

2. Conditions which necessitated the withdrawal of the concession of allowing export of rice from Nagar Aveli to Daman free of duty have not changed and the Collector sees no reason to modify the existing arrangement.

(Signed) Illegible.
Collector of Salt Revenue,
Bombay.

POLITICAL AND REFORMS DEPARTMENT

The Consul General for Portugal at Bombay has pointed out that the rice produced in Nagar-Avely (Port: territory) and despatched to Damão (Portuguese territory) or Goa has to pass through British territory in transit and that the British Customs Authorities, considering the rice in question as exported merchandise, have been levying a duty of Rs. 1-8-0 per fara, when no charge is made by them on rice produced in Nagar-Avely and exported to British India. The Consul therefore observes that the "procedure" of the British Authorities in charging the duty is based upon an incorrect interpretation of the "international character" of the transit, as the rice produced in the Portuguese territory of Nagar-Avely cannot enter the Portuguese territory of Damão without passing through British territory. He further states that the goods despatched from Vapi (British India) to Kunta and other British Indian villages situated in the middle of the Portuguese District of Damão, are exempted from Customs duty when they pass in transit through the Portuguese territory of Dabel. In the circumstances, the Consul requests that the authorities concerned may be moved to allow *free* transit to the rice despatched from Nagar-Avely to Damão and adds that the necessary measures will be taken by the Govt. of Damão to prevent abuse of the concession.

2. It will be observed from the letter of the Assistant Collector of Salt Revenue, Surat-Viramgam Range, No. S-21/4, dated the 28th January, 1934, that a duty at Rs. 0-2-3 per B. maund is charged at all customs stations on export of rice and paddy from British territory to foreign territory and *not at Rs. 1-8-0 per fara* as stated by the Consul General. It will also be seen from para. 3 of the letter that the Consul's statement that goods despatched from Vapi to Kunta, etc., are exempted from Custom duty at the Port: Customs station at Dabel, is not correct. The above facts may be pointed out to the Consul Genl.

3. It will be observed from the proceedings underlying G.R., P.D., No. 7831, dated the 17th December, 1895, that the concession now asked for was at one time in force, and that rice and paddy produced in Nagar-Avely Pargana and under removal to another part of the same territory, viz., Daman, under cover of certificates of origin issued by the Portuguese authorities, was allowed to pass through the intervening British territory

free of duty. It was discovered however that the concession given was abused inasmuch as large quantities of rice grown in British territory were removed by the public free of duty on the strength of false certificates, involving considerable loss to British revenues. The concession was therefore provisionally withdrawn as explained in P.D. letter No. 7832, dated the 17th December, 1895, to His Excellency the Govr.-General of Portuguese India. In 1900, the Portuguese authorities attempted to obtain a revival of the concession but the request was refused for the reasons set forth in P.D. letter No. 5518, dated the 21st July, 1900, to the Govr. General of Portuguese India.

4. The Collector of Salt Revenue, Bombay, is of opinion that the conditions which necessitated the withdrawal of the concession in question have not changed and therefore sees no reason to modify the existing arrangement.

5. It is for orders whether the Consul General's attention should be drawn to the Govt. Letters quoted above and he should be informed that for the reasons set forth therein and in view of the fact that the conditions which necessitated the withdrawal of the concession have not changed, Govt. regret that they are unable to comply with his request.

6. The papers may be shown u.o. to the Revenue Department.

C.W.A.T.

21.2.34.

u.o.r. to R.D., d. the 22/2/34.

No. 86/34—B.

Political and Reforms Department.

Bombay Castle,
15th March, 1934.

From

C. W. A. Turner, Esquire, C.S.I., C.I.E.,
Chief Secretary to the Government of Bombay,
Political and Reforms Department.

To

The Consul General for Portugal at Bombay.
Subject:—Transport of rice from Nagar-Avely to Damão.

Sir,

In continuation of my letter No. 0/14364—B., dated the 21st December, 1933, on the subject noted above, I am directed by the Governor in Council to invite your attention to Bombay Government letters (Political Department) No. 7832, dated the 17th December, 1895, and No. 5518, dated the 21st July, 1900, addressed to H.E. the Governor General of Portuguese India (copies attached), from which it will be observed that the free transit of rice from Nagar-Avely to Damão was at one time permitted. It was however discovered that this concession was

abused inasmuch as large quantities of rice grown in British territory were removed by the public free of duty on the strength of false certificates, involving considerable loss to British revenue. The Government of Bombay therefore, after careful consideration, decided to withdraw the concession. For the reasons set forth in the two letters referred to above and in view of the fact that the conditions which necessitated the withdrawal of the concession have not changed, the Governor in Council regrets that he is unable to permit free transit to rice despatched from Nagar-Avely to Damão.

2. With reference to paragraph 3 of your letter No. 825—D.V. Proc. 548, dated the 15th December, 1933, I am to point out that duty at Rs. 0-2-3 per Bengal maund is charged at all British customs stations on export of rice and paddy from British territory to foreign territory and not at Rs. 1-8-0 per fara. In paragraph 4 of the same letter, it is stated that goods despatched from Vapi to Kunta and other British villages situated on the middle of the Portuguese territory of Damão are exempted from customs duty when they pass in transit through the Portuguese territory of Dabel. It has been ascertained however that rice and paddy removed to British villages on the strength of passes issued by the office of the Sarkarkun, Dabel Frontier, Challa, are charged at the Portuguese Land Customs station at Dabel at Rs. 2-13-0 per "Candi" of 20 Portuguese "Curos".

I have the honour to be,

Sir,

Your most obedient servant,

C.W.A.T.

15.3.34.

O/C.

Chief Secretary to the Government
of Bombay, Political and
Reforms Department.

12/3/34.

J.C.

12/3/34.

Copy forwarded to the Finance Department for information.

POLITICAL AND REFORMS DEPARTMENT

Submitted with reference to Chief Secretary's query at p. 23 *ante*.

2. Please see para. 3 of the Consul General's letter, dated the 15th Decr., 1933, and para. 2 of the memo. No. S. 21/4 dated the 28th January, 1934, from the Assistant Collector of Salt Revenue, Surat-Viramgam Range. It appears that a duty at Rs. 0-2-3 is charged at all *British Customs* stations on *export** of rice and paddy from *British territory* to *foreign territory*. Presumably the export of rice grown in one part of British territory to another part of the same territory is free of duty.

* When the concession was in force, .. *British* "rice" was exported to Portuguese territory free of duty under false certificates of origin granted by the Portuguese authorities.

(Illegible.)

13/3/34.

(Illegible.)

13/3/34.

I have never heard of an export duty on any grain being charged, and think there must be some misunderstanding. The Supt. should bring up the case personally to-morrow morning.

C.W.A.T.

14.3.34.

I find that under the Indian Customs Tariff an export duty is actually levied on rice exported from British territory. I was unaware of this.

C.W.A.T.

15.3.34.

S. R.

Bombay,

23rd March, 1934.

No. 221-DV.

Proc. 548.

The Chief Secretary to the Government of Bombay,
Political and Reforms Department,
Bombay.

Sir,

I have the honour to acknowledge, with thanks, the receipt of your letter No. 86/34-B, dated the 15th instant, regarding transport of rice from Nagar-Avely to Damão.

I have the honour to be,

Sir,

Your most obedient servant,

Antonio ALVES,

Consul General for Portugal.

No. M.S.C.

From

V. B. Mardhekar, Esq., M.A.,
Collector of Surat.

The Chief Secretary,
Political & Reforms Department, Bombay.

Surat 21 September, 1934.

Subject:—Transport of rice from Nagar Aveli to Daman through the British Territory.

Sir,

In continuation of this office letter No. M.S.C. dated 12.2.34 in reply to your endorsement No. 0/14364-B dated 21-12-1933, I have the

honour to forward herewith a copy of a letter received from the Governor of Damão for favour of necessary action.

I have the honour to be,
sir,

your most obedient servant,
V. B. MARDHEKAR,
Collector of Surat.

Private and personal.

Damão,
3rd August, 1934.

My dear friend,

A matter of great interest and importance to the economy of this District, leads me to address you this letter, hoping to be indebted to the favour of your benevolence and spirit of whole justice in the resolutions which I expose as follows:—

The Damão District is composed of two communes—Damão and Nagar Aveli—separated by a broad stripe of the British Territory, through which runs the Damão-Vapi-Silvassa road, whereby all the traffic is made. The Nagar Aveli commune is actually producing a good quantity of rice which compensates the need of this cereal in the commune of Damão, the surplus being exported to the Goa District.

Therefore, you see my friend, that this cereal produced in Portuguese Territory, in the same territory is consumed, so being absolutely unjustified the exportation duties levied by the British Customs authorities at the Frontier.

That merchandise passes through the road that joins the two communes of Damão District, in transit, and in these conditions, no tax should befall on the product, much less of exportation, since it has not been produced in the British Territory.

The British Authorities may allege that they act in that way, to prevent the rice of the British territory for passing into the Nagar Aveli commune and from there being exported as product of that place; but that allegation has no consistence because the rice which passes in transit, of the communes of Nagar Aveli to Damão, has its origin rigorously documented.

We ourselves are the most interested in that the rice coming from Nagar Aveli, should be proved of being produced there, considering that if it was foreign and should enter as national, it would be exempted of the tax payment, known as "equilibrium tax", to the Portuguese Customs, with manifest grievance to the law.

I understand the difficulty of the British Customs authorities, if the transport were permanently made, considering that frauds should easily occur. And for this reason, having in great consideration the interest and right of others—exactly in order that ours should be respected—I would propose the following:—

Every year with the assistance of the Portuguese and British Authorities, for once or more times, should be conducted from Nagar Aveli commune to Damão, a convoy of carts with the rice

produced in the first, under the guarantee of the Government of this District, regarding its origin.

The rice transported in any other occasion, would be subject to the former exigencies.

I think that by what was exposed, we the Portuguese, as ever-manifest well the wish of causing no prejudice to the British rights in India and we hope that the over proved good sense and spirit of justice of the British administration, will resolve favourably this matter, which will come to ease a little the enormous difficulties in which the population of the District lives presently.

I would be grateful, if you would put all your interest in the request that directly I make to you, and I am at your disposition to give all the particulars which you may require.

With my best compliments and wishes of happiness.

Yours sincerely,

(Signed)

F. H. CRAVEIRO LOPES,
Governor of Damão.

POLITICAL & REFORMS DEPARTMENT

The Collector of Surat has forwarded a copy of the d.o. letter addressed to him by the Governor of Damão in the matter of free transit through British territory of rice from Nagar-Aveli to Damão. The matter was fully considered by Govt. when a communication on the subject was addressed to them by the Consul General for Portugal at Bombay. Please see in this connection Govt. letter No. 86/34-B, dated the 15th March, 1934, to the Consul General. It will be observed that for the reasons given, the request for the free transit of rice through British territory was negatived. The Govr. of Damão is presumably aware of the reply given to the Portuguese Consul General by this Govt. In order to prevent abuse for which the concession was stopped, he has suggested the course mentioned at 'A' in his d.o. letter to the Collr. of Surat. The Collector of Salt Revenue may be requested u.o. to state whether the suggestion is practicable and worth considering.

C.W.A.T.

25. 9. 34.

C.S.

u.o.r. to Collr. of Salt Revenue, of the 26/9/34.

(Below u.o.r. dated 26.9.34 from the Political and Reforms Department.)

I attach a copy of a Note by the Dy. Collector of Salt Revenue.

2. The true answer to this claim however is I think contained in para. 3 of Bombay Political Department Despatch No. 5518 dated 21-7-1900 to the Governor General of Portuguese India.

3. Facilities for trade between Nagar-Aveli and the British territory by which it is surrounded have recently been to some extent restricted by the prohibition from Nagar Aveli to British India of certain classes of goods *on re-export* (Government of India, Finance Department (Central Revenues) Notification No. 1 dated 13-1-1934); but there is no Customs cordon and all produce of Nagar Aveli still enters British India free.

4. The claim, if admitted, would place Nagar Aveli rice in a preferential position, *vis-à-vis* British-Indian rice, in the Damão market, and almost certainly, I think, lead to repetition of previous practices.

5. I suggest therefore that the claim should be resisted.

6. I may mention here for the information of Government, that the export duty on rice is maintained mainly on account of the surplus exported to foreign countries from Burma; and, with the proposed separation of Burma, the duty in India proper will probably disappear.

(Signed) Illegible.

Collector of Salt Revenue, Bombay.

U.o.r. No. 88-103/33 dated 11th Decem., 34, to P. & R. Deptt.

Collector,

The Governor of Daman requests that the rice produced in the Portuguese territory of Nagar Aveli may be allowed to be taken to Daman across intervening British territory without payment of export duty which is being recovered at present.

In this connection it may be mentioned that on the establishment of the Portuguese cordon in 1892 rice produced in Nagar Aveli was allowed to be taken to Daman free of duty. It was however soon found that rice grown in British India was taken to Daman under false certificates of origin issued by Portuguese officials. On the recommendation of the Collector of Salt Revenue, therefore, the concession was temporarily withdrawn by the Government of India in 1895, *vide* Bombay G. R., P. D. No. 7831 dated 7th December, 1895. In 1900 the Governor General of Portuguese India again represented but the Govt. of Bombay declined to regrant the concession, *vide* their letter No. 5518 dated 21st July, 1900. The question was again reopened recently and the Consul General for Portugal was informed that the conditions which necessitated the withdrawal of the concession still existed and that therefore it could not be granted, *vide* Bombay Govt. letter No. 86/34-B dated 15th March, 1934.

The Governor of Daman now suggests that as a safeguard against British Indian rice finding its way into Daman through Nagar Aveli consignments of rice produced in Nagar Aveli should be removed to Daman under the guarantee of the Portuguese Government as regards its origin and accompanied by British and Portuguese guards.

The question to be considered is whether the concession can be safely granted. Nagar Aveli is surrounded by British territory where rice is produced. It is also bounded on one side by the Dharampur State. It is very difficult to distinguish Nagar Aveli from British Indian rice.

There is no cordon round Nagar Aveli. In view of these facts there is a danger of British Indian rice going to Daman through Nagar Aveli and Government revenue will suffer. So long as rice is dutiable on export there will be temptation to traders to evade payment of duty. It may however be mentioned that as compared with the high import tariff the export duty of 0-2-3 per Md. is not high. Rice is also a bulky article. If therefore the Govt. of India is inclined to grant the concession on Political grounds we might sacrifice export duty of about Rs. 2,500 per year on rice brought from Nagar Aveli. In order to prevent British Indian rice finding its way into Daman I would suggest the following procedure:—

(A) The quantity of rice and paddy to be exported from Nagar Aveli every year should be fixed by the British Government in consultation with the Portuguese Govt. This quantity might be revised every five years.

(B) The rice should be taken from Nagar Aveli to Daman in three instalments. The exact dates to be fixed by local Customs officials in consultation with the Daman authorities.

(C) That the bags of rice should be filled and sealed in the fields in the presence of a British Customs official whose services will be lent to the Portuguese Government on payment of establishment charges.

(D) That the import of rice from Daman into British India by sea or land should be prohibited under Section 19 of the Sea Customs Act.

The Asstt. Collector Surat reports that on an average about 30,000 mds. of rice and paddy are exported from the Land Customs Stations on the Daman Frontier to Daman. This quantity however includes British Indian rice. It is estimated that the share of Nagar Aveli rice is 20,000 mds. Duty on this would be about Rs. 3,000.

(Signed) MANEKLAL L.

Dy. Collector of S. R., Bombay.

7-12-34

POLITICAL AND REFORMS DEPARTMENT

Submitted with reference to the o.n., dated the 25-9-34.

2. The Collr. of Salt Revenue, for the reasons given in his u.o. memo, dated the 11-12-34, suggests that the claim of the Portuguese Govt. for exemption from the payment of duty on rice, produced in the Portuguese territory of Nagar-Aveli and exported to Damao through the intervening British territory should be resisted. Govt. have already informed the Consul General for Portugal that they are unable to permit free transit to rice despatched from Nagar-Aveli to Damão—vide Govt. Letter No. 86/34-B, dated the 15-3-1934. In the letter to the Collr. of Surat, dated the 3-8-34, the Governor of Damão suggested that as a safeguard against British Indian rice finding its way free of duty into Damao through Nagar Aveli, consignments of rice produced in the

latter place should be removed to Damão under the guarantee of the Portuguese Govt. as regards its origin and accompanied by British and Portuguese guards. This suggestion has evidently not found favour with the Collector of Salt Revenue.

The Collector of Surat may be requested to inform the Governor of Damao that the Govt. of Bombay have given careful consideration to the suggestion made by him but regret that they are unable to reconsider their previous decision in the matter. The accompanying draft memo. may issue after u.o.r. to the F.D.

J.P.

14/12/34.

J.C.

14/12/34.

My sympathies are with the Portuguese Authorities, & if their request could be met, I think it should be. So long as this export tax on rice, which by the way seems to be a thoroughly uneconomic form of taxation, exists it is obviously most difficult to ensure that British rice will not find its way into Damão if the suggestion made by the Portuguese Governor were adopted.

C.W.A.T.

15-12-34.

u.o.r. D.F.D.

of the 17-12-34.

FINANCE DEPTT.

Seen and returned u.o. to the Poll. and Reforms Deptt.

M.P.

21-12-34.

C.W.C.

21/12

u.o.r. to P. & R. Deptt.

dt. 21-12-34

D.S.

No. 86/34-B

POLITICAL AND REFORMS DEPARTMENT

B.C.

10th January, 1935.

Subject:—Transport of rice from Nagar-Avely to Damão.

Memo.

The undersigned presents compliments to the Colr. of Surat and with reference to his letter No. M.S.C., dated the 21-9-34, on the subject noted above, is directed to request that the Governor of Damão may be infor-

med that the Govt. of Bombay have given careful consideration to the suggestion made in his letter to the Collr., dated the 3-8-34, but regret that they are unable to reconsider their previous decision in the matter.

By order of the Govr. in C.,

C.W.A.T.

10. 1. 35.

Chief Secy. to the Govt. of Bombay,
Political and Reforms Deptt.

POLITICAL & REFORMS DEPTT.

Submitted with reference to the Chief Secretary's note, dated the 15th December, 1934. Presumably the draft memo. to the Collr. of Surat at p. 45 may issue.

C.W.A.T.

4. 1. 35.

C.S. (with f.c.)
H.E. the Governor.
B.
10/1/35.

(Addressed to Captain Millbank A.D.C. & shown to H.E.G.)

Residencia do Governo,
Damão,
Estado da India.

15th January, 1935.

Dear Comrade,

Being sure of your gentleness, I come to trouble you, asking for your valuable intercession, in order that a rapid solution should be given to a pretension of mine presented some time ago to the worthy Collector of Surat Dist., which presently waits despatch of that Government.

It is about the justful pretension, for exportation customs' duties not to be collected by the British Customs on the rice produced in the Nagar-Aveli commune, of the District under my charge, when in transit to Damão.

That pretension which I think has already been informed by the competent authorities, awaits superior resolution and I would be much grateful to my illustrious comrade, if you would succeed in obtaining a rapid resolution on that matter.

With my greatest thanks,
Sincerely Yours,
H. CRAVEIRO LOPES,
Sy.

(Below a letter from Governo Do Distrito, Damão, dated the 15th Jan., 1935)

Private Secy's Office,
Government House,
Bombay,
18th January, 1935.

Forwarded to $\left. \begin{array}{l} \text{P.D.} \\ \text{R.D.} \end{array} \right\}$ for disposal.

2. His Excellency would like to see the orders before they are issued.

G. F. S. COLLINS,
Private Sec. to H.E. the Govr.
of Bombay.

POLITICAL & REFORMS DEPTT.

The orders in this case have already issued. The papers were shown to H.E. the Governor, *vide* the official note, dated the 4-1-35, at p. 47 *ante*.

C.W.A.T.
18. 1. 35.

C.S.
P.S.G.

H.E. agrees that reconsideration is not possible. Letter to issue from this office as drafted & the papers to be returned to P.D.

P.S.G.
u.o. to P.D.

21/1/35.

Government House,
Bombay,

21st January, 1935

Dear Signor Lopes,

In reply to your letter of January 15th, addressed to Captain Milbank, I am to say that His Excellency has very carefully considered your representation, but regrets that it is not possible to alter the decision which has already been conveyed to you by the Collector of Surat.

Yours sincerely,
(Signed) G. F. S. COLLINS

F. H. Craveiro Lopes, Esquire,
Governor of Damão.

P. & R.D.

The papers may now be filed.

J.H.C.
22/1/35

G.F.S.C.
22/1/35

SERVICE OF THE REPUBLIC
GOVERNMENT OF THE STATE OF INDIA
CABINET DEPARTMENT

No. 177/G—Issue No. 918.

Nova-Goa, the 6th June, 1935.

To

The Chief Secretary to the Government of the Bombay
Presidency, Political and Reforms Department,
Bombay.

Sir,

I am directed by His Excellency the Governor-General to request the Government of the Bombay Presidency that rice produced in Portuguese territory of Nagar Aveli in transit to Damaun may be exempted from the British export tax.

2. As this is a measure which in no way affects the interests of the Bombay Presidency His Excellency hopes that this request may be considered just and deserving of consideration.

For the Benefit of the Nation.

(Signed) LUIS DE SOUSA E FARO,
Chief of the Cabinet.

True translation.

F. ENGS,
Portuguese Translator to Government.

Poona.
15th June, 1935.

POLITICAL AND REFORMS DEPTT.

The Chief of the Cabinet, Nova Goa, requests this Govt. to exempt from the British export tax rice produced in Nagar-Aveli and exported to Damão through British territory on the ground that such a concession will in no way affect the interests of the Bombay Presidency. That the interests of Govt. are affected will be clear from the correspondence leading up to Govt. memo. to the Collr. of Surat, No. 86/34-B., dated the 10th January, 1935. Please see also the P.S.G.'s (Mr. Collins') d.o. letter to the Governor of Damão, dated the 21st January, 1935. Govt. have already carefully considered the matter and have decided against

granting the concession asked for. Presumably it is not necessary to reopen the question. If so the accompanying reply is for approval.

E.D.C.

21.6.35.

J.H.C.

21/6/35.

C.S.

22/6

No. 86/34-7459-B.

POLITICAL AND REFORMS DEPTT.

Bombay Castle,
28th June, 1935.

To

The Chief of the Cabinet,
Govt. of Portuguese India,
Nova Goa.

Subject:—Transport of rice from Nagar-Aveli to Damão.

Sir,

With reference to your letter No. 177/G-Issue No. 918, dated the 6th June, 1935, on the subject noted above, I am directed by the Govr. in Council to say that the Govt. of Bombay have given careful consideration to the question whether rice produced in Nagar-Aveli and exported through British territory into Damão should be exempted from the British export tax. They regret, however, that it is not possible to allow this concession in view of the circumstances already explained in their letter to the Consul-General for Portugal at Bombay No. 86/34-B., dated the 15th March, 1934—copy enclosed.

I have etc.,

J.W.G.

22/6.

O.C.

Offg. Chief Secy. to the Govt. of Bombay,
Political & Reforms Deptt.

Annex C. No. 46*National Archives, New Delhi*

1895

FOREIGN DEPARTMENT

INTERNAL A

Pros. April, 1895, Nos. 48-58.

Prohibition of the importation by land of Daman Salt into British India

No. 57.

No. 475 S. R., dated 25th January, 1895.

NOTIFICATION—By the Government of India, FINANCE AND
COMMERCE DEPARTMENT.

In exercise of the power conferred by section 19 of the Sea Customs Act, VIII of 1878, the Governor-General in Council is pleased to prohibit the importation by land of Daman salt into British India.

Annex C. No. 47

Record Office, Bombay

1904

D.N.O. 55

COLLECTOR OF SALT

No. 4.

Daman, 1st March 1904.

To

The Collector of Salt Rev.; Bombay.

From

The Acting Governor of Daman.

Sir,

Encouraged by the obliging courtesy with which requests from this Government have invariably been received in the past by the neighbouring British officials in matters affecting our mutual administrative and political relations, I venture to bring to your notice, the inconvenience that is caused to the people of this district by the latest orders concerning the closure on public holidays of the Frontier Custom House of Kunta.

If I am not mistaken, prior to these orders, the number of close days for Customs work was comparatively limited, or at any rate, the custom office in question was only partially closed to the public on such holidays so that no hindrance might result to urgent business. Under present arrangements, however, the said Custom office is frequently and entirely closed for many days together, as happened during the late Capete, Divalee and Xmas holidays and a good deal of inconvenience is caused in consequence—cases having occurred in which medicines urgently required at the Nagar Avely Pragana, have been detained throughout these holidays. I am informed that in the Bombay city especial arrangements exist for obviating such inconvenience to the public and I should esteem it a great favour if a similar suitable arrangement could be devised in regard to the Kunta Custom House, so that local trade, such as it is may not be paralysed altogether during the holidays referred to.

Another matter to which I would solicit your kind attention are the difficulties placed in the way of the officials of this district, crossing the Frontier for sporting purposes. Their guns are detained at the frontier stations unless covered by a license to shoot in British territory. As a matter of fact, however, these officials are mostly bound for the Nagar Avely Pragana, and I understand there is no legal objection to Europeans and Eurasians carrying about guns in British territory, irrespective of their nationality. A similar principle obtains in Portuguese territory and no objection is ever taken to the British officials entering Portuguese territory with their guns via Castle Rock for the purposes of sport, as you will probably be aware. If, however, you think that greater precautions are needed in the case of Daman in order to avoid a promiscuous rush of sportsmen into the surrounding British territory, my Govern-

ment will be glad to furnish passes, to be shown at the frontier posts, to such officers as may, in their opinion, be deserving of the concession.

I beg to apologize for the length of this letter.

God spare you

I have the honour to subscribe myself,

Sir,

Yours faithfully,

Capt. N. LAUREY,
Acting Governor of Daman.

(Below letter from the Governor of Daman dated 1 March 1904)

No. 2012 of 1904.

Camp Castle Rock,

15th March 1904.

Forwarded to the Assistant Collector of Salt Revenue Surat Range for favour of early report. The undersigned thinks that if British subjects go into Goanese territory for sport they have to get a license from the Goanese Government.

R. H. HUME,
Collector of Salt Revenue.

(Return please)

No. 1047 of 1904.

Surat,

17th April 1904.

With reference to the foregoing the undersigned begs to report that the closing of the duty collecting work on Sundays and public holidays at the Kunta Custom House and at the Naka must undoubtedly be causing great inconvenience to travellers and the people. Though the duty-collecting work is stopped at present on public holidays, the search of carts and of passengers' baggage passing by the road has to be done as on ordinary days and a responsible officer has to be present at the Custom House or the Naka to supervise the search. If the officer who is present, therefore, recovers duty and grants receipts for any dutiable articles that may be found in the travellers' baggage inclusive of small parcels carried in hand or as a headload, the work is capable of being easily managed. At Castle Rock the Customs Manager used to recover duty on and pass the articles brought with them by *foot-travellers* from Goa on all days inclusive of Sundays. It is indeed very hard that a traveller should have to wait for a day or for days together because he happens to carry with him a dutiable article on which this Department has to recover a pice or two when the Custom House re-opens for work. The undersigned, therefore, is of opinion that there should be no objection to receive duty on the traveller's luggage and articles carried by travellers on Sundays and

public holidays on the Daman frontier. The present practice of not receiving any duty on Sundays and public holidays has been in force on the Daman Frontier only since the last monsoon and was introduced on receipt of information from the Diggi Sarkarkun, obtained by the Sarkarkun, Daman Frontier, that a similar practice had been introduced there on the strength of the Collector of Salt Revenue's Circular No. 3452 dated the 21st May 1903.

2. As regards the importation of guns from Daman, only Europeans, though not British-born subjects, are allowed under the Indian Arms Act, to possess guns in British India without a license and such Europeans may be permitted, under Sec. 6 of the Arms Act, to import guns into British territory from Daman if the Governor of Daman furnishes a list giving the names of such Europeans and a description of the guns which each such European may have to import for sporting purposes. As for Eurasians who are not British-born subjects and others the rules of the Arms Act will have to be enforced as now.

3. There is no Arms Act in Portuguese India and there was no restriction on British subjects carrying arms into Goa. Guns used occasionally to be carried to Goa via Castle Rock for repairs by license-holders in British India.

(Signed) Illegible,
Ag. Assistant Collector of
Salt Revenue, Surat Range.

No. 3957 of 1904.

Camp Castle Rock,

24th May, 1904.

Returned with compliments.

2. Mr. Sinclair is requested to state what officer searches carts and passengers' luggage at Challa and Kunta on Sundays and public holidays.

3. How would the levy of duty on *all* dutiable articles brought to the Daman Frontier on Sundays and public holidays be considered *urgent* work justifying the opening of the Custom House under Government Resolution No. 7182 of 23rd December, 1902? Such work might indeed be considered as urgent in special cases e.g. Portuguese Government stores covered by a pass from the Governor of Daman.

4. As for the Assistant Collector's reference to Section 6 of the Arms Act—Section 7 (a) of the Rules under Section 17 of that Act specially prohibits the importation of any arms, ammunition, or military stores from Portuguese India. How then could a license from the Government of Daman be accepted?

Return please.

(Signed) R. H. HUME,
Collector of Salt Revenue.

No. 1808 of 1904.

Returned with compliments.

2. The Naka offices are entirely closed to Mercantile Traffic on Sundays and close holidays, but apparently no great inconvenience is caused to passengers provided they do not arrive at the Nakas with a large quantity of dutiable goods. One of the Karkuns both at the Chala and Patharpunja Nakas have orders to remain at their posts on Sundays and Holidays.

The sentry at the Naka examines carts and passengers' kit and if he discovers any dutiable goods he refers them to the Karkun at the Naka. If the dutiable goods are in reasonable quantities (after taking into consideration the status and position in life of the passenger) the passenger is allowed by the Karkun to proceed on his journey with all his belongings. Where however a passenger is found to possess a large quantity of dutiable goods he is detained and advised to send his dutiable goods back, or to wait till the Naka office is opened.

3. At Kunta the Naka office is situated in the village. There is however a chowkey on the main road to Daman, and the sentry on duty at this chowkey examines all carts and passengers' kit and allows these to proceed on their journey provided they possess no dutiable goods. If however dutiable goods are discovered the passengers or carts, as the case may be, are directed to the Sirkarkun's office. Here again either the Sirkarkun or his Avalkarkun are always present at or near the Kacherri and the same procedure is adopted in respect to dutiable goods as at the Chala and Patharpunja Nakas.

It would perhaps not be out of place here to mention the fact that though the acting Governor of Daman complains about the inconvenience caused to passenger traffic owing to the closing of our Naka offices on Sundays and Holidays, all the Naka offices in Portuguese territory itself are kept closed on Sundays and other Holidays!

4. The u.s. is respectfully of opinion that Government Resolution No. 7182 of 23rd December, 1902, could not be made applicable to the levy of duty on all dutiable articles brought to the Daman Frontier on Sundays and public holidays. An exception might be made in favour of Portuguese Government stores covered by a pass from the Governor of Daman, as suggested by the Collector.

5. Under Government Resolution No. 1417 dated 22nd February, 1894, Rev. Dept. Portuguese officials entitled to wear uniform are exempted from the payment of Customs duty on the weapons they carry while proceeding on duty; this however does not exempt such officials from paying duty on arms used exclusively for sporting purposes.

A license from the Governor of Daman could only be accepted provided it were countersigned by the District Magistrate of the District into which the licensee proposes to proceed.

(Signed) R. SINCLAIR,
Asstt. Collr. of S.R.,
Surat Range.

Surat.

28/6/04.

No. 5534 of 1904.

Poona,

21. 7. 04.

To

The Governor of Daman,

Sir,

I have the honour to acknowledge your letter of the 1st March, 1904, and after careful scrutiny to reply as follows.

2. I find that on the Daman Frontier the Customs houses were closed for ordinary work on all holidays notified under Negotiable Instruments Act and on other general holidays granted by executive orders. This is in accordance with Br. G.R. No. 7102 G.D. of 23. 12.02. But even on such days the baggage of passengers if suitable to their condition in life is always passed.

3. I have now instructed the frontier customs officials also to pass on such days all Portuguese Government stores (including medicines) bound for Nagar Haveli and covered by a pass signed either by yourself or some responsible official named by you (whose designation may kindly be communicated to this office). I trust this concession will remove any difficulty hitherto existing.

4. As regards the passing of arms across the Daman Customs Frontier from Portuguese to British territory Br. G. R. No. 1417 of 22. 2. 94 R.D. determined the arms which—

(A) non European Civil officials acting under the Government of Portuguese India who are entitled to wear a uniform and Sword and

(B) military officers of that Government if entitled to carry in Portuguese India, should be exempted from liability to the payment of customs duty at the districts through which the ordinary routes by land or sea from Goa to Daman pass.

I regret I am unable to make any further concessions than those already granted by the Government of Bombay.

I have, etc.,

R. H. SLY,

C.O.R.

No. 5535 of 1904.

18. 7. 05

Copy to the A. C. Surat Range for information and guidance especially as regards the passing of Portuguese Government Stores.

R. A. SLY.

Daman, 26th July, 1904.

No. 23.

To

R. A. L. Moore, Esquire,
I.C.S., Collector of Salt Revenue,
Bombay.

From

The Governor of Daman.

Sir,

I have the honour to acknowledge the receipt of your kind letter No. 5534 of 21st instant and I thank you very much for the concessions granted by you and the pass will be signed by me or by the Secretary of this government and I will be glad enough if I can be useful in any thing to you in this district.

God spare you,

I have the honour to be,

Sir,

Your most Obedient Servant,
(Signed) Illegible,
Royal Navy, Governor of Daman.

No. 5830 of 1904.

Poona, 1st August, 1904.

Copy forwarded to the Assistant Collector of Salt Revenue, Surat Range, for information, guidance, and communication to the Sarkarkun and Inspectors Daman Frontier.

(Initialled)
C.O.R.

O.C.

Annex C. No. 48

Record Office, Bombay

POLITICAL DEPARTMENT

1915. Nos. 567

No. 38.

Revenue Department,
Bombay Castle,

4th January, 1915.

Translation of a letter in Portuguese from the Consul General of Portugal at Bombay, dated 16th December, 1914:—

“Permission being required in order to transmit, through British territory, from Daman to Nagar Avelly, to the Portuguese authorities mentioned below, the following packages, with a license of exemption from customs duties, I request the favour of your issuing the requisite instructions, and shall thank you for a reply.

For the Military Commander of Nagar Avelly, Captain F. A. Faure Da Rosea.

Tinto Wine	4 barrels.
Cod (Fish)	1 case.
Tunny (Fish)	”
Sardines	”
Port Wine	”
One dozen tins of Sprout	} 2 boxes.
Three dozen tins of Prawns	
One dozen tins of Tamarind Fish	
Three dozen tins of Peas	
600 Corks	} 1 box with 12 bottles.
Mineral water of Mouchao of Povoá	

For the Assistant Secretary of the Military Command of Nagar Avelly, Lieut. Sebastiao Fragoso.

Tinto Wine	2 barrels.
Cognac, Port, Olives, Oil, Sardines, Butter, Peas	1 box.
Cod, Sausage, Whiskey and Gin	1 box.
Empty bottles	”

Memorandum from the Political Department of the Secretariat, No. 7360, dated 19th December, 1914.

ORDER.—The articles in question should be exempted from Customs duty.

(Signed) Illegible,
Under Secretary to Government.

No. 2161.

Revenue Department,
Bombay Castle,

22nd February, 1915.

Translation of a letter in Portuguese from the Consul General for Portugal at Bombay, dated 5th January, 1915:—

“Being in need of a license to transport, through British territory, from Daman to Nagar Avely, free of customs duty, the undermentioned stores for the Portuguese authorities named below, I request the favour of your issuing the necessary instructions, and thank you for a reply.

For the Administrator of Forests of Nagar Avely, Lieut. Vieira Branco.

Biscuit, Cream Crackers	6 tins.
Cigars (Brevas)	6 boxes.
Spirits	2 bottles.
Cognac	2 „
Gin (Hulstkamp)	1 Jar.
Vermouth	2 bottles.
Vinegar	5 „
Madeira Wine, 1895	2 „
Whisky (House of Lords)	2 „
Sugar	10 lbs.
Oil C.B.	5 litre tins.
Olives, Superfine	4 tins.
Cod	20 lbs
Balchao	4 tins.
Meat prepared with Balchao	2 „
Pickled pork (Vindalho)	4 „
Coffee (of Inhabane)	10 lbs.
Tea (Pekoe)	2 packets.
Sausage (B.G.)	2 tins.
French beans (white) (red)	3 litres and 10 lit.
Mango Jelly (Costa)	6 tins.
Grain	5 litres.
Tender mangoes in vinegar	2 flaggons.
Butter (of Beira)	2 tins.
Cod Roe	6 „
Tooth pick	2 packets.
Cheese (Castelo Branco 875)	1
Refined salt	2 bottles.
Lard (tin of 1 kilo)	5 tins.
Pickled (Serra) fish	10 „
Mango Jam (Rangel)	12 „
Cauliflower	10 „
Peas	10 „
Green French beans	10 „
Vessels	9 „
Barrel of Tinto Figueira	1 barrel.
Barrel of Green Wine	1 „

Vinegar	2 bottles.
Oil	3 tins.
Sardines	25 „
Tunny	25 „
Butter	6 tins.
French beans	10 „
Pease	5 „
Port Wine "Constantino"	3 bottles.

Memorandum from the Political Department of the Secretariat, No. 298,
dated 18th January, 1915:—

"Transferred to the Revenue Department for disposal."

ORDER.—The articles in question should be exempted from the
payment of customs duty.

(Signed) Illegible,
Under Secretary to Govt.

No. 3140.

Revenue Department,
Bombay Castle,
15th March, 1915.

Letter from the Consul General for Portugal at Bombay, No. 47, dated
20th February, 1915:—

"As I require a license to send free of customs duties, through
the British territory, from Daman to Nagar Avelly, the under-
mentioned articles to the Portuguese Officer named below I request
you to be good enough to issue the necessary instructions and to
favour me with a reply:—

'To the Second Lieutenant Sebastiao Fragoso, Assistant Secre-
tary to the Officer Commanding Nagar Avelly—

1 cask of wine,
1 case containing 6 bottles of wine, 2 of whisky, 2 of brandy,
16 tins of preserves, material for soup, tobacco, macaroni, cod
liver oil, and olives.'"

Memorandum from the Political Department of the Secretariat, No. 1308,
dated 4th March, 1915.

ORDER.—The articles in question should be exempted from the
payment of customs duty.

(Signed) Illegible,
Under Secretary to Government.

1916

REVENUE DEPARTMENT

Dis. No. 45

SUBJECT: CUSTOMS DUTY

Exemption from Customs Duty the provision and wine required for the personal use of the Military Commandant and Civil Administrator Nagar Aveli

No. A.G. 253.

To,

The Commissioner of Customs,
Salt, Opium and Abkari,
Bombay.

Surat,

26th January, 1916.

Sir,

In reply to your L.C. No. 2/39, dated 19th January, 1916, I have the honour to state that there appears to be no question that an attempt was made to pass dutiable articles which had not been properly described. Whether the Commandant was himself cognisant of this deception is a point which it would perhaps be inadvisable to investigate too closely. The action taken by the Collector of Salt Revenue, was in my opinion fully justified by the circumstances of the case; though I should not see any particular harm in it if you now remitted the duty.

2. The main question however—i.e. our procedure—for the future—is really one of 'high politics'. My own opinion is that it is quite worth while to conciliate these Portuguese officers by petty concessions, seeing that in extradition and excise matters it is open to them to cause us a good deal of serious inconvenience. I should be inclined to permit the Commandant and Administrator at Nagar Haveli to import free of duty any kind of wines and spirits and tobacco in reasonable quantities for the use of himself and his family. But I should also tell him that in view of the 'mistakes' that have occurred in the past, all the boxes will have to be opened at the frontier.

3. I suggest that you should draw up a list, fixing the limits that may be imported free each year. I would suggest:

- 6 dozen whisky.
- 6 dozen brandy.
- 24 dozens wine, or beer or liqueurs (non Portuguese).
- 24 dozens wine (Portuguese).
- 2,000 cigars.
- 5,000 cigarettes.
- 20 lbs. of tobacco.

I think the Assistant Collector of Salt Revenue or the Collector Surat should be allowed to pass free of duty up to these limits, which will save the delay and inconvenience of obtaining your sanction in each case.

The Assistant Collector should be allowed to pass 'provisions' of any sort free of duty.

I have etc.,

(Signed) W. F. HUDSON,
Collector, Surat.

L.C. No. 2/39 of 1916.

Camp, Godhra,
31st January, 1916.

Copy forwarded to the Collector of Salt Revenue, Bombay, for favour of remarks on paragraphs 2 and 3, with reference to his letter C.R. No. 14, dated the 5th instant.

J. R. ARTHUR,
Commissioner of Customs,
Salt, Opium and Abkari.

Confidential

LAND CUSTOMS

Exemption from payment of customs duty on the Daman Frontier of Portuguese wines required for the use of the Military Commandant of Nagar Aveli and transported to that territory from Daman

GOVERNMENT OF BOMBAY

REVENUE DEPARTMENT

Order No. $\frac{12685}{686\text{-Confl.}}$

Bombay Castle, 23rd December, 1916.

Letter from the Military Commandant and Civil Administrator, Nagar Aveli, dated 11th October, 1916:—

"By your letter L. C. No. 2/39—paragraph 2nd—dated 10th March, 1916, you have been pleased to allow the importation, each year, free of duty, of wines, spirits, tobacco and cigarettes in determined quantities, besides provisions of all sorts, for my own and my family's use as well as for that of the officials on duty at Nagar Aveli.

"Among the articles allowed to be imported free of duty stand six dozen whisky, six dozen brandy and 24 dozens of wine or beer or liqueurs non-Portuguese.

"As these drinks are generally imported from Bombay, there is no need of being imported from Goa through Daman; so I have the honour to solicit of you to be pleased to increase the quantity of Portuguese wine, *i.e.*, the quantity of dozens of whisky, brandy,

wine or beer or liqueurs non-Portuguese may be added to the latter, so that, in lieu of 24 dozens, I may be allowed to import, each year, free of duty, 60 dozens of Portuguese wines whose use is much more than that of non-Portuguese drinks.

"Hoping you will be pleased to accede to my request, I have the honour to solicit the necessary orders to the customs authorities along the Daman Frontier."

Memorandum from the Commissioner of Customs, Salt, Opium and Abkari No. L.C. 2/39 dated 6th November, 1916:—

"Submitted to Government in the Revenue Department.

"2. The Commissioner begs to append copies of the correspondence noted in the margin from which it will be seen that on the recommendation of the Collector of Surat made in the circumstances detailed therein, and as a matter of personal courtesy, he permitted the Military Commandant to import for the use of himself and his family free of duty each year into Nagar Aveli wines, spirits, tobacco and other provisions in quantities specified in paragraph 2 of this office letter L.C. No. 2/39 dated the 10th March, 1916. The Military Commandant now requests that the allowance of Portuguese wines be raised from 24 to 60 dozens, and

he includes in his request officials on duty at Nagar Aveli as well as himself and his family. As the Commissioner does not feel justified in further increasing the limit on his own responsibility, he submits the matter for the orders of Government."

Letter from the Commissioner of Customs, Salt, Opium and Abkari to the Military Commandant and Civil Administrator, Nagar Aveli, L.C. No. 2/39 dated 10th March, 1916:—

"In continuation of my letter L.C. No. 2/39 dated the 10th ultimo, I have the honour to state that in my telegram of the 31st October, 1915, to the Collector of Surat, I granted permission to pass two casks of Portuguese wine and three cases of provisions intended for your use which were in transit from Goa to Silvassa in Nagar Aveli. On examination of the consignment by the Sarkarun of Daman at the Chala Naka however it was discovered that, although one case contained wines and spirits only, the other two contained, besides provisions, spirituous liquor. Tobacco was also found in one of the latter cases. The Collector of Salt Revenue, Bombay, was in the circumstances justified in charging duty on the articles which were not covered by the transport permit granted by the Collector of Surat. I am, however, as a special case, asking the Collector of Salt Revenue to pass the articles detained by the Vapi customs authorities free of duty.

"2. The Collector of Surat has suggested to me that in order to save the delay and inconvenience involved in obtaining my sanction in each case, you may be allowed to import each year, free of duty, wines, spirits and tobacco, in quantities specified in the margin, as well as provisions of any sort for your own use and that

6 dozen	whisky.
6	" brandy.
24	" wine or beer or liqueurs (non-Portuguese).
24	" wine (Portuguese).
2,000	cigars.
5,000	cigarettes.
20	lbs. of tobacco.

of your family, on the understanding that all consignments purporting to contain articles which may be passed free under this arrangement will be subject to examination and that they will only be passed *via* the Chala Naka. I have accepted the Collector's suggestion, but I must ask you to note that, if any attempts are made to pass quantities in excess of those mentioned above, I shall have no option but to withdraw the concession.

"3. The requisite permit for passing goods free of duty will be granted to you by the Collector of Surat on an intimation being given to him."

ORDER.—The Commissioner of Customs, Salt, Opium and Abkari should be requested to inform the Military Commandant and Civil Administrator, Nagar Aveli, that for himself alone, 60 dozen Portuguese wine per year will be allowed free passage, but that the exemption cannot be allowed to all officials, and that other stores cannot also be allowed exemption as they can be obtained equally well from Bombay in which case the question of duty will not arise.

(A. F. L. BRAYNE),
Under Secretary to Government.

G.O. No. $\frac{12685}{686\text{-Conf.}}$ R.D., dated 23rd December, 1916.

To

The Commissioner of Customs, Salt, Opium and Abkari,
The Collector of Salt Revenue, Bombay,
The Collector of Surat,
The Political Department of the Secretariat.

Annex C. No. 49

Record Office, Bombay

1916

POLITICAL DEPT.

No. 943

EXCISE

Permission granted to travellers from Daman to Nagar Avely to take with them dates in quantities not exceeding one pound per head for their personal consumption on the journey.

GOVERNMENT OF BOMBAY

REVENUE DEPARTMENT

Order No. 5819.

Bombay Castle,
9th June, 1916.

Letter from the Collector of Salt Revenue, Bombay, C.R. No. 511 dated 31st March, 1916:—

“I have the honour to invite reference to Government Resolution, Revenue Department, No. 2240 dated the 4th March, 1912, prohibiting the export of dates from British India to the Portuguese possession of Nagar Avely. The orders prohibit absolutely the export of dates. But it has been brought to my notice that travellers from Daman to Nagar Avely frequently take with them small quantities of dates for their personal consumption on the journey. The orders are at present strictly enforced and the dates are confiscated. It appears to me that the strict enforcement of the orders causes unnecessary inconvenience to the travelling public. The object is to prevent the import into Nagar Avely of dates for use in distillation. I asked the Collector of Surat for his opinion and it will be seen from his memorandum No. A.G.—59 dated the 23rd March, 1916 (copy attached), that he agrees with me that travellers should be permitted to take with them such reasonable quantity of dates (which he proposes should be two pounds) as may be required for their personal use.

“2. It would be easy to discover if the concession were being used to bring in dates for purposes of distillation, and I think that there would be no objection to except from the operation of the orders dates in quantities of not more than two pounds imported by travellers for their personal use on the journey.”

Memorandum from the Collector of Surat No. A.G.—59 dated 23rd March, 1916.

Returned with compliments.

The undersigned entirely concurs and thinks that two pounds might be allowed. If a considerable number of persons avail themselves of this concession, the Sarkárkun might report the matter for further consideration.

Memorandum from the Commissioner of Customs, Salt, Opium and Abkári Ex. Mis. No. 4—II dated 15th April, 1916:—

"Submitted to Government in the Revenue Department with a recommendation that dates in quantities of not more than two pounds, imported by travellers for their personal use on the journey, may be exempted from the operation of the orders quoted above."

ORDER.—Travellers from Daman to Nagar Avely may be allowed to take with them dates in small quantities not exceeding one pound per head for their personal consumption on the journey. A report on the working of the arrangement should be submitted after six months.

J. A. POPE,

Under Secretary to Government.

To

The Commissioner of Customs, Salt, Opium and Abkári,
The Collector of Salt Revenue, Bombay,
The Collector of Surat,
The Collector of Thána,
The Political Department of the Secretariat.

Orders issued after consultation with the Political Department.

Notes remain with this Department and can be seen when required.

B. 6962. Pol.

Submitted.

No action is necessary.

File.

(Illegible)

16/6.

Annex C. No. 50

Record Office, Bombay

1936

File No. 1308/34

POLITICAL AND REFORMS DEPARTMENT

A BRANCH

SUBJECT—CUSTOMS DUTY

Request of the Portuguese Govt. for a free transit through British India of iron rails to be carried from Daman to Nagar Aveli.

Translation

S. R.

GOVERNMENT OF THE STATE OF INDIA

CABINET DEPARTMENT

No. 189/G.

Issue No. 1619.

Nova-Goa, the 9th June, 1936.

To

The Chief Secretary to the Government of the Bombay
Presidency, Political and Reforms Department, Bombay.

Sir,

In order to replace the wooden posts of the telegraph lines in Silvassa (Nagar Aveli) some iron rails were despatched by sea from this (Goa) District to the district of Damaun.

2. The Government of Damaun reports that the British Customs authorities do not allow the passage of this material, free of duty, from Damaun to Nagar Aveli.

3. I am directed by His Excellency the Governor-General to request that you will be so good as to take into consideration the fact that the subject under consideration relates to the use of the material belonging to this Government in its own territory, which does not in any way affect the interests of the Bombay Presidency. It is therefore to be hoped that the necessary orders will be issued for the material in question to be transported without any fiscal hindrance.

4. The Government of Bombay is interested in the (telegraph) line referred to, as it is interpolated in the telegraph line which connects Bombay with the Native State of Dharampur.

For the Benefit of the Nation.
(Signed) FRANCISCO HIGINO CRAVEIRO LOPES,
Major,
For Chief of the Cabinet.

True translation,

(Signed)
Portuguese Translator to Government.

Poona, 19th June, 1936.

D.A.Dis. No. 565-Cus. II/36

GOVERNMENT OF INDIA

FINANCE DEPARTMENT (CENTRAL REVENUES)

Simla, the 10th August, 1936.

From

R. R. Saksena, Esquire, M.A.,
Under Secretary to the Government of India,

To

The Chief Secretary to the Government of Bombay,
Political and Reforms Department.

Subject:—Exemption—Iron rails to be transported from Damaun to Nagar Avelie—Property of the Portuguese Government—Exemption from duty.

Sir,

With reference to your letter No. O/6984—A, dated the 2nd July, 1936, to the Political Secretary to the Government of India, I am directed to say that the Government of India are pleased to sanction, as a special case, the transport of the iron rails in question through British territory free of customs duty.

I have the honour to be,

Sir,

Your most obedient servant,

(Signed)

14. 8. 36.

Under Secretary to the Government of India.

Copy of correspondence forwarded to:

The Collector of Salt Revenue, Bombay, for
necessary action.

The Accountant-General, Bombay.

Annex C. No. 51

Record Office, Bombay

1901

POLITICAL DEPARTMENT

No. 1557

GOA

MILITARY DETACHMENT

Request of the Portuguese Government for permission for a small Armed Military detachment to pass through British territory while proceeding from Damaun to Goa.

Letter No. 161, dated the 26th November, 1901.

From—The Consul-General for Portugal in British India;

To—The Secretary to Government, Political Department, Bombay.

I have the honour to enclose herein two copies of the telegrams, being one sent to you yesterday and the other one is a translation of the telegram received to-day from His Excellency the Governor-General of Portuguese India, by which you can see that the detachment is expected to arrive to Bombay from Damaun at every moment. So, under the circumstances, I beg you to be good enough to issue "urgently" the necessary orders to prevent any inconvenience to pass the said Military Detachment through Bombay to Goa.

Telegram dated the 26th November, 1901.

From—His Excellency the Governor-General of Portuguese India;

To—The Consul-General for Portugal in British India.

There is reason to presume that the Military detachment numbering about 20 leave to-day Damaun arriving to-day to Bombay; for misunderstanding of their Governor of Damaun and His Excellency the Governor ask you to take steps.

Telegram dated the 26th November, 1901.

From—The Consul-General for Portugal in British India;

To—The Secretary to Government, Political Department, Bombay.

His Excellency the Governor-General of Portuguese India telegraphs to this Consulate to solicit permission of His Excellency the Governor, Lord Northcote, to pass through Bombay a small Military detachment which proceeds from Damaun to Goa by land with arms. The exact date of departure from Damaun and the number of them, I let you know by wire conveniently.

Letter No. 8193, dated the 26th November, 1901.

From—The Secretary to Government, Political Department, Bombay;
To—The Consul General for Portugal in British India.

I am directed to acknowledge the receipt of your letter No. 161 of to-day's date, relative to the movement of a detachment of soldiers from Damaun to Goa by rail, and in reply to state that the entry of armed troops into British territory cannot be permitted until the orders of Government have been obtained and instructions issued to the local British officers concerned.

Pol. 1728.

Telegram dated the 28th November, 1901.

From—The Secretary to Government, Political Department, Bombay;
To—The Superintendent of Police, Southern Marátha Railway.

Government have authorised transit of armed detachment of about twenty soldiers proceeding from Damaun to Goa by train.

Letter No. 8319, dated the 30th November, 1901.

From—The Secretary to Government, Political Department, Bombay;
To—The Superintendents of Police, B.B. & C.I. and G.I.P. Railways, Bombay.

I am directed to state, for your information, that Government have authorised the transit of a detachment of about twenty armed soldiers proceeding from Damaun to Goa by train through British territory.

Memorandum No. 8320, dated the 30th November, 1901.

(Below copy of the Consul-General's letter No. 161, dated the 26th November, 1901.)

From—The Secretary to Government, Political Department, Bombay;
To—The Commissioner of Police, Bombay.

Copy forwarded to the Commissioner of Police, Bombay, for such action as may be necessary.

2. The Superintendents of Police, B.B. & C.I., G.I.P. and S.M. Railways have been informed.

Letter No. 8321, dated the 30th November, 1901.

From—The Secretary to Government, Political Department, Bombay;
To—The Consul-General for Portugal in British India.

I am directed to acknowledge the receipt of your letter No. 161, dated the 26th November, 1901, and in reply to state that the Commissioner

of Police, Bombay, has been instructed to take the necessary action in connection with the transit through Bombay of the detachment of soldiers proceeding to Goa from Damaun.

2. The Superintendents, of Police B.B. & C.I., G.I.P. and S.M. Railways have also been informed of the movement of the detachment.

3. I am to request that on future occasions the date of the proposed movement of such detachments may be stated, and that sufficient notice may be given to enable the orders of Government to be obtained and instructions to be issued to the local authorities.

Letter dated the 30th November, 1901.

From—The Consul-General for Portugal in British India;

To—The Acting Chief Secretary to the Government of Bombay, Political Department.

I have the honour to acknowledge the receipt of your letter No. 8321 of to-day's date, informing me that you have issued the necessary orders in connection with the transit of a small detachment of soldiers which are proceeding from Damaun to Bombay and hence to Goa by sea.

I have before me your note about the future movements of such detachments and that will be transmitted to His Excellency the Governor-General of Portuguese India.

I shall be pleased to thank you in name of His Excellency the Governor-General of Portuguese India for your prompt and kind concession for the license and for the necessary orders issued.

No orders.

Annex C. No. 52

National Archives, New Delhi

1912

GOVERNMENT OF INDIA
FOREIGN DEPARTMENT

Secret.—G

Proceedings, September, 1912, Nos. 1-7

Disturbances in Portuguese India.

Pro. No. 6.

Telegram P, dated and received the 5th August, 1912.

From—The Secretary to the Government of Bombay, Political Department, Poona,

To—The Secretary to the Government of India in the Foreign Department, Simla.

In connection with the operations against rebels, the Portuguese Government desire to march an officer and sixty men across 10 kilometres of British territory close to the border. Do you see any objection?

It is essential that the matter should be kept secret and a reply sent urgently.

Pro. No. 7.

Telegram P., No. S.-459, dated the 6th August, 1912.

From—The Secretary to the Government of India in the Foreign Department, Simla,

To—The Secretary to the Government of Bombay, Political Department, Bombay.

Rebellion in Goa. Your telegram of 5th instant. Portuguese Government may be informed that Government of India have no objection to their proposal to march an officer and sixty men across 10 kilometres of British territory. They should be clearly informed that Government of India allow this as special case.

Exd. P.M.M.

1912

GOVERNMENT OF INDIA
FOREIGN DEPARTMENT

Secret—G

Proceedings, November, 1912, Nos. 1-2

Rebellion at Goa. Desire of Portuguese Government to send troops through British territory.

Pro. No. 1.

Telegram P., dated (and received) the 7th October, 1912.

From—The Secretary to the Government of Bombay,

To—The Secretary to the Government of India in the Foreign Department, Simla.

Portuguese rebellion at Goa. Please refer to Foreign Department telegram dated August 6th, No. S.-459. Portuguese Government have abandoned the specific proposals for which they obtained permission from Government of India and now request to be permitted to send sixty men in charge of an officer about thirty miles by train into British territory and then to march them nine miles across country to Portuguese border. In the opinion of His Excellency we should not allow them transport by train, but otherwise there is no objection. Kindly reply by telegram.

Pro. No. 2.

Telegram P., No. 1-C, dated the 11th October, 1912.

From—The Secretary to the Government of India in the Foreign Department, Viceroy's Camp.

To—The Secretary to the Government of Bombay, Political Department.

Please refer to your telegram dated 7th instant regarding the Portuguese rebellion at Goa. Your views that the transport by train of Portuguese troops should not be permitted, are concurred in by the Government of India; otherwise, to the proposal of the Government of Portugal, there is no objection.

Record Office, Bombay

1912

POLITICAL DEPARTMENT

No. 749. Pt. I

DISTURBANCES

Correspondence relating to the disturbances in Portuguese territory.

Application from the Portuguese Authorities for the extradition of certain persons.

Bombay. 14th November, 1912.

Consulado Geral de Portugal,
na India Ingleza.

The Secretary to Government,
Political Department,
Bombay.

Serie. G.
No. 506.
Urgent.
Confidential.

Sir,

I have the honour to inform you that the Government of Portuguese India, by wire received to-day, request to know from the British Government what steps, the Portuguese armed force, composed of 60 men commanded by Captain Souza Menezes, should take while entering the British territory at any point between the Roads of Tinem and Kell Ghaut on the 14th or 15th instant & moving again into the interior of the Portuguese territory on the 16th or 17th instant.

As these information are Urgently required I shall feel much obliged if you kindly lay the matter before the Government of Bombay Presidency for an early reply.

Thanking you in anticipation,

I have the honour to be,

Sir,

Your most obedient servant,
VISCOUNT DE MER,
Consul General for Portugal.

Bombay, 25th November, 1912.

Consulado Geral de Portugal,
na India Ingleza.

Serie General,

No. 524.

Confidential.

The Secretary to the Government,
Political Department,
Bombay.

Sir,

I have the honour to inform you that I am directed by H. Excellency Governor-General of Portuguese India to present H.E.'s sincere thanks to the British Government for having graciously allowed the passage of Portuguese armed force in the British territories which took place on the 15th & 16th instant.

I further request you to be so good as to convey the same thanks to His Excellency the Governor.

I have the honour to be,

Sir,

Your most obedient servant,
VISCOUNT DE MER,
Consul General for Portugal.

Annex C. No. 53

Record Office, Bombay

1913

SPECIAL DEPARTMENT

No. 489.

ARMED POLICE

PORTUGUESE INDIA

Reciprocity in the matters of allowing parties of Portuguese Armed Police to travel across intervening British territory when journeying from one part of Portuguese India to another.

Consulado Geral de Portugal,
Na India Ingleza.

Bombay,

2nd October, 1912.

Serie General

No. 432.

The Secretary to Government,
Political Department,
Bombay.

Sir,

I have the honour to bring to your notice that I am informed by the Government of Portuguese India, by wire dated 1st instant, that one Havaladar and three sepoys were landed at Nova-Goa coming from Ratnagiri by one of the shepherd's ferry boat, armed with ammunitions, conveying two prisoners manacled stating that they are come from the Ratnagiri Police & proceeding to Dharwar via Mormugoa by Rail, in order to hand over the said prisoners to the Superintendent of the Dharwar Jail.

They had two official letters addressed to the Superintendent of Jail of Dharwar from the Director of the Jail of Ratnagiri, & a permit of passage by rail up to Dharwar, signed by a Police Officer of Ratnagiri. The Havaladar name is Bicu Babagy Porvar; & sepoys names are Bicu Balu Salvi, Balchrisna Bapugy Dessae & Essovanta Balagy Indulcar. They also stated that after having handed over the prisoners they will return to Mormugoa, but they cannot give the exact date, as they don't know when they will start from Dharwar. From Mormugoa they will proceed to Ratnagiri, if there is any available steamer, otherwise they will come back to Nova-Goa.

The Portuguese Government has afforded them every facility to proceed to their destination accompanied by one non-commissioned Officer.

Under these circumstances, the Portuguese Government instructs me, to request you, to be so good, as to ascertain the veracity of the above declarations & at the same time in future, in such cases, the Portuguese

Government should be informed to avoid any difficulties for such transit.

I have the honour to be,
Sir,

Your most obedient servant,
VISCOUNT DE MER,
Consul General for Portugal.

Subtd. This may be forwarded to the Collr. of Ratnagiri for favour of report which should be submitted thro' the Comr. S.D.

Draft acknowledging receipt of the Consul-Genl's letter, is put up.

(Below a copy of a letter from the Consul-Genl. for Portugal at B'bay, No. 432 of 2/10/12.)

No. 7502.

POLITICAL DEPARTMENT

Bombay Castle, 11th Octr., 1912.

Forwarded to the Collr. of Ratnagiri for favour of report which should be submitted thro' the Comr. S.D.

O.C.,
U.S. to Govt.

No. 5173 of 1912.

From A. R. Bonus, Esquire, I.C.S.,
Collector & District Magistrate,
Ratnagiri.

To The Under Secretary to Government,
Political Department,
Bombay.

Camp Malwan, 14th November, 1912.

Sir,

Referring to Government endorsement No. 7502 dated 11th October 1912, I have the honour to enclose copy of a report from the District Superintendent of Police, Ratnagiri, which explains the facts of the matter referred to.

I have the honour to be,
Sir,

Your most obedient servant,
A. R. BONUS,
Collector and District Magistrate.

Through The Commissioner,
Southern Division.

No. 3670 of 1912.

From G. H. White, Esquire,
District Superintendent of Police,
Ratnagiri.

To The District Magistrate,
Ratnagiri.

Ratnagiri, 6th November, 1912.

Sir,

With reference to your No. 4702 dated the 15/16th October, 1912, I have the honour to inform you that a party of 1 Head Constable and 3 Constables was sent to Dharwar on the 23rd September, 1912, to escort 2 prisoners from the Ratnagiri Jail in accordance with letter No. 1275 dated the 18th September, 1912, from the Superintendent of Prison, Ratnagiri, copy attached. The party were instructed to proceed by steamer via Marmagaoa. The Head Constable in charge of the party made enquiries of the Bandar Karkun at Ratnagiri and learnt that the steamers did not touch at the Marmagaoa harbour. He had therefore no alternative but to purchase tickets for Nova Goa in the Portuguese territory, where the party landed and proceeded on their journey.

I have, etc.,

(Signed) S. DARASHA,
For District Superintendent of Police,
Ratnagiri.

The D.M. adds—

The Portuguese authorities should always be informed before armed parties are sent through Portuguese territory. The most convenient way would be for the D.M.M. concerned to communicate direct with the secretary to the G.G. of Port. India or the local authorities. The Portuguese Govt. might be asked whether this would suit.

A. R. B.
4/12.

Yes. This should suffice.

Explain the circs. as in the D.S.P.'s letter and say that the declarations made were correct. Express regret that they were not informed before and ask if above procedure will suffice in future.

C. C. W.
5.12.12.

A draft letter is submitted for approval—after receipt of a reply from the Consul Genl. the necessary direction will issue to the D.M.'s concerned.

E.M.

5.12.

No. 8714

POLITICAL DEPARTMENT

Bombay Castle.

7th December, 1912.

From:

C. C. Watson, Esquire,
Acting Secretary to Government, Bombay.

To:

The Consul General for Portugal,
at Bombay.

Sir,

In continuation of my letter No. 7366, dated the 4th October, 1912, regarding the passage through Portuguese territory of an armed party of British Police, I am directed to state that on enquiry it has been ascertained that a party of 1 Head Constable and 3 Constables was sent to Dharwar on the 23rd September, 1912, to escort 2 prisoners from the Ratnagiri Jail; the party was directed to proceed by steamer via Marmagoa. The Head Constable in charge made enquiries at Ratnagiri but was informed that the steamers did not touch at Marmagoa. He had therefore no alternative but to purchase tickets for Nova Goa where the party landed and proceeded on their journey.

2. I am to request that you will communicate to the Government of Portuguese India the regret of the Government of Bombay that no previous intimation was sent to them in the case under reference.

3. In order to prevent the recurrence of such an incident the Government of Bombay propose to instruct their officers concerned to communicate direct with the Chief Secretary to the Government of Portuguese India or the local authorities before sending armed parties of British police through Portuguese territory. I am to request that you will be so good as to inform me whether this procedure meets the approval of the Government of Portuguese India.

I have the honour to be,

Sir,

Your most obedient servant,
O.C.,

Acting Secretary to Government.

Consulado Geral de Portugal,
na India Ingleza.

Bombay,
21st January, 1913.

Serie
No.

The Secretary to Government
Political Department,
Bombay.

Dear Sir,

I beg to acknowledge receipt of your letter No. 8714 of the 7th ultimo the contents of which I have communicated to the Government of

Portuguese India. I am directed by the said Government to inform you that there is no objection whatever to the passage of British Police forces through Portuguese territory when engaged in the discharge of their duty, such as that instanced in your letter, provided there is the same reciprocity under similar conditions, in which case the Government of Bombay shall receive previous communication.

I shall be glad if you will be so good as to inform me if this meets the approval of the Government of Bombay so that I may communicate it to the Government of Portuguese India.

I am to say that with regard to there having been no previous intimation on the last occasion, the Government of Portuguese India is perfectly satisfied with the explanation you have been good enough to offer and that the matter may be considered satisfactorily ended.

I have the honour to be

Sir,

Your most obedient servant,
Alfredo CASANOVA,
Consul General.

PORTUGUESE INDIA

ARMED POLICE

Reciprocity in the matter of allowing parties of Portuguese Armed Police to travel across intervening British territory when journeying from one part of Portuguese India to another

No. 1309.

POLITICAL DEPARTMENT.

Bombay Castle, 24th February, 1913.

Letter to the Consul General for Portugal, No. 1206, dated the 20th February, 1913:—

“With reference to your letter, dated the 21st January, 1913, I am directed to inform you that Government are willing to grant reciprocity in the matter of allowing parties of Portuguese Armed Police to travel across intervening British territory when it is necessary for them to do so in journeying from one part of Portuguese India to another, provided that previous intimation of their intention is given to the local authorities.

“2. It must be clearly understood, however, that this arrangement does not extend to armed troops operating on the frontier between Portuguese and British territory.”

RESOLUTION.—A copy of the foregoing letter to the Consul General for Portugal at Bombay should be forwarded to all District Magistrates for information, with an intimation that they will communicate direct with the Chief Secretary to the Government of Portuguese India or the

local authorities before sending armed parties of Police through intervening Portuguese territory.

K. W. BARLEE,
Under Secretary to Government.

To

The Commissioner in Sind,
The Commissioner, N.D.,
The Commissioner, C.D.,
The Commissioner, S.D.,
All District Magistrates,
The Judicial Department of the Secretariat.

PORTUGUESE INDIA

ARMED POLICE

Movement of— from one British District to another through intervening Portuguese territory

No. 4540.

POLITICAL DEPARTMENT.

Bombay Castle, 30th July, 1913.

Memorandum from the Commissioner, S.D., No. Pol.—194, dated the 8th July, 1913.—Forwards with concurrence in the District Magistrate's recommendation for favour of orders with reference to Government Resolution No. 1309, dated the 24th February, 1913, the following letter from the District Magistrate, Ratnágiri, No. 3379, dated the 1st July, 1913:—

"Referring to the orders contained in Government Resolution, Political Department, No. 1309, dated the 24th February, 1913, the District Superintendent of Police, Ratnágiri, represents that escorts of prisoners have at times to be sent at very short notice to Dhárwár or Belgaum from Ratnágiri; that such escorts have to pass through the Portuguese territory on their way; and that if in each case the District Magistrate is to be addressed for the purpose of communicating with the Chief Secretary to the Government of Portuguese India, considerable delay is likely to occur. He therefore requests that to obviate the risk of such delay, Government may be moved to authorise him to communicate with the Portuguese authorities direct.

"2. Delay as pointed out by the District Superintendent of Police is by no means unlikely during the period when the District Magistrate is on tour.

"3. I therefore request that you will be so good as to move Government to authorise the District Superintendent of Police as proposed by him, subject to the consent of the Portuguese authorities."

RESOLUTION.—In modification of Government Resolution No. 1309, dated the 24th February, 1913, Government are pleased to authorise all District Superintendents of Police to communicate direct with the Chief Secretary to the Government of Portuguese India or the local Portuguese authorities before sending armed parties of Police through intervening Portuguese territory.

A. F. KINDERSLEY,
Acting Under Secretary to Government.

To

The Commissioner in Sindi,
The Commissioner, N.D.,
The Commissioner, C.D.,
The Commissioner, S.D.,
All District Magistrates,

All Superintendents of Police, }
The Inspector-General of Police, } With a copy of Government
Resolution No. 1309, dated the
24th February, 1913,

The Judicial Department of the Secretariat.

Annex C. No. 54

Record Office, Bombay

1913

POLITICAL DEPARTMENT

No. 1607

TROOPS

PORTUGUESE INDIA.

Regarding the crossing of the British Frontier by Portuguese troops without obtaining the permission of the Bombay Government or the Higher British Authorities

Bombay, 7th August, 1913.

Consulado Geral de Portugal,
Na India Britanica.

Urgent.

To The Secretary to Government,
Political Department.
Bombay.

Sir,

I have the honour to inform you that to-day at 3 p.m. arrived from Goa 75 Portuguese soldiers and 3 officers. They are leaving to-morrow by one of the steamers of the Messagerie Maritimi for Modedo.

I have the honour to be,

Sir,

Your most obedient servant,
Alfredo CASANOVA,
Consul General for Portugal.

Submitted. No request has been made in the letter. A copy of the letter may be sent to the Commr. of Police, for information and the Consul's letter acknowledged. Drafts are put up with f.c. of the endorsement.

Initialed (illegible).

7/8.

I happened to see the Consul-Genl. today before seeing this letter, & he told me he was sorry he had forgotten to inform Govt. beforehand about this bringing of troops through British territory.

I think some apology should have been put in this letter, which the Cons.-Gen. despatched before he had any idea he was going to have any opportunity of explaining matter to me personally.

Will the office please note whether the Portuguese authorities have been requested at any previous time to give us warning before bringing Port. troops through our territory.

C.C.W.

8/8.

Respectfully resubmitted. Under Art. XVIII of the Treaty of Commerce and Extradition between Great Britain and Portugal it is provided that the armed forces of one of the two high contracting parties shall not enter the Indian dominions of the other, except for the purposes specified in former or in that Treaty, or except in consequence of a formal request made by the party desiring such entry to the other. In G.L. No. 7615, d. the 8th Dec., 1890, the attention of the Secy. General to The Govt. of Portuguese India was drawn to the fact that armed men in the service of Portuguese Govt. were in the habit of passing without formal request through a portion of the British territory on their way to Portuguese India, violating thus the Provisions of Article XVIII of the Treaty. The Secretary General was at the same time requested to issue orders on the subject. Attention is also invited to G.R. No. 3006, dated the 9th May, 1892. In 1892 the concession could not be granted *under the Treaty* because the Treaty had been abrogated.

W.R.

15/8.

J.C.C.W.

15/8.

The Secretary General may be sent a copy of the Consul General's letter, and be requested to bring it to the notice of His Excellency the Governor General that the Portuguese force referred to therein arrived in Bombay without any request having been made to the Governor in Council for permission for its entry into the Bombay Presidency; that the Governor in Council is aware that this occurrence was not due to an intentional breach of international courtesy, but is partly attributable to an oversight on the part of the Portuguese Consul General at Bombay, who, it is understood, by mistake omitted to apply beforehand for the permission of the Government of Bombay; but that the Governor in Council would be greatly obliged if His Excellency the Governor General could issue orders to secure that in future Portuguese troops do not cross the frontier of the Bombay Presidency until permission for such an entry is definitely known to have been received from the Government of Bombay or from higher British authority.

Secy.,

C.C.W.

31.8.

1/9.

A draft letter is submitted for approval.

C.C.W.

15.9.

J.C.C.W.

5/9.

(Below copy of a letter from the Consul-General for Portugal at Bombay, d. the 7th August, 1913.)

No. 4717. P.D.

B.C., 8th August, 1913.

Copy forwarded to the Commr. of Police, Bombay, for information.

W.R.

A. Sec. to Govt.

No. 5423. P.D.

B.C., 15th Sept., 1913.

To The Secy. General to the Govt. of The Portuguese India.

Sir,

I am directed to forward herewith a copy of a letter d. the 7th August, 1913, from the Consul-General for Portugal at Bombay, and to request that you will bring to the notice of H.E. the G.G. that the Portuguese force referred to therein arrived in Bombay without any request having previously been made to the Governor in Council for permission for its entry into the Bombay Presy. The G. in C. is aware that this occurrence was not due to any intentional breach of international courtesy, but is partly attributable to an oversight on the part of the Consul General for Portugal at Bombay, who it is understood, by mistake omitted to apply beforehand for the permission of the Govt. of Bombay. The Governor in Council would, however, be greatly obliged if H.E. the G.G. could issue orders to secure that in future Portuguese troops do not cross the frontier of the Bombay Presy. until permission for such entry is definitely known to have been received from the Govt. of Bombay or from higher British authority.

I have, etc.,

(Signed) Secy. to Govt.

Annex C. No. 55

Record Office. Bombay

1916

POLITICAL DEPARTMENT

No. 99 Pt. I

TROOPS

PORTUGUESE INDIA

Request of the Consul General for Portugal in Bombay for the issue of necessary orders giving facilities to soldiers of Portuguese Govt. arriving in the British territory en route to Daman & Diu

Consulado Geral de Portuga
Na India Britanica
Particular.

Bombay,

12th January, 1916.

Dear Mr. Robertson,

To avoid any remark from the Government of Bombay Presidency I am to inform you that a sergeant 5 corporals and 8 soldiers arrived here yesterday from Damaun on their way to Diu and they reported to me today. As the required permission to pass through was not previously asked for by the Government of Damaun I have sent them back today to Damaun in order to arrange to solicit the above permission, and when this has been obtained to come again to Bombay to proceed to their destination.

Yours Sincerely,

ALFREDO CASANOVA.

Consulado Geral de Portugal
Na India Britanica

Bombay,

12th February, 1916.

No. 50

The Deputy Secretary to Government,
Political Department,
Bombay.

Sir,

I have the honour to inform you that I am in receipt from the Governor of Diu the following telegram:

“Portuguese Consul Bombay.—Proceeding Goa via Jafrabad arriving Bombay steamer day 13th. Sunday 4 soldiers Guarda Fiscal. Governor Diu”.

having sent today only the following telegraphic reply:

“Governor Diu Delwada.—Always when soldiers have to cross British territory beg communicate beforehand according to resolution between Government Portuguese India and British to ask for indispensable autorisation and after being granted the soldiers can proceed journey. Casanova.”

Request you therefore to issue the necessary orders that there may be no obstacle in landing as well in departure to Nova-Goa of the same soldiers who are expected from Diu, for which I anticipate my best thanks.

I have the honour to be,

Sir,

Your most obedient servant,

ALFREDO CASANOVA.

1916

POLITICAL DEPARTMENT

No. 99 Pt. II

TROOPS

PORTUGUESE INDIA

Request of the Consul General for Portugal at Bombay for the issue of necessary orders giving facilities to soldiers of the Portuguese Govt. arriving in the British territory en route to Daman & Diu

Consulado Geral de Portugal
Na India Britanica

Bombay,

6th May, 1916.

No. 136.

The Deputy Secretary to Government,
Political Department,
Bombay.

Sir,

I have the honour to inform you that on or about the 11th instant will arrive here by train in order to proceed to Nagar-Aveli Major Jose Augusto Faure da Rosa with his wife and seven children, and request you to be so good as to instruct the competent Authorities to allow them to pass through.

Thanking you in anticipation,

I have the honour to be,

Sir,

Your most obedient servant,
Antonio Pedro DE FERNANDES,
Chancellor,
for Consul General for Portugal.

Bombay, 9th May, 1916.

Consulado Geral de Portugal,
Na India Britanica.

No. 141.

The Deputy Secretary to Government,
Political Department,
Bombay.

Sir,

I have the honour to inform you that on or about the 17th instant will arrive here from Nova-Goa in order to proceed to Damaun a musician named Joao Baptista Machado, and request you to be so good as to instruct the competent Authorities to allow him to land at and proceed to his destination.

Thanking you in anticipation

I have the honour to be,

Sir,

Your most obedient servant,
Antonio Pedro DE FERNANDES,
Chancellor,
for Consul General for Portugal.

Annex C. No. 56

Record Office, Bombay

AGREEMENT BETWEEN THE GOVERNMENT OF BOMBAY AND THE GOVERNMENT OF PORTUGUESE INDIA REGARDING THE ENTRY OF BRITISH POLICE OFFICERS INTO PORTUGUESE TERRITORY AND VICE VERSA.

I. Unarmed police of the one party in civil dress may enter the territory of the other party on duty after a previous notice and on reporting themselves to the local authority not inferior in rank to the Head of Circle (or Sub-Inspector).

They may question any person who is willing to answer them and may record any information which they may obtain.

They may not search any person or house or do any act not permitted to private individuals.

II. Police officers of and above the rank of Head of Circle (or Sub-Inspector) and unarmed police of either party may enter in uniform the territory of the other party on duty after a previous notice and on reporting themselves to the local authority not inferior in rank to the Head of Circle (or Sub-Inspector), and they may then proceed to carry out any duties or investigate any offence or search for any person, but they may not meanwhile, when acting alone, do any act not permitted to private individuals. They must be accompanied by a police officer not inferior in rank to the Head of Circle (or Sub-Inspector) when they have to make a search or effect an arrest or take any other action, for which a previous

application should be made to the authorities in accordance with the law in force in the territory in which such action is taken.

III. Armed as well as unarmed police of one party in actual pursuit of an offender may, if the offender crosses the frontier and enters the territory of the other, continue the pursuit uninterrupted in the territory of the latter, and may arrest the offender if the pursuit has not been interrupted. The person arrested must be immediately handed over to the police of the territory into which he has entered with a declaration justifying his arrest. Whatever be the result of the pursuit, the police officer must, as soon as the pursuit has ended, report himself to the authority of the territory into which he has entered and must be accompanied by a police officer of such territory until his departure therefrom.

IV. Subject to the provisions of Article III—

(A) Armed police below the rank of Head of Circle (or Sub-Inspector) and

(B) police officers of or above the rank of Head of Circle (or Sub-Inspector) escorting prisoners of either party, shall not enter the territory of the other party without the latter's consent previously obtained.

(C) The police escort may travel by rail from a station in British India direct to the Mormugao harbour and thence by steamer to a British port and vice versa, without previous consent, but with previous intimation; but the escort shall not be permitted to go beyond the station limits or proceed to the interior of the province.

This intimation will be given by the District Superintendent of Police through His Britannic Majesty's Consul in Goa.

NOTE.—If the local authority is below the rank of Head of Circle (or Sub-Inspector) the police officer must report himself to the nearest authority which has at least this rank.

GEORGE LLOYD,
Governor of Bombay.

Bombay Castle,
31st August, 1920.

Jayme DE MORAES,
Governador Geral da India Portuguesa.

Govérno Geral, em Nova Goa,
25 de Setembro de 1920.

Annex C. No. 57

Record Office, Bombay

1940.

File No. 3798/34

POLITICAL & SERVICES DEPARTMENT

A. BRANCH

ARMED POLICEMAN

Portuguese and Bombay Governments' proposed facilities for transit of Portuguese and British armed police forces while crossing their respective territories between Silvassa and Damaun, without previous sanction

Service of the Republic.

GENERAL GOVERNMENT OF THE STATE OF INDIA,
CABINET DEPARTMENT.

No. 122/G.

Case No. 7/940/21.

Issue No. 480.

Nova-Goa, 11th April, 1940.

To

The Chief Secretary to the Government of Bombay,
Political and Services Department,
Bombay.

Most Excellent Sir,

The Government of the district of Damaun informed this General Government that, on the morning of the 1st April, the official who commands the Police division of Nagar-Aveli got at Silvassa into a bus in which there also entered (lit. took a place) a German missionary who, according to what he stated, had asked for the permission of the Government of Bombay to go to that city to get himself treated.

2. While passing through the customs post of Lavacha in British territory, the commandant of a British force, consisting of three unarmed military men and four armed men, directed the bus to stop and ordered the arrest of the missionary referred to, all of them entering (lit. taking a place in) the bus.

3. The official-commandant of the Police Division of Nagar-Aveli drew the attention of the Commandant of the British force to the fact that the bus had to cross the Portuguese village of Dadra and that the usual permission to an armed British force crossing Portuguese territory not having been asked for, he could not permit it. This (protest) was immediately respected by the commandant of the British force, the armed military men having got down and only the unarmed men having continued with the missionary already referred to in custody.

4. This Government did not attach any great importance to the incident in question, not only because, in reality, the armed British force did not succeed in crossing Portuguese territory (but also on account of the) correct attitude of its commandant in having respected without any resistance the observation which was made to him by the Portuguese official.

5. The road which runs from Damaun to Silvassa passes several times through British territory, and so it is inevitable that armed police forces of the two Governments have to utilise frequently, while travelling on it, portions which belong to the other Government, thus rendering necessary the proper authorization which, although it has never been refused, it will be difficult to obtain (in time) in urgent cases with manifest detriment to the missions which they may have to fulfil, and this may give rise to incidents which are always disagreeable.

6. The Government of Portuguese India thinks of the possibility of coming to an understanding with the Government of Bombay, by which on this road, and only on this road, owing to its special nature, armed police forces of both the Governments may travel freely, independently of any previous authorization.

7. His Excellency the Governor General, in whose name I make this suggestion to you, directs me to request you to kindly transmit it to the Government of Bombay, and in case of agreement therewith to kindly communicate the same to me for the information of this Government and for the proper instructions being given to the authorities concerned.

Please accept the assurances of my regard.

(Signed) Fernando PAES,
Captain,
for Chief of the Cabinet.

True Translation,
Louis G. PINTO,
Portuguese Translator to Government.

Home Department.
18th April, 1940.

POLITICAL AND SERVICES DEPTT.

This is in connection with the question of transit of Portuguese and British Armed Police forces through the Damaun-Silvassa Road. It may be stated that at present there is a reciprocal arrangement between this Govt. and the Port. India whereby armed police-men of both the Govt. are allowed to pass through the intervening Portuguese/British territory when it is necessary for them to do so in journeying from one part of British/Portuguese India to another, provided that previous intimation of their intention is given to the local authorities—vide G.R., P.D. No. 1309, dated the 24. 2. 1913. By G.R., P.D. No. 4540, dated 30-7-1913, all D.S.Ps. were authorised to communicate direct with the

Chief Secy. to the Govt. of Port. India (now styled "Chief of the Cabinet") or the Local Portuguese authorities before sending armed parties of Police through intervening Portuguese territory.

2. The Govt. of Port. India bring to the notice of this Govt. an instance in which recently certain British armed military (police?) men accompanied by certain unarmed military (police?) men entered a bus plying on the Damaun-Silvassa Road for the purpose of effecting the arrest of a German missionary. It is stated that the official-commandant of the Police Division of Nagar-Aveli drew the attention of the Commandant of the British force to the fact that the bus had to cross the Port. village of Dadra and that the usual permission to the armed British Police force crossing Port. territory not having been asked for, he could not permit it. This protest was immediately respected by the Commandant of the British force, the armed military (Police?) men having got down and only unarmed men having continued with the missionary already referred to, in custody.

3. The Govt. of Port. India state that the road which runs from Damaun to Silvassa passes several times through British territory and so is it inevitable that armed police forces of the two Govts. have to utilise frequently, while travelling on it, portions which belong to the other Govt. thus rendering necessary the proper authorization which, although it has never been refused, it will be difficult to obtain (in time) in urgent cases with manifest detriment to the missions which they may have to fulfil and thus may give rise to incidents which are always disagreeable. The Govt. of Port. India think of the possibility of coming to an understanding with the Govt. of Bombay by which on this road (Damaun-Silvassa Road) and only on this road owing to its special nature, armed police forces of both the Govts. may travel freely, independently of any previous intimation. The Govt. of Port. India, therefore, desire to know whether this Govt. would be prepared to agree to the above understanding.

4. In view of the reasons stated by the Govt. of Port. India, there seems *prima facie* no objection to agree to the understanding which the Govt. of Port. India have proposed. However, the remarks of the Commr., N.D. may be obtained on the proposal.

A

D.N.P.

26/4/40.

"A" seems to call for further consideration. It would appear desirable to have some sort of control or check over the movements of armed police forces. G.R., P.D. No. 4540 of 30. 7. 1913 is one way of securing this. The question is not one of mere administrative detail. If a general permission is to be given, it may have to be coupled with some restrictions e.g. as to number, purpose, etc.

C.S.

I have noted overleaf
Intd. 30-4-40

I agree. Meantime Commissioner N.D. may be consulted.

H.T.S.

30/4/40.

But we have no information about the actual position and the consequent necessity or desirability of devising some safeguards, and Commr. N.D.'s views may, therefore, be obtained as suggested, before the proposal of the Portuguese Govt. is further considered.

(Sgd.)

29/4.

(Below translation in English of a letter from the Government of Portuguese India, No. 122/G, dated the 11th April, 1940.)

No. 3798/34-A

POLITICAL AND SERVICES DEPARTMENT

Bombay Castle,

1st May, 1940.

Forwarded with compliments to the Commissioner, Northern Division, for favour of remarks with reference to Government Resolution, Political Department, No. 4540, dated the 30th July, 1913.

By order of the Governor of Bombay.

O.C.

For Chief Secretary to the Government of Bombay, Political and Services Department.

D.N.P.

30/4/40.

(Sgd.)

1/5/40.

No. M.S.C. (P.)-301 .

Camp Via Shahi Bagh,
Ahmedabad, No. 4.

27th June, 1940.

From,

C. H. Bristow, Esquire, C.I.E., I.C.S.,
Commissioner, N.D.

To,

The Chief Secretary to Government,
Political and Services Department,
Bombay.

Subject: Reciprocal arrangements for the entry of British Police Officers into Portuguese territory and vice versa.

Sir,

With reference to Government Endorsement No. 3798/34-A dated 1. 5. 1940, I have the honour to state after consulting the Collector and

District Magistrate, Surat, that the proposal of the Government of Portuguese India may be accepted.

I have the honour to be,
Sir,

Your most obedient servant,
C. H. BRISTOW,
Commissioner, N.D.

POLITICAL AND SERVICES DEPARTMENT

Submitted with reference to our endt. to the Commissioner, N.D., No. 3798/34-A, dated the 1.5.40, and the notes underlying it.

2. The Commissioner, N.D., after consulting the Collector and District Magistrate, Surat, recommends that the proposal of the Govt. of Port. India should be accepted. As observed by the Dy. Secy, in his note dated the 29.4.40, it would appear desirable to have some sort of control or check over the movements of armed police forces and it seems that if a general permission is to be given it may have to be coupled with some restrictions e.g. as to number, purpose etc. Perhaps, we may accept the proposal of the Govt. of Port. India subject to the understanding that the number of the armed police men of the Port. Govt./Br. Govt. allowed to traverse through the British portion/Port. portion of the Damaun-Silvassa Road should be restricted to the actual requirements in each case and that intimation of the march of the armed police forces through the territories of the Port Govt./Br. Govt. should be given to the local authorities by the Br. Govt./Port. Govt. as soon as possible after the march takes place. Before orders on these lines are issued, these suggestions may be placed before the Govt. of the Portuguese India for approval.

D.N.P.

3/7/40

This would not achieve the object.

Perhaps Commr. N.D. may see these papers for further remarks, if any, before a decision is reached.

(Signed)

4/7.

C.S. Yes. I agree. I share the distrust of D.S. that without check and control of a fairly easily exercisable type, the procedure is fraught with danger. Commissioner N.D. should see for remarks on this aspect of the matter.

H.T.S.

5/7/40.

ref. to the Commr., N.D. d. the 5/7/40.

(Below Unofficial Reference from Government in the Political and Services Department, dated 5th July, 1940)

Returned unofficially to Government.

2. It may be mentioned that the only territory held by the Portuguese in this part of the Province is the area round Damaun on the coast (a few square miles), another little bit further east and a fairly large bit still further east on the borders of Dharampur State, Nasik District and Dahanu and Vada Talukas of Thana District. These three pieces of territory are connected by a road which passes through a large stretch of intervening British territory, including the town of Vapi.

If Government consider that the proposal cannot be accepted as it stands it may be laid down that the armed police forces travelling on the road should never exceed ten men at a time and that in such cases the previous notice prescribed in Government Resolution No. 4540, dated 30.7.1913, be replaced by post intimation to be given within 24 hours of passage.

C. H. BRISTOW,
Commissioner, N.D.

Unofficial Reference No. M.S.C. (P)-301, dated 10th July, 1940, to Government in the Political and Services Department.

P. & S. D.

Submitted with refce. to the office noted d. the 3.7.40, the Dy. Secy's. note d. the 4.7.40 and the Ch. Secy.'s note d. the 5.7.40.

2. The Comr., N.D., suggests that if the proposal of the Govt. of Port. India cannot be accepted by this Govt. as it stands, it may be laid down that the armed police forces travelling on the road should never exceed ten men at a time and that in such cases the previous notice prescribed in G.R., P.D. No. 4540, d. the 30.7.1913 shd. be replaced by post intimation to be given within 24 hours of passage.

3. For orders.

D.N.P.

16/7/40.

This may be agreed to (assuming "Police" does not include the "Military" and "armed" does not include "ammunition"). The intention appears to be (not to change the character of the existing arrangement but) to change the existing practice as regards the giving of notice.

(Signed)

17/7.

C. S.

I agree that the restrictions proposed ought to be sufficient for all ordinary purposes, namely the armed police should not exceed ten in number and that intimation of their passage through British territory is given by post within 24 hours. I do not understand the D.S.'s remark that "armed" does not include "ammunition". This is a restriction which could not be enforced. Clearly armed police must be allowed to

carry sufficient ammunition with them for carrying out their ordinary duties. I suggest that if numbers exceeding ten are needed for any purpose the Portuguese Government should follow the previous practice and obtain concurrence by prior notice to the British authorities.

H. T. S.

17/7/40.

No. 3798/34-A

POLITICAL AND SERVICES DEPARTMENT

Bombay Castle.

30th July, 1940.

From:

Dr. H. T. Sorley, C.I.E.,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To:

The Chief of the Cabinet,
Government of Portuguese India,
Nova Goa.

Subject: Reciprocal arrangements for the transit of Portuguese and British Armed Police forces over the Damaun-Silvassa Road.

Sir,

I am directed to refer to your letter No. 122/G, dated the 11th April, 1940, on the above subject, and to state that, in the circumstances stated, the Government of Bombay is prepared to enter into reciprocal arrangements with the Government of Portuguese India in the matter, subject to the understanding that the armed police travelling across intervening British territory on the road in question should not exceed ten in number at one time and that intimation of their passage through British territory is given by post to the local authorities within 24 hours of the passage. If any number exceeding ten at a time are required so to travel at any time the existing practice should be followed and concurrence of the British authorities should be obtained by prior notice as heretofore. I am to request that you will be so good as to inform the Government of Bombay whether the Government of Portuguese India are agreeable to the above proposal. On receipt of their agreement, necessary instructions will be issued to the officers concerned.

I have the honour to be,

Sir,

Your most obedient servant,
O.C.

for (H. T. Sorley),

Chief Secretary to the Government of
Bombay, Political and Services Department.

29/7/40.

D. N. P.

29/7/40.

Service of the Republic
GENERAL GOVERNMENT OF THE STATE OF INDIA
CABINET DEPARTMENT

No. 232/G.
Case No. 7/940/21.
Issue No. 904.

Nova Goa,
5th August, 1940.

To:

The Chief Secretary to the Government of Bombay,
Political and Services Department,
Bombay.

Most Excellent Sir,

His Excellency the Governor General directs me to inform you, in reply to letter No. 3798/34-A of the 30th of the last month, that the suggestion of the Government of Bombay deserves his concurrence.

In this sense, the required instructions are going to be given to the competent authorities.

Please accept the assurances of my high regard.

(Signed) A. DELDUQUE DA COSTA,
Major,
Chief of the Cabinet.

True Translation.

Louis G. PINTO,
Portuguese Translator to Government.

Home Department,
12th August, 1940.

POLITICAL AND SERVICES DEPARTMENT

Submitted with reference to our letter to the Govt. of Port. India No. 3798/34-A, dated the 30.7.40 and the notes underlying it.

2. The Govt. of the Port. India have accepted the proposal made in our letter No. 3798/34-A, dated the 30.7.40 and intimate that they are going to issue the necessary instructions to their officers.

3. The accompanying G.R. may issue.

PORTUGUESE AND BRITISH ARMED POLICE FORCES

Reciprocal arrangements for the transit of armed police forces over the Damaun-Silvassa Road

GOVERNMENT OF BOMBAY
POLITICAL AND SERVICES DEPARTMENT

Resolution No. 3798/34.

Bombay Castle, 27th August, 1940.

Read Government Resolution, Political Department, No. 4540, dated the 30th July, 1913.

Translation of a letter from the Government of Portuguese India, No. 122/G, dated the 11th April, 1940:—

"The Government of the district of Damaun informed this General Government that, on the morning of the 1st April, the official who commands the Police division of Nagar-Aveli got at Silvassa into a bus in which there also entered (lit. took a place) a German missionary who, according to what he stated, had asked for the permission of the Government of Bombay to go to that city to get himself treated.

2. While passing through the customs post of Lavacha in British territory, the commandant of a British force, consisting of three unarmed military men and four armed men, directed the bus to stop and ordered the arrest of the missionary referred to, all of them entering (lit. taking a place in) the bus.

3. The official-commandant of the Police Division of Nagar-Aveli drew the attention of the Commandant of the British force to the fact that the bus had to cross the Portuguese village of Dadra and that the usual permission to an armed British force crossing Portuguese territory not having been asked for, he could not permit it. This (protest) was immediately respected by the commandant of the British force, the armed military men having got down and only the unarmed men having continued with the missionary already referred to in custody.

4. This Government did not attach any great importance to the incident in question, not only because, in reality, the armed British force did not succeed in crossing Portuguese territory (but also on account of the) correct attitude of its commandant in having respected without any resistance the observation which was made to him by the Portuguese official.

5. The road which runs from Damaun to Silvassa passes several times through British territory, and so it is inevitable that armed police forces of the two Governments have to utilise frequently, while travelling on it, portions which belong to the other Government, thus rendering necessary the proper authorization which, although it has never been refused, it will be difficult to obtain (in time) in urgent cases with manifest detriment to the missions which they may have to fulfil and this may give rise to incidents which are always disagreeable.

6. The Government of Portuguese India thinks of the possibility of coming to an understanding with the Government of Bombay, by which on this road, and only on this road, owing to its special nature, armed police forces of both the Governments may travel freely, independently of any previous authorization.

7. His Excellency the Governor General, in whose name I make this suggestion to you, directs me to request you to kindly transmit it to the Government of Bombay, and in case of agreement therewith to kindly communicate the same to me for the information of this Government and for the proper instructions being given to the authorities concerned.

Please accept the assurances of my regard."

Letter to the Government of Portuguese India, No. 3798/34-A, dated the 30th July, 1940:—

"I am directed to refer to your letter No. 122/G, dated the 11th April, 1940, on the above subject, and to state that, in the circumstances stated, the Government of Bombay is prepared to enter into reciprocal arrangements with the Government of Portuguese India in the matter, subject to the understanding that the armed police travelling across intervening British territory on the road in question should not exceed ten in number at one time and that intimation of their passage through British territory is given by post to the local authorities within 24 hours of the passage. If any number exceeding ten at a time are required so to travel at any time the existing practice should be followed and concurrence of the British authorities should be obtained by prior notice as heretofore. I am to request that you will be so good as to inform the Government of Bombay whether the Government of Portuguese India are agreeable to the above proposal. On receipt of their agreement, necessary instructions will be issued to the officers concerned."

Translation of a letter from the Government of Portuguese India, No. 232/G, dated the 5th August, 1940:—

"His Excellency the Governor General directs me to inform you, in reply to letter No. 3798/34-A of the 30th of the last month that the suggestion of the Government of Bombay deserves this concurrence.

In this sense, the required instructions are going to be given to the competent authorities.

Please accept the assurances of my high regard."

RESOLUTION.—The foregoing correspondence should be communicated to the undermentioned officers for information and guidance.

By order of the Governor of Bombay,

(Signed)

24/8/40.

For (H. T. SORLEY)

Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Commissioner, Northern Division,
The Inspector General of Police, Province of Bombay,
The District Magistrate, Surat,
The District Superintendent of Police, Surat.
The Home Department,
The Revenue Department.

Annex C. No. 58

*Record Office, Bombay*BOMBAY GOVERNMENT
POLITICAL AND SERVICES DEPARTMENT

(File No. 3994-I)

1940.

Consulate General of Portugal,
Bombay.Bombay,
17th October, 1941.

No. 614

Proc. 13-D/41.

The Chief Secretary to the Government of Bombay,
Political and Services Department,
Bombay.

Sir,

I have the honour to inform you that, according to the orders issued by the Government of Portuguese India, the Revenue Office at Nagar-Aveli has to transfer to the Revenue Office at Damão the moneys exceeding up to certain sum and that this transfer will be often effected by the respective Shroff accompanied by armed soldiers.

Under the circumstances mentioned above, I am desired by the Government of Damão to request you to be so good as to issue the necessary instructions to the competent Authorities to allow free transit to the armed soldiers who will accompany the abovementioned Shroff, from Nagar-Aveli to Damão and vice-versa, whenever he carries the funds for the proposed transfer.

I have the honour to be,

Sir,

Your most obedient servant,

*(Signed)*Vice-Consul for Portugal, In Charge
of the Consulate of Portugal

No. 3994-A

POLITICAL AND SERVICES DEPARTMENT

Bombay Castle,
11th November, 1941.

To:

The Vice-Consul for Portugal in charge of the
Consulate General for Portugal at Bombay.

Subject: Permission for the free transit of armed soldiers accompanying the Shroff from Nagar-Aveli to Damao when money is transferred.

Sir,

In continuation of my letter No. 3994-A, dated the 22nd October, 1941, on the above subject, I am directed to invite attention to the Agree-

ment of 1920 between the Govt. of Bombay and the Govt. of Portuguese India regarding the entry of Br. Police Officers into Portuguese territory and vice versa, and to state that the Govt. of Bombay does not anticipate any difficulty in issuing necessary orders each time armed soldiers from Portuguese India have to enter Brit. territory for the purpose mentioned in your letter and that, therefore, it suggests that, unless there are any reasons which require a change in the existing practice it should be continued.

I have etc.,

(Signed)

For Chief Secy. to the Govt. of Bombay
Poll. and Service Deptt.

Consulado Geral de Portugal,
Bombain.

Bombay,
30th December, 1947.

The Chief Secretary to the Government of Bombay,
Political and Services Department,
Bombay.

No. 1444.

Proc. 13-D/a/47.

Sir, I have the honour to inform you that the Government of the District of Diu have asked me to apply to the Government of Bombay for two permanent permits, one allowing the Shroff of the Revenue Department of Nagar-Avely to be accompanied, whenever he goes to Damão for transferring money, by armed soldiers on account of the safety of the funds, and the other allowing the shroff of the Revenue Departments of Damão to be accompanied by armed soldiers whenever he comes from Damão to Bombay with money to be deposited with the Banco Nacional Ultramarino, the said soldiers being authorised to make use of the firearms in case of any surprise attempt when they cross the Indian territory.

I beg to request you therefore to be so good as to move the Government for granting the abovementioned permits.

Your obedient servant,

(Signed)

Consul for Portugal.

No. 3994/238-A-I

POLITICAL AND SERVICES DEPARTMENT

Bombay Castle,
23rd Feb., 1948.

To:

The Consul for Portugal at Bombay.

Subject: Two permanent permits for personnel in charge of transfer and deposit of Portuguese Government funds.

Sir,

In continuation of this Government letter No. 3994/238-A-I, dated the 7th January, 1948, on the above subject, I am directed to invite your attention to the correspondence ending with this Government letter No. 3994-A, dated the 11th November, 1941, to the then Vice-Consul for Portugal in charge of the Consulate General for Portugal at Bombay and to say that for the reasons already stated in that letter the Government of Bombay considers the procedure hitherto followed should continue, unless there are any special reasons which require a change in the existing practice.

Your obedient servant,

(Signed)

For Chief Secretary.

No. 2768/46-A

POLITICAL AND SERVICES DEPARTMENT

Bombay Castle.
28th October, 1952.

From

Shri M. D. Bhansali, I.C.S.,
Chief Secretary to the Government of Bombay,
Political and Services Department.

To

The Consul General for Portugal at Bombay,
Bombay.

Subject:—Escort of carriage of consignments of Indian currency from and to Goa.

Sir,

I am directed to state that the Government of India have laid down a revised procedure in regard to the provision of escorts for the carriage of consignments of Indian currency from and to Goa, and to request you to be so good as to ensure that the following procedure is observed while making requests for the provision of escorts, in future:—

(1) To enable the Indian Government to make proper arrangements for escort in each case the contents of each consignment should be specified when making the request for escort;

(2) The Consul General for India at Goa should be informed by you of requests for provision of escort, in each case, at the same time when you make a request to this Government.

(3) To enable this Government to make arrangements for escort up to and at the Indian frontier, a clear week's notice should be given.

It is hoped that it will not be inconvenient for you to adopt the above procedure.

Yours faithfully,

(Signed) M. D. BHANSALI,

Chief Secretary to the Government of Bombay,
Political and Services Department.

Annex C. No. 59

THE INDIAN ARMS ACT, 1878

Act No. XI of 1878.

(Passed by the Governor General of India in Council.)

(Received the assent of the Governor General on the 15th March, 1878.)

An Act to consolidate and amend the law relating to Arms, Ammunition and Military Stores. Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to arms, ammunition and military stores; It is hereby enacted as follows:---

I.—PRELIMINARY.

1. This Act may be called "The Indian Arms Act, 1878"; and it extends to the whole of British India. Short title.
Local extent.

III.—IMPORT, EXPORT AND TRANSPORT.

6. No person shall bring or take by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license. Unlicensed importation and exportation prohibited.

Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon. Importation and exportation of arms and ammunition for private use.

Explanation—Arms, ammunition and military stores taken from one part of British India to another by sea or across intervening territory not being part of British India, are taken out of and brought into British India within the meaning of this section.

8. In lieu of the duties imposed by the Indian Tariff Act, 1875, upon the articles mentioned in the second schedule hereto annexed when imported by sea, there shall be levied and collected, in every part of British India, upon the same articles the duties specified in the same schedule:

Provided that no duty in excess of ten per cent. *ad valorem* shall be levied upon any of the said articles imported in reasonable quantity for his own private use by any person lawfully entitled to possess the same:

Provided also that when any articles which have been otherwise imported and upon which duty has been levied or is leviable under this section are purchased retail from the importer by a person lawfully entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs Collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. *ad valorem*; and if such collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly.

9. The Governor General in Council may, from time to time, by notification in the Gazette of India, direct that duties not exceeding those specified in the second schedule thereto annexed shall be levied upon any articles mentioned in that schedule and brought by land into any part of British India, and may in like manner cancel any such notification.

10. The Governor General in Council may, from time to time, by notification in the Gazette of India—

(A) regulate or prohibit the transport of any description of arms, ammunition or military stores over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(B) cancel any such notification.

Explanation.—Arms, ammunition or military stores transhipped at a port in British India are transported within the meaning of this section.

Annex C. No. 60

Gazette of India Part I, 8 March, 1879

GOVERNMENT OF INDIA

HOME DEPARTMENT

NOTIFICATIONS.—PUBLIC

Fort William, the 6th March, 1879.

No. 518.—In continuation of Notification No. 9, dated 2nd January, 1879, the following revised edition of the notification and rules made by

the Governor General in Council under "The Indian Arms Act, 1878," is published. The revised rules will take effect from the date of publication. The forms cited in these rules are precisely the same as those previously published:

1. The Governor General in Council is pleased, under Section 27, to exempt from the operations of all prohibitions and directions contained in Sections 13, 14, 15 and 16 of "The Indian Arms Act, 1878," other than those referring to cannon, articles designed for torpedo service, war-rockets, and machinery for the manufacture of arms and ammunition, the undermentioned persons, namely—

(1) all Maharajahs, Rajahs, Nawabs, Members of any Order of Knighthood; all persons bearing a title conferred by the Government of India; all persons who have been granted a sword in public Durbar; all persons who have received certificates on the 1st January, 1877; all persons who are exempted from personal attendance at civil courts;

(2) all Members or ex-Members of the Council of the Governor General, or of the Governors of Madras of Bombay, or of the Council of the Lieutenant-Governor of Bengal;

(3) all military and naval officers, all soldiers, sailors, volunteers, police officers, forest officers, postal officers, jail officers, serving the Government;

(4) all Magistrates, Justices of the Peace, Honorary Magistrates, and judicial officers of or above the rank of Munsif;

(5) all European and East Indian subjects of Her Majesty the Queen-Empress; all Armenians; and all Americans and Europeans not British-born subjects of Her Majesty who are temporarily residing or travelling in India;

(6) all Consuls, Consular Agents, all duly accredited Vakeels or Agents of Native States:

(7) all Ruling Chiefs on the occasions of their entering or residing in, British India, with their retinues, to such numbers as may in each case be settled by the political officer under the orders of the foreign Department or of the Madras and Bombay Governments in respect to Chiefs whose political relations are with those Governments respectively; and all officials of such Chiefs passing through British India on duty;

(8) all pensioned officers of the Native Army, and pensioned officers of the civil departments who, when employed, were exempt; etc.,

Annex C. No. 61

Bombay Political, 1880, Volume 132

GOVERNMENT OF INDIA

FOREIGN DEPARTMENT

POLITICAL

Simla, the 23rd April, 1880.

Notification.

No. 403.—With reference to the Notification of the Home Department marginally noted, the following rule, which has been added by the 518 dated 6th March, 1879.

Governor-General in Council as rule 7A to the rules framed under the "Indians Arms Act, 1878", is published for general information.

7A. Nothing in rules 5, 6 or 7 shall be deemed to authorize the grant of licenses

(A) to import any arms, ammunition or military stores from Portuguese India

(B) to export to Portuguese India by sea, river, or land, any arms, ammunition or military stores, except the same be exported for the exclusive use of the Government of Portuguese India, or are covered by a special license for import into Portuguese India signed by the Secretary General to the Government of Portuguese India.

(Signed) Illegible.

Secy. to the Govt. of India.

Bombay Government Gazette, Part I, dated 18th April, 1889

GOVERNMENT OF INDIA

No. 2949.—The following Notification by the Government of India is republished:—

"Department of Finance and Commerce.

STATISTICS AND COMMERCE.

CUSTOMS.

Simla, the 12th April, 1889.

No. 1864.—In Exercise of the powers conferred by section 23 of the Sea Customs Act, VIII of 1878, and in supersession of Finance and Commerce Department Notifications¹ Nos. 1503, 296S, 17S and 30S dated 6th June, 1884, 20th November, 1885, 21st January, 1886, and 26th January, 1887, respectively, the Governor-General in Council is pleased to exempt from customs-duty the undermentioned articles imported into British India:

(1) Arms which, having paid duty at Aden on import into that Settlement, are subsequently within three years imported into any customs port of British India.

(2) Bows and arrows.

(3) Bullets, bird-shots, gunwads, and wire cartridges.

(4) Bullet-moulds.

(5) Morris's tubes and patent ammunition when imported by officers commanding British and native regiments or volunteer corps, for the instruction of their men.

¹ Republished respectively at page 435 of Part 1 of the Bombay Government Gazette of the 12th June, 1884, page 1347 of Part I of the Bombay Government Gazette of the 26th November, 1885, page 80 of Part I of the Bombay Government Gazette of the 28th January, 1886, and page 85 of Part I of the Bombay Government Gazette of the 3rd February, 1887.

6. Ornamental arms possessing antiquarian value, provided the chief customs authority is satisfied in each case that the arms are practically unserviceable, and that weapons intended for offensive or defensive purposes are not imported under cover of the exemption.

6. A sword, a revolver, or a pair of pistols when accompanying a military officer or commissioned officer of a volunteer corps, or certified by the commandant of the corps to be imported by the officer for the purposes of his equipment.

8. Swords imported for presentation as army or volunteer prizes.

(Signed) E. J. SINKINSON,
Offg. Secretary to the Government of India."

By order of His Excellency the Right
Honourable the Governor in Council,
J. NUGENT,
Chief Secretary to Government.

Annex C. No. 62

The Gazette of India, March 23, 1895, (page 170)

GOVERNMENT OF INDIA

HOME DEPARTMENT

NOTIFICATIONS—PUBLIC

Calcutta, the 22nd March, 1895.

No. 459—In exercise of the powers conferred by sections 17 and 27 of the Indian Arms Act (XI of 1878), the Governor General in Council is pleased to direct that the following further amendments shall be made in the Notification of the Government of India in the Home Department No. 518 dated the 6th March, 1879 as already amended by the Notifications hereinafter mentioned:

<i>Clauses of Notification No. 518 dated the 6th March, 1879</i>	<i>Amending Notifications</i>	<i>Amendments now directed</i>
Paragraph VI, Rule 7A	No. 865 dated 8th June, 1882	Omit clause (b)

Annex C. No. 63

Record Office, Bombay

1898

POLITICAL DEPARTMENT

No. 1301

ARMS AND AMMUNITION

DAMAUN

*Transit of certain Arms and Ammunition and Military Stores from
Damaun to Nagar Avely*

Translation.

Nova Goa

3rd November, 1898.

To His Excellency Lord Sandhurst, Governor of the Presidency of
Bombay.

Most Illustrious and Excellent Sir,

It being necessary to carry from Damaun to Nagar Avely, crossing the British Territory, 54 rifles, Snider (complete), 54 bandoleers and 3 kegs containing 2,340 loaded cartridges intended for the Police Force of that district, I have the honour to request Your Excellency to be pleased to direct that no objection may offered by the British Police in the transit of the same articles.

Accept Most Illustrious Excellent Sir the assurances of the highest consideration with which I have the honour to be

Your Excellency's

Most Obedient Servant

(Signed) J. MACHADO,
Governor-General.

6407. POL.

*Letter from the Govr.-Genl. of Portuguese India, No. 125, dated the 3rd
Novr., 1898.*

Requesting that the necessary instructions may be issued in view to no objection being raised to the transit from Daman to Nagar Avely of certain Arms & Ammunition that are required for the use of the Police Force of Nagar Avely.

ORDERS.

Submitted.

S.A.P.

9. 11. 98.

Ordinarily this case would be dealt with under rule 6c of the Arms Rules.

If it is decided to treat this request specially, a copy of the letter from the Govr. Genl., Portuguese India, may be forwarded to the Commsr., N.D., with a request that he will take the necessary steps to see that no obstacles are placed in the way of the transit of the arms, Ammunition, &c., from Daman to Nagar Aveli.

G.A.M.

9. 11.

Submitted through A branch in case there may be any precedents in that branch.

A.W.,

9. 11.

Submitted. Please see G.R. No. 1251 of 21. 2. 93 when Govt. were pleased to allow rice, the produce of Nagar Haveli, to pass thro' the intervening British District *en route* to Daman, duty free.

This is hardly a case in point but is quoted merely to shew that British District & portions of N. States have to be traversed when proceeding from Daman to Nagar Haveli.

J.H.S.,

9/11.

I think that we allow officers to take arms thro to Damaun & this request should I think certainly be granted & instructions issued to the Dist. Officers accordingly.

S.W.E.,

12.11.

H.E. the G. I concur. (*Initialled*).

(*Below copy of translation of the letter from the Portuguese Govt. under Regr. 6407*)

No. 6701 of 1898.

Poli. Dept.

B.C. 28th Novr. 98.

Copy forwarded to the Commsr., N.D., with a request that he will issue the necessary instructions to the Distr. Officers concerned to permit the arms, ammn., &c., referred to in the letter from the Govr. Genl. of Portuguese India being conveyed from Daman to Nagar Aveli.

G.A.M., 16/11.

O.C.

S.W.E., 20/11.

Secy. to Govt.

No. 6702, dated 28 Novr. 1898

Political Department.

To

H.E. Col. Joaquim José Machado,
Govr. Genl. of Portuguese India.

Most Illustrious and Excellent Sir,

I have the honour to acknowledge the receipt of your Excellency's Letter No. 125, dated the 3rd instant requesting that no obstacles may be placed in the way of the transit of certain arms, ammunition and military stores from Daman to Nagar Aveli & in reply I beg to inform Your Excellency that the necessary instructions have been issued to the District Officers concerned to ensure compliance with Yr. E's request.

G.A.M.

16/11.

O.C.

Translation.

To

His Excellency Lord Sandhurst
Governor of the Presidency of Bombay.

Nova Goa, 2nd December 1898.

Most Illustrious and Excellent Sir,

I have the honour to acknowledge the receipt of your Excellency's letter No. 6702 dated the 28th ultimo, and to thank Your Excellency for the readiness and goodwill with which Your Excellency was pleased to comply with the request contained in my letter No. 125 dated the 3rd of the same month.

Accept Most Illustrious and Excellent Sir, the assurances of the highest consideration with which

I have the honour to be

Your Excellency's

Most obedient servant,

(Signed) J. MACHADO,

Governor-General.

D. 6935. POL.

Letter from the Govr. Genl. of Portuguese India, No. 140, dated the 2nd December, 1898.

Acknowledging the receipt of this Deptt. letter No. 6702 of the 28th ultimo. Thanking His Excellency the Govr. for the readiness and good will with which the request contained in his No. 125 of the 3rd idem, was complied with.

ORDERS.

Submitted. Please see papers under Regn. No. 6407.
The papers may be filed.

S.A.P.,
10. 12. 98.

A.W.,
12. 12.

S.W.E.,
13. 12.

Annex C. No. 64

Record Office, Bombay

1915

POLITICAL DEPARTMENT

No. 569

ARMS AND AMMUNITION

PORTUGUESE INDIA

Sanction of the Govt. of India to the importation into British India of certain arms and ammunition on behalf of the Govt. of Portuguese India from Damaun & Nagar Avelly

Consulado Geral De Portugal.
Na India Britanica.

Bombay,

The Secretary to Government,
Political Department,
Bombay.

21st December, 1914.

Sir,

I beg to request you to be so good as to get the necessary permission for free passage through the British territory of 54 Snider rifles and 3,000 cartridges of metal caps and 150 cartridges of 6m. 5 bore Manulicher which are despatched by the military headquarters of Nova-Goa to Nagar-Avelly, and also of 54 guns and 2,603 cartridges 14 mm./73bore which will be sent back from Nagar Avelly to Nova-Goa.

Thanking in anticipation,

I have the honour to be,

Sir,

Your most obedient servant,
Alfredo CASANOVA.

POL. DEPARTMENT

C. BRANCH

Class A. Reg. No. 1/228.

*Letter from the Consul-General for Portugal at Bombay,
dated 21st December, 1914.*

Requesting that Govt. may grant the necessary license for the free passage through British territory of certain arms and ammunition despatched from Nova-Goa to Nagar-Avelly and others from Nagar-Avelly to Nova-Goa.

Submitted. The usual acknowledgment may be made to the Portuguese Consul-General.

Draft letter put up with f.c.

H.R.

22. 12. 14.

C.D.

22. 12.

No. 7424.

Political Department.

B.C.

22nd December, 1914.

To

The Consul Genl. for Portugal in
British India at Bombay.

Sir,

I am directed to acknowledge the receipt of your letter dated the 21st Decr., 1914, in which you request that permission may be granted for the free transportation of certain arms and ammunition through British India from Nova Goa to Nagar Avely and from Nagar Avely to Nova Goa.

2. In reply I am to inform you that your letter will be laid before Govt. for consideration.

I have etc.,

A.N.

22. 12.

For Secretary to Govt.

Submitted. The transport of the arms and ammunition through British India proposed by the Govt. of Goa, amounts to an import into, and export from, British India. The importation of arms and ammunition into British India from Portuguese India, is prohibited under Rule 7 of the Indian Arms Rules of 1909. The Govt. of Bombay can grant a licence for the export of the arms and ammunition from British India. The restrictions imposed, owing to the war, on the export of arms and ammunition from British India do not apply to goods required for use in Portuguese India, vide Statement B accompanying R.D. Reso. No. 11530, dated 24th Novr., 1914.

2. The Govt. of India may perhaps be asked to sanction the importation of the arms and ammunition into British India, but, before doing so, the Consul Genl. for Portugal in British India may be asked to specify more clearly what is meant by "cartridges of metal caps".

(Initialled)

23. 12.

I think he means merely metal-cased cartridges, as distinct from cardboard-cased cartridges, such as are used for shot-guns. Please draft.

A.R.

23. 12.

Consuldo Geral de Portugal.
Na India Britanica.

Bombay,
30th December, 1914.

The Secretary to Government,
Political Department,
Bombay.

Sir,

In continuation to my letter of 21st inst. re the free passage through the British territory of cartridges and rifles, I beg to inform you that the permission in question is required only to take the armaments through the British territory between Daman Nagar-Avely. May I kindly request you to be so good as to give me an urgent reply.

Thanking in anticipation,

I have the honour to be,

Sir,

Your most obedient servant,
Alfredo CASANOVA.

POLITICAL DEPARTMENT

C. BRANCH

Reg. No. 11331.

Letter from the Consul General for Portugal at Bombay, dated 30. 12. 1914.

Stating in continuation of his letter dated the 21st inst. regarding free passage through the Br. territory of cartridges & rifles, that the permission is required to take the armaments through the Br. Territory between Daman Nagar-Avely & calling for an urgent reply.

Submitted. Draft letter & f.c. are put up in accordance with the U.S. Note of 23/12 *ante*.

Cmd.

31. 12.

No. 7489.

To

31st Decr., 1914.

The Political Secretary
to the G. of I.
Foreign & Political Dept.

Sir,

I am directed to state that the Consul General for Portugal in British India at Bombay has asked for the free passage through British territory of the arms & ammunition specified below.

54 Snider Rifles and 3,000 Cartridges of metal caps and 150 Cartridges 6m. 5 bore Manlicher despatched from the military headquarters at Nova-Goa to Nagar-Avely.

54 Guns & 2,603 Cartridges 14 mm./73 bore to be sent back from Nagar-Avely to Nova-Goa.

2. As the importation of arms & ammunition from Portuguese India is prohibited under Rule 7 of the Indian Arms Rules 1909, I am directed to request that the Govt. of India may be moved to sanction the importation of these arms & ammunition into British India, and that the sanction may be communicated to me by telegram.

I have &c.,

O.C. G.M.
Dy. Secy. to Govt.

Respectfully re-submitted. In his letter dated the 30th Decr., 1914, the Consul Genl. for Portugal in Br. India intimates that the Govt. of Portuguese India, wish to transport the arms and ammunition across British India between Damaun and Nagar Avely, and not between Nova Goa and Nagar Avely. The Govt. of India may be informed and a draft letter, with i.c., is put up.

G.M.

4. I.

Dep. Secy.

 No. 12.

Political Dept., B.C.

4th January, 1915.

To

The Pol. Secy. to the Govt. of India
in the For. & Pol. Dept.

Sir,

I am directed to inform you, with reference to the letter from the Govt. of Bombay in the Pol. Dept., No. 7489, dated 31st Decr., 1914, that the Govt. of Portuguese India now desire to transport the arms and ammunition between Damaun & Nagar Avely, and not between Nova Goa and Nagar Avely as was originally proposed.

2. I am to request that the G. of I. may be moved to accord sanction, by wire, to the importation of the arms & ammun. into Br. India from Damaun & from Nagar Avely.

I have, etc.,

G. M.

4. I.

Dy. Secy. to Government.

STATE TELEGRAM

No. 585-D, dated 28th January, 1915.

From:

Foreign and Political.

From:

Delhi.

To:

Bombay Political.

To:

Bombay.

Your letter No. (22) January 4th importation of arms and ammunition from Damaun and Nagar Avely is sanctioned.

True copy.

(Signed)

Superintendent.

POLITICAL DEPARTMENT

C. BRANCH

Class B. Reg. No. 948.

Letter from the Government of India, Foreign and Political Department, Delhi, No. 585-D, dated 28. 1. 1915.

Sanctioning with reference to Political Department letter No. 22 dated the 4th January, 1915, the importation of arms and ammunition from Damaun and Nagar Avely.

Submitted. The Commr. of Police, Bombay, may be informed that the Govt. of India have sanctioned the importation into British India from Damaun of 54 Snider rifles and 3,000 metal cartridges and 150 cartridges of 6.5. bore for transport from Damaun to Nagar Avely and the importation from Nagar Avely of 54 guns and 2,603 cartridges of 14 mm./73 bore for transport to Damaun, both on behalf of the Govt. of Portuguese India & he may be asked to issue the necessary licenses to the Consul Genl. of Portugal in Br. India.

2. Licenses for the export of the above mentioned arms & ammunition to Nagar Avely and Damaun respectively should be issued by Govt.

Draft licenses & letters are put up.

G.M.

30/1.

Dy. Secy.,

Secy.

No. 653.

Political Dept.,

B.C.

2. 2. 1915.

To

The Commissioner of Police,
Bombay.

Sir,

I am directed to inform you that the G. of I. have sanctioned the importation of the under-mentioned arms and ammunition into British India on behalf of the Govt. of Portuguese India:—

54 Snider rifles, 3,000 metal cartridges and 150 Manlicher cartridges 6.5 bore, from Damaun for transport to Nagar Avely.

54 guns and 2,603 cartridges 14 m.m./73 bore from Nagar-Avely for transport to Damaun.

2. I am to request that you will issue the necessary licences for the import of the arms & ammn. into Br. India to the Consul Genl. for Portugal in British India at Bombay.

3. Licences for the export of the arms and ammunition from British India to Damaun and Nagar Avely are enclosed. I am to request that you will ascertain the number of packages of which the consignments will consist; and deliver the licences to the Consul Genl. for Portugal after completing column 2, and report to Govt. the number of packages.

I have etc.,

G.M.

Dy. Secy. to Govt.

O.C.

No. 654.

Political Dept.,
B.C.

2. 2. 1915.

To

The Consul Genl. for Portugal in British India,
Bombay.

Sir,

I am directed to inform you with reference to your letters dated 21st and 30th Decr. 1914, that the G. of I. have sanctioned the importation of the arms & ammunition in question into Br. India from Damaun & Nagar Avely and that the Comr. of Police, Bombay, has been directed to issue to you the necessary import licenses.

2. Licenses to enable you to export the arms & ammunition from Br. India have been forwarded to-day to the Comr. of Police, Bombay, for delivery to you.

I have etc.,

G.M.
Deputy Secy. to Govt.

O.C.



LICENSE FOR THE EXPORT BY LAND OR RIVER OF ARMS, AMMUNITION OR MILITARY STORES UNDER RULE 18 OF THE INDIAN ARMS RULES, 1903.

Name, etc., of Licensee and Agent (if any)	Number of Packages	ARMS		AMMUNITION OR MILITARY STORES		Place of deposit and route	Purpose for which license is required	Destination	Name and residence of consignee	Period for which license is valid
		Description	Number	Description	Weight or Number					
The Consul Genl. for Portugal in British India, Bombay	8 (eight)	Snider rifles	54 fifty-four	Metal cased cartridges Cartridges 6.5 bore Mannlicher	3000 (three thousand) 150 (one hundred and fifty)	From Damaun to Nagar-Aveli by road through British India	For the use of the Govt. of Portuguese India	Nagar-Aveli	The Commandant of Nagar Aveli	From the Second February, 1915, to the Sixth of May, 1915

Bombay Castle,
Political Department:
The 2nd February, 1915.

O.C. O.C.W.
1/2.
Secretary to Government.

CONDITIONS

1. This License is granted subject to all the provisions of the Indian Arms Act, 1878 (XI of 1878), and of the Indian Arms Rules, 1909.

2. The article shall not be conveyed by any route other than that specified in Column 7; and bulk shall not be broken, nor shall the consignment be stopped, before the articles reach the place of destination.

3. An account of the contents of each package shall be legibly written thereon; and where the articles are conveyed by rail, each package shall be marked with the word or expression "Arms" "Ammunition" or "Military Stores", as the case may be, so as to be readily recognizable by the Railway authorities.

No. 655 of 1915.

Political Departments,
Bombay Castle,

2. 2. 1915.

Copy forwarded to the District Magistrate, Surat, Commr. of Customs, Salt, Opium & Abkari, for information.

A.M.

O.C.

30. 1. 15.

for Secretary to Government.



LICENSEE FOR THE EXPORT BY LAND OR RIVER OF ARMS, AMMUNITION OR MILITARY STORES UNDER RULE 18 OF THE
INDIAN ARMS RULES, 1909.

Name, etc., of Licensee and Agent (if any)	Number of Packages	Arms		Ammunition or Military Stores		Place of dispatch and route	Purpose for which Consignment is required	Destination	Name and residence of consignee	Period for which License is valid
		Description	Number	Description	Weight or Number					
The Consul Genl. for Portugal in Br. India, Bombay	8 (eight)	Guns	54 (fifty-four)	Cartridges 14mm./73 bore	2603 (two thousand six hundred and three)	From Nagar Avelly to Damaun by road through British India	For the use of the Govt. of Portuguese India	Damaun	H.E. the Govr. of Damaun	From the Second Febry, 1915, to the Sixth of May, 1915

Bombay Castle,
Political Department:
The 2nd February, 1915.

O.C. O.C.W. 1/2.
Secretary to Government.

CONDITIONS

1. This License is granted subject to all the provisions of the Indian Arms Act, 1878 (XI of 1878), and of the Indian Arms Rules, 1909.
2. The articles shall not be conveyed by any route other than that specified in Column 7; and bulk shall not be broken, nor shall the consignment be stopped, before the articles reach the place of destination.
3. An account of the contents of each package shall be legibly written thereon: and where the articles are conveyed by rail, each package shall be marked with the word or expression "Arms" "Ammunition" or "Military Stores", as the case may be, so as to be readily recognizable by the Railway authorities.

No. 656 of 1915.

Political Department,
Bombay Castle.

2. 2. 15.

Copy forwarded to the Dist. Magistrate, Surat, Commr. of Customs, S.O. & A., for information.

A.M.

O.C. 30. 1. 15,

for Secretary to Government.

No. 975/A.A. of 1915.

From

S. M. Edwardes, Esq., C.V.O., I.C.S.,
The Commissioner of Police,
Bombay.

To

The Deputy Secretary to Government,
Political Department,
Bombay.

Police Commissioner's Office,
Bombay.

13th February, 1915.

Sir;

With reference to your letter No. 653 dated the 2nd instant, I have the honor to state that the licenses received therewith have been delivered to the Consul-General for Portugal at Bombay, together with two import licenses issued by me.

The number of packages which each consignment consisted of was 8 and this information has been entered in Column 2 of the licenses before they were delivered to the Consul General.

I have the honor to be,

Sir,

Your most obedient servant,

S. M. EDWARDES
Commissioner of Police.

POL. DEPARTMENT

C. BRANCH

Class B. Reg. No. 1485.

Letter from the Commsr. of Police, Bombay, No. 975/A.A., dated 13th February, 1915.

Stating with reference to G.L. No. 653, d. 2. 2. 15, that the licenses have been delivered to the Consul General for Portugal at Bombay together with two import licenses issued by him. Reporting that the consignment consisted of 8 packages.

Submitted. The necessary addition has been made in column 2 of the office copies of the licenses.

The papers may now be recorded.

G.M.

26/2.

H.R. 19. 2. 15.

National Archives, New Delhi

1915

FOREIGN DEPARTMENT

GENERAL—B

Progs. February, 1915, Nos. 65-67. 9 pages, with Notes.

SUBJECT.

Sanction accorded by the Govt. of India, to the importation of certain arms and ammunition into British India from Damaun and Nagar Avelly by the Portuguese Govt.

References to former cases.

Branch, date and Nos.	Brief title of file.
G.A. March 13 Nos.: 3/5.	— Refusal of the Govt. of India to the import in British India of certain pieces of ordnance, belonging to the Govt. of Portuguese India to be sold by the Govt. at public auction at Damaun, Portuguese territory.

NOTES

in Pros. G.B. February, 1915. Nos. 65-67.

SUBJECT

Requests sanction of the Govt. of India to the importation of certain arms and ammunition into British territory from Portuguese India in the circumstances stated

From

the Govt. of Bombay.

No. 7489. Dated 31st Decr., 1914. Recd. 6th Jany., '15.
General Diary Register No. A. & L./4 G.

BRIEF ABSTRACT OF LETTER

As above.

NOTES AND ORDERS

A. & L./7 G.

Letter from the Bombay Govt.

No. 12. Dated 4th Jany., Recd. 8th Jany., 1915.

States that the Govt. of Portuguese India now desire to transport the arms and ammunition between Damaun and Nagar Avely instead of between Nova Goa and Nagar Avely as originally proposed.
(Two Ps. U.C.)

Home Department concurrence may be invited to the draft below.
Army Department may see first. Attention is invited to the notes in G.A. March, 1913, Nos. 3/5.

G. A. H.

8/1/15

L. F.

8. 1. 15.

Army.

8. 1. 15.

As far as this Dept. is concerned there seems to be no objection to the importation of the arms but War Branch should see before the file is submitted to Secr.

War Br. Delhi.

9. 1. 15.

M. W. JOHN.

9. 1. 15.

The question is one of transport through British India of the "arms & ammunition".

Under the C. & I. Dept. notification of 17.10.14 the export of "arms & ammunition" to Portuguese India is permissible.

Home Dept. may see as to the requirements of the Indian Arms Act Rules, 1909.

(Initialled)

11.1.15

The import of military stores from Portuguese territory into British India is absolutely forbidden but as in this case importation is only a preliminary to immediate exportation which is permissible it might be allowed. The rules relating to transport do not cover the case.

R. E. HOLLAND.
12.1.15.

Home Dept./Army Dept. u/o No. 376 d. 12.1.15.

For. Dept. Genl. A.
March 13, 3-5.

Attention is invited to Secy's note d. the 30th Jany., 1913, in the marginally noted papers. We may however agree to the importation of the arms and ammunition in this case for the reasons given in Mr. Holland's note of the 12.1.15 provided the Army Dept. has no objection.

(Signed)
14.1.15.

H. WHEELER,
Secy. Army Dept.
14.1.15.

No objection in the Ord. Branch.

C. PALMER.
19.1.15.

Secy.
C.G.S. should see.

A. W. CHITTY.
21.1.15.

G. S. BRANCH.

Seen thanks. No objection to the proposal.

S. G. LOCK, M.O.I.
25. 1. 15.

Sec.: A Dept.

A. A. WHELAN.
26. 1. 15.

F. & P. DEPT.

The telegram may issue from Delhi.

R. E. HOLLAND.
28. 1. 15.

Telegram to the Bombay Govt. No. 585 D., dated the 28th Jany., 15, sanctions the importation of certain arms & ammunition from Damaun and Nagar Avely into British India. Leg. no 67

No. 7489 of 1914.

Political Department,
Bombay Castle,

From

31st December, 1914.

J. E. B. Hotson, Esq.,
Deputy Secretary to Government, Bombay.

To

The Political Secretary to the Government of India,
Foreign and Political Department.

Sir,

I am directed to state that the Consul General for Portugal in British India at Bombay has asked for the free passage through British territory of the arms and ammunition specified below:—

54 Snider Rifles and 3,000 Cartridges of metal caps and 150 Cartridges 6m. 5 bore Mannlicher despatched from the military headquarters at Nova-Goa 1. to Nagar-Avely 2.

54 Guns and 2,603 Cartridges 14 m m/73 bore to be sent back from Nagar-Avely to Nova-Goa.

2. As the importation of arms and ammunition from Portuguese India is prohibited under Rule 7 of the Indian Arms Rules, 1909, I am directed to request that the Government of India may be moved to sanction the importation of these arms and ammunition into British India, and that the sanction may be communicated to me by telegram.

I have the honour to be,

Sir,

Your most obedient servant,

J. E. B. HOTSON,
Deputy Secretary to Government.

No. 12 of 1914.

Political Department,
Bombay Castle.

From

4th January, 1915.

J. E. B. Hotson, Esquire,
Dy. Secretary to Government,
Bombay;

To

The Political Secretary to the Government of India in the Foreign
and Political Department.

Sir,

I am directed to inform you, with reference to the letter from the Government of Bombay in the Political Department, No. 7489, dated the

1. Formerly called Goa

2. Apparently in Portuguese territory. Not traceable from our maps.

31st December, 1914, that the Government of Portuguese Indian now desire to transport the arms and ammunition between Damaun* and Nagar† Avely, and not between Nova* Goa and Nagar Avely as was originally proposed.

2. I am to request that the Government of India may be moved to accord sanction, by wire, to the importation of the arms and ammunition into British India from Damaun and from Nagar Avely.

I have the honour to be,

Sir,

Your most obedient servant,

J. E. B. HOTSON,
Deputy Secretary to Government.

* See Memo on Native States. Vol I. Map VIII
† Not traceable.
* Daman North of Bombay.
† S. E. of Daman.

DRAFT TELEGRAM

Class X.S.

Heading—

No. 585 D., 28th Jany., 1915.

From	{	(Station)	Delhi.
		(Person)	Foreign
To	{	(Station)	Bombay
		(Person)	Bombay, Political.

No. 585 D.

Your letter No. 12, January 4th. Importation of arms and ammunition from Damaun and Nagar Avely is sanctioned.

References to later cases.

Branch, date and Nos.	Brief title of file.
G.B. Oct. 17, 42/43	

Annex C. No. 65

Record Office, Bombay

1917

POLITICAL DEPARTMENT

No. 1622

ARMS AND AMMUNITIONS

DAMAN

Request of the Govt. of — to allow certain arms and ammunitions to pass through British territory for supply to certain soldiers at Nagar Aveli.

SERVICE OF THE REPUBLIC

GOVERNMENT OF PORTUGUESE INDIA

No. 298 dated New Goa the 10th September, 1917.

The Secretary to the Government of the Presidency of Bombay.

The Government of the district of Damaun intimates that the 4th Company of the Customs Guard stationed there has to transmit to the 3rd Division of the same Company stationed at Nagar-Aveli for distribution among the respective soldiers, eleven arms and leather equipment and 420 cartridges with bullet.

I have therefore the honour, by direction of this Government, to request you to obtain from the Government of the Bombay Presidency the necessary orders for the passage without hindrance of the above articles across British India.

I further request that on obtaining the necessary authorisation, you will be so good as to communicate it to this Secretariat in order that the necessary orders may be issued for the said articles being sent from Damaun to Nagar Aveli.

Health and Brotherhood,

(Signed) F. M. PEIXOTO VIEIRA,
Secretary General.

True Translation.

Joseph BOCARRO.
Portuguese Translator to Government.
15 Sept./17.

POLITICAL DEPARTMENT

C. BRANCH

Class Reg. No. 8178.

*Letter from the Secy. General to the Govt. of Portuguese India, No. 298,
dated the 10th Sept., 1917.*

Stating that the 4th Company of the Customs Guard stationed at Damaun has to transmit to the 3rd Division of the same Company stationed at Nagar-Aveli for distribution among the respective soldiers eleven arms & leather equipment and 420 cartridges with bullet and so requesting to grant the necessary license for the passage of the above articles across British India.

Submitted. The transport of the arms and ammunition from Damaun to Nagar-Aveli through British India amounts to an importation into and export from British India. The Govt. of Bombay can grant a license for the export of the ammunition from British India but the importation of the arms and ammunition into British India from Portuguese India is prohibited under Rule 7 of the Indian Arms Rules, 1909. The sanction of the Govt. of India is necessary for the importation of the arms and ammunition in question (please see precedent at pages 9-11 of comp. 569/18).

Ask by letter for sanction by tel.

17.9.

Dy. Secy.

A draft letter is submitted for approval.

G.M.

18. 9.

Dy. Secy.

No. 7091.

Political Department, B.C.

18th September, 1917.

To:

The Poll. Secy. to the Govt. of India
in the Foreign and Poll. Departments.

Sir,

I am directed to state that the Govt. of Portuguese India has asked for the free passage through British territory of eleven arms, leather equipment, and 420 cartridges with bullets, which are being despatched from Damaun to Nagar-Aveli for distribution among the soldiers of the 3rd Division of the 4th Company of the Customs Guard.

2. As the transport of arms and ammunition from Damaun to Nagar-Aveli through British India involves importation into British India, and as the importation of arms and ammunition from Portuguese India is prohibited under Rule 7 of the Indian Arms Rules, 1909, I am to request that the Govt. of India may be moved to sanction the importation of

these arms and ammunition into British India and that their sanction may be communicated by telegraph.

I have, etc.,

(Initialled)

18. 9.

O.C.

Dy. Secy. to Govt.

POLITICAL DEPARTMENT

STATE TELEGRAM

No. 1563-G., dated 1st October, 1917.

From—For. & Political Dept.

From—Simla.

To—Bombay Political.

To—Poona.

Your 7091 September 18th. Proposed importation arms and ammunition sanctioned.

True copy.

H. D. ALMEIDA,

Superintendent.

POL. DEPARTMENT

C. BRANCH

Reg. No. 8895.

Telegram from the G. of I. For. & Pol. Dept. No. 1563-G., dated 1st October, 1917.

Stating with reference to G.L. No. 7091 d. 18.9.17 that the proposed importation of certain arms & amm. from Port. India into Br. territory is sanctioned.

Submitted. The D.M. Surat may be asked to issue the necessary import license under rule 11 (1) (b) of the Arms Rules in the name of H.E. the Govr. of Damaun & deliver it to such representative of the Govt. of Damaun as may be deputed for the purpose.

2. The license for the export of the consignment from Br. India to Nagar Avely should be issued by Govt. & forwarded to the D.M. Surat for delivery to the representative of the Govt. of Damaun.

3. The Secy. Genl. to the Port. Govt. may be informed of these arrangements.

4. It is however pointed out that the Secy. Genl. has given no description of the arms & amm. in question which it will be necessary to specify in the proposed licenses. It is for orders whether before taking action on the foregoing lines the Secy. Genl. should be requested to furnish the information required or whether the D.M. Surat should be instructed to

ascertain & insert it in the import & export licenses before they are delivered.

A.H.L. 4. 10.

Scy.

Tele. No. 7511, d. 5th Oct., 1917.

To Sec. Gen.

New Goa.

Your letter No. 298 of 10th ult. Passage of arms & ammunition sanctioned. Please send full description of them to me & also to District Magte. Surat. Necessary licenses will then be issued.

Issue & send copies to D.M. Surat.

J.N.

4/10.

Submitted with a draft to the D.M. Surat.

J.N.

5. 10.

A.H.L. 5. 10.

Dy. Scy.

(Below a copy of Govt. Tele No. 7511 dated the 5th Oct., 1917)

No. 7551.

Pol. Dept.,

B.C.

6th Oct., 1917.

Copy, together with a copy of the letter to which it is a reply, is forwarded, for information & the necessary action, to the Collr. & D.M. of Surat, with an intimation that, on receipt of the information asked for from the Secy. Genl. to the Govt. of Port. India, the necessary export license will be issued by Govt. & forwarded to the D.M. for delivery to such representative of the Govt. of Damaun as may be deputed for the purpose.

2. The D.M. is requested to issue the necessary import license under rule 11 (1) (b) of the Indian Arms Rules, 1909, in the name of H.E. the Govr. of Damaun, after the information which the Secy. Genl. has been asked to supply to him direct has been received.

J.N.

O.C. 5. 10.

Dpy. Secy. to Govt.

SERVICE OF THE REPUBLIC
GOVERNMENT OF PORTUGUESE INDIA

No. 361 dated New Goa the 5th November, 1917.

The Secretary to the Government of the Presidency of Bombay.

In compliance with the telegram No. 7511 of the 5th ultimo, I have the honour to forward to you the accompanying descriptive list of the arms

and ammunition which have to be sent from Damaun to Nagar-Aveli, and to request that you will be so good as to inform me as soon as orders have been issued for their transit free from objection.

A similar list has on this date been sent to the District Magistrate of Surat.

Health and Brotherhood,
(Signed) F. M. PEIXOTO VIEIRA,
Secretary General.

True Translation,

Joseph BOCARRO,

10 Nov., 1917.

Portuguese Translator to Government.

HEAD QUARTERS OF PORTUGUESE INDIA

MILITARY SECRETARIAT

1ST DEPARTMENT

Descriptive list of arms and ammunition which the 4th Company of the Customs Guard has to transmit to the district of Nagar-Aveli for the detachment of soldiers there.

Description	No. of articles	Remarks
Carbines 14 mm. M/75	11	
Sabre-bayonets	11	
Leather belts for (carrying) arms M/91	11	
Leather cartridge pouches	11	
Belts M/902	11	
Scabbards for sabre-bayonets	11	
Cartridges with bullet 1,4 mm. M/94	420	

Secretariat of the Government of Damaun, 17th of October, 1917.
(Signed) João Francisco X. de Seixas, Lieut., Secretary to Government.

True copy. Head Quarters in New Goa, 20th of October, 1917.

(Signed) Martiniano Francisco Rodrigues, Lieut., for Sub-Head of Staff.

True copy, Secretariat General of the Government in New Goa, 5th of November, 1917.

(Signed) J. A. Ismael Gracias, Chief Officer.

True Translation,

Joseph BOCARRO,

10 Nov., 1917.

Portuguese Translator to Government.

SERVICE OF THE REPUBLIC

SECRETARIAT OF THE GOVERNMENT OF THE DISTRICT
OF DAMAUN

Copy.

Customs Guard. 4th Company.

List desired in the memorandum from the Secretariat of the Government of this district. No. 284 of the 22nd of the current month of October.

Numbers which are engraved on the 11 carbines to be sent to Nagar-Aveli	Numbers which are engraved on the 11 sabre-bayonets to be sent to Nagar-Aveli	Remarks
D 29	D 29	
267	267	
-38	A 988	
771	A 045	
B 941	A 333	
478	A 151	
148	A 993	
C 224	-79	
A 186	B 230	
A 378	A 733	
A 446	C 96	

M(military) Quarters in Damaun, 22nd of October, 1917.

(Signed) Caitano Ludovico de Menezes, Capt., Commandant of the Company.

True copy. Secretariat of the Government of Damaun, 23rd of October, 1917.

(Signed) João Francisco X. de Seixas, Lieut., Secretary to Government.

True copy. Head Quarters in New Goa, 26th of October, 1917.

(Signed) José d'Almeida d'Arez, Capt. of Infantry, acting Sub-head of Staff.

True copy. Secretariat General of the Government in New Goa, 5th of November, 1917.

(Signed) J. A. Ismael Gracias, Chief Officer.

True Translation.

Joseph BOCARRO,

10 Nov., 1917.

Portuguese Translator to Government.

POL. DEPARTMENT

C. BRANCH

Reg. No. 10299.

Letter from the Secy. Genl. to the Govt. of Port. India, No. 361, dated 5th Nov., 1917.

Furnishing information as requested in G. Tele. No. 7511 of 5. 10. 17 with regard to certain arms & amm. which have to be sent from Damaun to Nagar Aveli & requesting that on the issue of the necessary licenses for their transit an intimation to that effect might be sent to him. Adding that the D.M. Surat has been furnished with similar information.

Submitted with reference to the correspondence underlying G. endt. No. 7551 of 6. 10. 17.

The necessary export license may now be granted & the Secy. Genl. informed of the arrangements.

Drafts put up.

J.N.

12. 11.

No. 8799.

Pol. Dept., B.C.

13th Nov., 1917.

Memo.

The undersigned presents compliments to the Collr. & D.M. Surat & with reference to Govt. endt. No. 7551, dated the 6th Oct., 1917, has the honour to forward herewith for the necessary action a license No. d. the Nov., 1917.

2. A copy of the license is also forwarded for the D.M.'s records.

3. The D.M. is requested to ascertain the number of packages of which the consignment will consist & to have it inserted in col. 2 of the license before delivering it, reporting the number to Govt.

O.C., J.M.

12. 11.

For Ag. Secy. to Govt.

LICENSE FOR THE EXPORT BY LAND OR RIVER OF ARMS, AMMUNITION OR MILITARY STORES UNDER RULE 18 OF THE
INDIAN ARMS RULES, 1909.

Name, etc., of Licensee and Agent (if any)	Number of Packages	Arms		AMMUNITION OR MILITARY STORES		Place of despatch and route	Purpose for which Consignment is required	Destination	Name and residence of consignee	Period for which License is valid
		Description	Number	Description	Weight or Number					
The Govr. of Damaun	2 (two only)	(1) 14 mm. M/75 carbines (2) Sabre-bayonets	(1) 11 (eleven) (2) 11 (eleven)	(1) Leather belts for carrying arms M/91 (2) Leather cartridge pouches (3) Belts M/902 (4) Scabbards for sabre-bayonets (5) 4mm. M/94 cartridges with bullet 1	(1) 11 (eleven) (2) 11 (Do.) (3) 11 (Do.) (4) 11 (Do.) (5) 420 (four hundred & twenty)	From Damaun to Nagar Avely by road through British India	For the use of the Govt. of Port. India	Nagar-Avely	The officer in charge of the 3rd Division of the 4th Company of the Customs Guard stationed at Nagar-Avely	From the 13th November, 1917, to the 20th of February, 1918

Bombay Castle,
Political Department :

The 13th November, 1917.

J.N.
12/11.

Ag. Secretary to Government.

CONDITIONS

1. This License is granted subject to all the provisions of the Indian Arms Act, 1878 (XI of 1878), and of the Indian Arms Rules, 1909.

2. The articles shall not be conveyed by any route other than that specified in Column 7; and bulk shall not be broken, nor shall the consignment be stopped, before the articles reach the place of destination.

3. An account of the contents of each package shall be legibly written thereon; and where the articles are conveyed by rail, each package shall be marked with the word or expression "Arms" "Ammunition" or "Military Stores", as the case may be, so as to be readily recognizable by the Railway authorities.

No. 8800 of 1917.

Political Department,
Bombay Castle.

13th Nov., 1917.

Copy forwarded to the Commr. of Customs, Salt & Excise for information.

J. M.

12/11

for Ag. Secretary to Government.

No. 8801.

Pol. Dept.,
B.C.

13th Nov., 1917.

To

The Secy. Genl. to the Govt. of Portuguese India.

Sir,

With reference to your letter No. 361, d. 5. 11. 1917, regarding the transmission of certain arms & ammn. from Damaun to Nagar Avely, I am directed to inform you that arrangements have been made for the delivery of the necessary licenses by the Collr. & D.M. Surat to such representative of the Govt. of Damaun as may be deputed for the purpose.

I have &c.,

J. M.,

12. 11

Ag. Secy. to Govt.

No. 8802, d. 13. 11. 1917.

To

The Secy. to the Govt. of Damaun.

Sir,

I am directed to state that the Govt. of Bombay have, in compliance with the request of the Govt. of Port. India, issued a license for the export from Damaun to Nagar Avely through intervening British territory of certain arms, amm. and military stores which are required for the detachment of soldiers at Nagar Avely.

2. The Dist. Magistrate of Surat has been instructed to deliver the necessary licenses to such representative of the Govt. of Damaun as may be deputed for the purpose.

I have, &c.,

J. M.,

12. 11

Ag. Secy. to Govt.

No. POL. 675.

From

A. E. L. Emanuel, Esquire, I.C.S.,
District Magistrate, Surat.

To

The Secretary to Government,
Political Department, Bombay.

Surat,

1st December, 1917.

Sir,

With reference to para. 3 of your No. 8799, dated the 13th November, 1917, I have the honour to report that the consignment will consist of two packages, and that the information is inserted in Col. 2 of the license.

I have the honour to be,

Sir,

Your most obedient servant

A. E. L. EMANUEL.

District Magistrate, Surat.

Submitted. The necessary addition has been made in the office copy of the license.

A. N.

4/12

National Archives, New Delhi

1917

FOREIGN AND POLITICAL DEPARTMENT

GENERAL—B

Progs. October, 1917, Nos. 42-43. 5 pages with Notes.

SUBJECT

Sanction accorded by the Government of India, to the importation of certain arms and ammunitions into British India from Damaun to Nagar-Aveli (Portuguese territory), by the Portuguese Government.

FOREIGN & POLITICAL DEPTS.

NOTES

G.B. October, 1917, Nos. 42-43.

From

The Bombay Govt.

No. 7091. Dated 18-9-17. Recd. 24-9-17.

General Diary Register No. A & L/128-G.

BRIEF ABSTRACT OF LETTER

Requests sanction to the transport of certain arms and ammunition through British territory from Damaun to Nagar-Aveli (Portuguese territory).

NOTES AND ORDERS

A similar request was made in January, 1915, and sanctioned by this Dept., with the concurrence of the Home and Army Depts. The F & P Dept. may support the present application and convey sanction as in the draft telegram below, if the Army and Home Depts. agree. There is, perhaps, no need for the C & I Dept. to see.

R. MACONACHIE.

26. 9. 17.

Thro' War Br.

(Initialled)

28/9

GENERAL STAFF BRANCH

No. 9221.

M.O.I., Simla.

26 Sep., 1917.

Seen thanks. This Branch raises no objection to the proposal.

L. C. BARNES,

M.O.I.

27. ix. 17.

ARMY DEPARTMENT

No. 7386 E.

Recd. 26 Sep., 1917.

There is no objection to the proposal in the Army Dept.

P. J. PATRICK,

28. 9. 17.

HOME DEPT.

POLICE BRANCH

Regr. No. 1707.

Recd. 29. 9. 17.

The Home Departt. may agree to the issue of the draft telegram.

J. A. W. MORLEY,

29. 9.

A.G.M.

29/9/17

The draft telegram may now issue.

R. MACONACHIE.

1. 10. 17.

Telegram to the Govt. of Bombay, No. 1563-G., dated the 1st October, 1917.

Sanctions the importation of certain arms and ammunitions through British territory from Damaun to Nagar-Aveli.

No. 7091.

Political Department,
Bombay Castle.

18th September, 1917.

From.

J. E. C. Jukes, Esq.,
Deputy Secretary to Government.

To

The Political Secretary to the Government of India in the Foreign and
Political Department.

Sir,

I am directed to state that the Government of Portuguese India has asked for the free passage through British territory of eleven arms, leather equipment, and 420 cartridges with bullets, which are being despatched from Damaun* to Nagar-Aveli † for distribution among the soldiers of the 3rd Division of the 4th Company of the Customs Guard.

2. As the transport of arms and ammunition from Damaun to Nagar-Aveli through British India involves importation into British India,

* Marked on map below.
† Not marked on map, but it is S. E. of Daman, both in Portuguese territory.

and as the importation of arms and ammunition from Portuguese India is prohibited under Rule 7 of the Indian Arms Rules, 1909, I am to request that the Government of India may be moved to sanction the importation of these arms and ammunition into British India and that their sanction may be communicated by telegraph.

I have the honour to be,

Sir,

Your most obedient servant,

J. E. C. JUKES,

Deputy Secretary to Government.

DRAFT TELEGRAM

No. 1563, the 1st October, 1917.

From	{	(Station)	Simla
		(Person)	Polindia
To	{	(Station)	Bombay
		(Person)	Bombay Political.

1563-G. Your 7091 Sept. 18th. Proposed importation arms and ammunition sanctioned.

Annex C. No. 66

Superintendent, Government Central Press, Simla, 1923

THE INDIAN ARMS RULES, 1924

HOME DEPARTMENT

NOTIFICATION

Police

Delhi, the 3rd November, 1923.

No. F.829. I-22.—In exercise of the powers conferred by Sections 4, 10, 17 and 27 of the Indian Arms Act, 1878 (XI of 1878), the Governor General in Council is pleased to make the following rules:—

1. (1) These rules may be called the Indian Arms Rules, 1924.
- (2) They shall come into force on the 1st January, 1924.

6. A licence shall not be granted for the import of any arms, ammunition or military stores from Portuguese India.

Provided that nothing in this rule shall be deemed to limit or otherwise affect any power conferred by these rules to grant a licence for the import of ammunition which, in the opinion of the authority granting the licence, is intended in good faith for blasting purposes.

Restriction upon import of arms, ammunition or military stores from Portuguese India.

THE INDIAN ARMS RULES, 1951

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 8th August, 1951.

S.R.O. 1232—In exercise of the powers conferred by Sections 4, 10, 17 and 27 of the Indian Arms Act of 1878 (XI of 1878), and in super-session of the Indian Arms Rules, 1924, published with the notification of the Government of India in the late Home Department No. F.829.1.22 dated the 3rd November, 1923, the Central Government hereby makes the following rules:—

1. Short title and extent—(1) These rules may be called the Indian Arms Rules, 1951.

2. . . .

3. . . .

4. . . .

5. . . .

6. Restriction upon import of arms, ammunition and military stores from Portuguese India—

A licence shall not be granted for the import of any arms, ammunition or military stores from Portuguese India:

Provided, that nothing in this rule shall be deemed to limit or otherwise affect any power conferred by these rules to grant a licence for the import of ammunition which, in the opinion of the authority granting the licence, is intended in good faith for blasting purposes.

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Annex C. No. 67

Record Office, Bombay

1894

POLITICAL DEPARTMENT

No. 413

ARMS ACT

Exemption of certain officials serving under the Govt. of Portuguese India when travelling through British India from the operation of the Arms Act and from liability to pay customs duty in respect of the weapons they carry. Reciprocal action on the part of the Portuguese Government.

No. 22.

Dated New Goa, 20th March, 1894.

To

His Excellency Lord Harris,
Governor of Bombay.

Most Illustrious & Excl. Sir,

In acknowledging the receipt of Your Sry.'s letter No. 1572, of 14th Instant, I have the honour to thank Your Exy. for the deference with which you were good enough to issue the necessary orders for the exemption henceforth, from the provisions of the Regulations relative to the use and carriage of arms and the payment of customs duties, of the civil and military employees therein mentioned.

Orders are this day being issued guaranteeing equal privileges to British functionaries who may pass through Portuguese India.

I avail etc.,

(Signed) Raphael d'ANDRADE,
Governor-General.

True translation,

F. X. DA SILVA,
Portuguese Trans. to Govt.

28 March, 1894.

ARMS ACT

Exemption of certain officials serving under the Government of Portuguese India from the operation of the Arms Act

No. 8173

JUDICIAL DEPARTMENT

Bombay Castle, 28th December, 1893.

Memorandum from the Political Department of the Secretariat, No. 4989, dated the 16th August, 1893—Transferring the following letter from the Under Secretary to the Government of India, Foreign Department, No. 2585-1., dated the 26th July, 1893 (with certain papers) for the issue of the executive orders suggested by the Government of India under the Arms Act; requesting that the papers may then be transferred to the Revenue Department for the issue of instructions to the Customs authorities; and intimating that the orders in both the Departments should presumably be limited to places on the ordinary routes by land or sea from Goa to Daman:—

"I am directed to acknowledge the receipt of your letter No. 3240, dated the 20th May, 1893, regarding the proposed exemption of (a) non-European civil officials, serving under the Government of Portuguese India, who are entitled to wear a uniform and sword, and (b) military officers of that Government, when travelling through British India, from the operation of the Arms Act, and from the liability to pay customs duty in respect of the weapons they carry.

"2. In reply, I am to say that the Governor-General in Council, as at present advised, does not consider it desirable to amend the notifications cited in the margin, as suggested in paragraphs 3 and 4 of your letter under acknowledgement, with a view to authorise the exemptions proposed. The Governor-General in Council would not, however, offer any objection to the issue of executive orders by the Bombay Government to the effect that the provisions of Chapter IV of the Indian Arms Act (XI of 1878) should not, as a matter of courtesy, be enforced in the case of such officials when travelling through specified districts in the Bombay Presidency, and that the arms, which they are entitled to carry in Portuguese India, should be exempted from liability to the payment of customs duty at such places in the Bombay Presidency as the Governor in Council may specify. I am to add that the particular case of exemption from customs duty reported in your letter under reply is sanctioned.

Notification of the Government of India in the Home Department, No. 518, dated the 6th March, 1879.

Notification of the Government of India in the Finance and Commerce Department, No. 1864, dated the 12th April, 1889.

"3. With reference to paragraph 5 of your letter, I am to say that it is understood from the telegram of the Governor-General of Portuguese India forwarded therewith that no restrictions similar to those which gave rise to the present reference exist in the case of British officers who happen to visit Portuguese India, and, under these circumstances, a formal reciprocal concession to meet the case of such officers does not appear to be necessary."

Further memorandum from the Political Department of the Secretariat, No. 6956, dated the 23rd November, 1893—Transferring, with reference to this Department memorandum No. 6146, dated the 2nd October, 1893, copy of a letter (No. 108, dated the 30th October, 1893) from the Governor-General of Portuguese India, which shows that the Portuguese Government have consented to accord to British officials passing through Portuguese India similar privileges to those which this Government has expressed its willingness to concede to Portuguese officials passing through British India in respect to the carrying of arms. Transferring also a copy of the letter from this Government (No. 6369 of the 28th October, 1893), to which the above letter from the Government of Portuguese India is a reply.

RESOLUTION.—The Governor in Council is pleased to direct, as a special case, that the provisions of Chapter IV of the Indian Arms Act (XI of 1878) should not, as a matter of courtesy, be enforced in the case of (a) non-European civil officials, serving under the Government of Portuguese India, who are entitled to wear a uniform and sword, and (b) military officers of that Government when travelling through Districts through which the ordinary routes by land or sea from Goa to Daman pass.

C. H. A. HILL,

Under Secretary to Government.

To:

The Commissioner, N.D.,
 The Commissioner, C.D.,
 The Commissioner, S.D.,
 The Inspector-General of Police,
 All District Magistrates,
 All District Superintendents of Police,
 The Commissioner of Police, Bombay,
 The Revenue Department (with the papers received from the Political Department),
 The Political Department.

CUSTOMS DUTY

No. 1417

REVENUE DEPARTMENT

Bombay Castle, 22nd February, 1894.

Resolution of Government in the Judicial Department, No. 8173, dated 28th December, 1893:—

[See above, pp. 383-384.]

RESOLUTION.—The Collector of Land Revenue, Customs, and Opium, Bombay, should be informed, with reference to his letter No. c.-2500, dated 25th March, 1893, to the address of the Political Department, that

the Government of India have sanctioned the exemption from customs duty in the case therein referred to.

2. The Governor in Council is pleased to direct that the arms which (a) non-European civil officials, serving under the Government of Portuguese India, who are entitled to wear a uniform and sword, and (b) military officers of that Government, are entitled to carry in Portuguese India, should be exempted from liability to the payment of customs duty at the districts through which the ordinary routes by land or sea from Goa to Daman pass.

3. The Political Department should be informed of the issue of these orders.

(Signed)

Under Secretary to Government.

To:

- The Commissioner of Customs, Salt, Opium, and A'bkári,
- The Commissioner, N.D.,
- The Commissioner, C.D.,
- The Commissioner, S.D.,
- All Collectors in the Presidency Proper,
- The Collector of Land Revenue, Customs, and Opium, Bombay,
- The Collector of Salt Revenue,
- The Judicial Department of the Secretariat,
- The Political Department of the Secretariat (with the Political Department papers received with the Resolution of Government in the Judicial Department, No. 8173, dated 28th December, 1893).

Annex C. No. 68

REVENUE DEPARTMENT

CUSTOMS DUTY

Question relating to the levy at Bombay of customs duty on arms forming part of the military equipment of a Portuguese officer on his way to Portuguese India

No. 2296

REVENUE DEPARTMENT

Bombay Castle, 4th March, 1907.

Letter from the Consul General for Portugal, Bombay, No. 434, dated 12th November, 1906:—

“I have the honour to bring to your notice that instances have occurred when swords, revolvers, etc., which form part of military equipment of a Portuguese officer on his way to Portuguese India, have been detained at Bombay for his destination.

“I therefore request you to be pleased to issue instructions to subordinate officers concerned to pass them without detention.”

Memorandum from the Commissioner of Customs, Salt, Opium and A'bkári, No. 6511, dated 14th November, 1906:—

“Forwarded to the Collector of Customs, Bombay, for favour of report.”

Memorandum from the Collector of Customs, Bombay, No. c.—18508, dated 28th November, 1906:—

“Returned with compliments.

“2. The only exemption in favour of Portuguese officers, as such, is that found in Government Resolution No. 1417 of 22nd February, 1894. This refers to officers *en route* between Daman and Goa, and has no bearing on the present reference which is doubtless caused by the detention (not under the Arms Act, but for payment of duty), of the weapons of Portuguese officers, *en route* to Goa and East Africa, from Colombo.

“3. It is true that the exemption allowed under exception II (a), schedule II of the Tariff has been held to extend to consular representatives (Government Resolution No. 2530 of 1st May, 1894, Political Department). But, so far as military officers are concerned, this exemption has been restricted to officers of His Majesty's Forces (*vide* Government Resolution No. 2246 of 28th March, 1890).

“4. There would appear no objection to the Collector of Customs being allowed to exempt from duty weapons belonging to Portuguese officers passing through Bombay, *en route* to Goa, or to other Portuguese possessions, if Government should desire this to be done.

The concessions should be limited to Portuguese officers, because it is not necessary for those of any other nation to land at Bombay when proceeding to their stations."

Memorandum from the Commissioner of Customs, Salt, Opium and A'bkári, No. 6900, dated 7th December, 1906:—

"Forwarded to Government in the Revenue Department.

"2. In their letter quoted in the preamble to Government Resolution, Revenue Department, No. 1417, dated the 22nd February, 1894, the Government of India wrote that they would not offer any objection to the issue of orders by this Government that the arms which Portuguese officials are entitled to carry in Portuguese India should be exempted from payment of customs duty at such places in the Presidency as the Governor in Council might specify. It is not clear, why the Resolution passed on this, specified only 'the districts through which the ordinary routes by land or sea *from Goa to Daman pass*', and did not specify Bombay as the place through which the route from Europe to Goa or Daman ordinarily passes. The Bombay Custom House interprets the peculiar wording of the Resolution as debarring them from passing officers' arms free when coming from Europe; but it does not seem to the Commissioner that any such distinction is logically maintainable. It is, therefore, suggested that the Collector should be given the authority suggested in his 4th paragraph. It may be observed, in this connection, that the Political Department in their Resolution No. 2530, dated the 1st May, 1894, took the view that under the Tariff Act, 1882, military officers of all nations were entitled to exemption as regards arms, forming part of their equipment."

RESOLUTION.—The proposal made by the Commissioner of Customs, Salt, Opium and A'bkári is approved.

(Signed)

7.3.07.

For Under Secretary to Government.

To—

The Commissioner of Customs, Salt, Opium and A'bkári,
 The Commissioner, N.D.,
 The Commissioner, C.D.,
 The Commissioner, S.D.,
 All Collectors in the Presidency proper,
 The Collector of Salt Revenue, Bombay,
 The Collector of Customs, Bombay,
 The Collector of Bombay,
 The Political Department of the Secretariat,
 The Judicial Department of the Secretariat.

Annex C. No. 69

Record Office, Bombay

REVENUE DEPARTMENT

1909. Vol. 46

1909 Revenue Dept. No. 184

ARMS & AMMUNITION

Restrictions imposed by the Portuguese Government upon Europeans passing through Portuguese territory in the matter of carrying arms.

No. 2199 of 1908.

From

The Honourable Mr. A. C. Logan, I.C.S.,
Commissioner of Customs, Salt, Opium & Abkari;

To

The Secretary to Government,
Political Department,
Camp Belgaum, the 11th April, 1908.

Sir,

Europeans passing from sea through Marmagoa to Castle Rock are subjected to the annoyance of having their firearms taken by the Portuguese Customs officers at Marmagoa and kept until they are "passed" by some authority at a station on the line; although a fee of 4 annas has to be paid at Marmagoa for a permit in respect of the arms. On the other hand "Portuguese officers are allowed by our Customs establishment to bring their arms, a sword and revolver, through Castle Rock Station into British territory without any molestation whatever."

2. As Marmagoa, thanks to British trade, is becoming an important sea-port which it is necessary for the Commissioner of Customs and the Collector of Salt Revenue to visit from time to time in connection with our arrangements with the Portuguese Government, and as both these and some other British officers of high rank have occasion to pass to Castle Rock by this route in the course of their tours, I have the honour to suggest that the Portuguese authorities at Goa may be moved to treat British officers on duty with the same courtesy which we extend to their own, and to permit them to take their personal fire-arms by rail across Portuguese territory without the present restrictions.

I have, etc.,

(Signed) A. C. LOGAN,
Commissioner of Customs, Salt, Opium
and Abkari.

Government
Resolution,
Revenue
Department,
No. 1417, dated
the 22nd
February, 1894;
Government
Resolution,
Judicial
Department,
No. 3746,
dated the 31st
May, 1894;
Government
Resolution,
Revenue
Department,
No. 2296,
dated the 4th
March, 1907.

No. 3844.

Political Department,
Bombay Castle,
2nd June 1908.

To

His Excellency,
Jose Maria de Souza Horta e Costa,
Governor General of Portuguese India.

Most Illustrious and Excellent Sir,

It has been brought to the notice of my Government that firearms carried by Europeans passing from sea through Mormugao to Castle Rock are taken by the Portuguese Customs Officers at Mormugao and detained until they are "passed" by some authority at a station on the Railway line, although a fee of 4 annas has to be paid at Mormugao for a permit in respect of the arms. As Mormugao is becoming an important sea-port which it is necessary for the Commissioner of Customs, Bombay, and the Collector of Salt Revenue, Bombay to visit from time to time in connection with the existing arrangements between the Portuguese and British Governments, and as both these officers and some other British officers of high rank have occasion to pass to Castle Rock via Mormugao in the course of their tours, I have the honour to suggest, for Your Excellency's favourable consideration, that British Officers on duty may be permitted to take their personal firearms by rail across Portuguese territory without the present restrictions.

2. I may add that Portuguese Officers are allowed by the British Customs establishment to carry their arms—a sword and revolver—through Castle Rock Station into British territory without any molestation whatever.

Accept, Most Illustrious and Excellent Sir, the assurances of profound respect with which I have the honour to subscribe myself.

Your Excellency's
Most obedient, humble servant.
(Signed) G. S. CLARKE.

No. 83 of 1908.

Governor-General of Portuguese India.

To:

His Excellency,
Sir G. S. Clarke, G.C.M.G., G.C.I.E.,
Governor of the Presidency of Bombay.

Your Excellency,

I have the honour to acknowledge the receipt of your Excellency's letter, dated the 2nd ultimo, and after collecting the necessary information

regarding the facts mentioned therein, I beg to state in reply the following:—

The firearms or any other dutiable goods intended for through transit belonging to passengers, who enter this territory either by sea or land, are allowed to pass free by the custom houses of Mormugao and Collem respectively, under a through pass bearing a stamp of 100 reis (4 annas).

So far as this Government is aware neither firearms nor any through goods either by sea or by land have been detained belonging to British Customs Officer, or to the Collector of Bombay Salt Revenue, or to any other officers or passengers, except if the passenger had not proceeded to his destination immediately, having been detained owing to some cause, in which case his goods might have been also detained until his departure.

In the last paragraph of the letter under reply it is stated that the Portuguese Officers are allowed to carry with them a sword and a revolver free into the British territory via Castle Rock. In fact Military Officers are allowed to travel free with such weapons; but it appears that civil officers are not treated in the same way.

The Customs tariff in force at Goa allows free the weapons belonging to the equipage of a civil or military officer, who can also wear his uniform, and a military or police officer can carry free a revolver or a pair of pistols. A gun is not though included in this exception.

Under these circumstances I assure Your Excellency that this Government have no objection to grant to the civil or military British officers, travelling by the Mormugao Railway either going through or staying in this territory on duty or for visiting purpose, the liberty of carrying free a revolver or a gun even without a through pass, being, in such case, sufficient a declaration of his identification before the respective Customs officer or any other competent authority.

I beg to request Your Excellency that a similar concession may be, however, granted to both Civil and Military Portuguese Officers as the establishment of such reciprocity shall not only be advantageous to the public service, but it will also contribute to maintain the cordial relations existing between our both Governments.

God preserve Your Excellency.

New Goa, 14th July, 1908.

(Signed) J. M. DE S. HORTA E COSTA,
Governor General.

No. 6239 of 1908.

From:

The Hon'ble Mr. A. C. Logan, I.C.S.,
Commissioner of Customs, Salt, Opium & Abkari;

To:

The Secretary to Government,
Political Department,
Poona, 15th October, 1908.

Sir,

With reference to Government memorandum No. 5855, dated the 2nd ultimo, I have the honour to state that the proposal of the Portuguese authorities amounts to this: that if British officers are permitted to take their personal firearms through Goa territory without fee or restriction, all Portuguese officers shall be allowed to take firearms into British territory without duty, or restriction under the Arms Act. The cases are not at all analogous, for Goa is a mere strip of territory through which British officers pass on their way from British water to British land, whereas there is no Portuguese territory except the village of Daman 400 miles away to which Portuguese officers could pass through Castle Rock; so the Portuguese proposal is practically that in return for a small courtesy all Portuguese officials shall be permitted to import private firearms into British territory free of duty. All that I ask is that British Officers on duty should be allowed to take their guns, etc., with them into the train, whether with or without payment of the 4 annas fee per arm (which is immaterial), when passing through Goa territory *without a break*, and all that the Portuguese can claim in return is that Portuguese officers should be allowed the same concession with regard to their fire-arms, whether private or official, when they are passing from Goa *via* Castle Rock direct to Daman without a break (except to change trains) at any place in British territory. The total amount of duty collected on arms at Castle Rock during the last five years was Rs. 70, but most of this was received from British subjects, and if proper care is taken at Castle Rock to verify the fact that the Portuguese officials military or civil to whom the concession is granted are really going direct to Daman the sacrifice of revenue will be practically nothing, for Portuguese officials proceeding to Daman would nearly always go by sea *via* Bombay.

I have, etc.,

(Signed) A. C. LOGAN,
Commissioner of Customs, Salt, Opium
and Abkari.

No. 7243.

Political Department,
Bombay Castle,
13th November 1908.

To:

His Excellency,
Jose Maria de Souza Horta e Costa,
Governor-General of Portuguese India.

Most Illustrious & Excellent Sir,

In thanking your Excellency for your letter No. 83, dated the 14th July, 1908, I have the honour to explain that all that is desired by my Government is that British officers passing through Goa territory on their way to British territory may be allowed to transport their fire-arms without let or hindrance. If this is conceded by your Government, a similar concession will be made by my Government to Portuguese officers passing direct, through British territory, from one portion to another of Portuguese territory.

Accept, Most Illustrious and Excellent Sir, the assurances of profound respect with which, I have the honour to subscribe myself

Your Excellency's

Most obedient, humble servant,

(Signed) G. S. CLARKE.

No. 147 of 1908.

Governor-General of Portuguese India.

To:

His Excellency,
Sir G. S. Clarke, G.C.M.G., G.C.I.E.,
Governor of the Presidency of Bombay.

Sir,

In reply to your Excellency's letter, No. 7243, dated the 13th instant, I have the honour to inform that I fully agree with your Excellency's proposal.

I have accordingly caused the necessary orders to be issued that both Military and Civil British officers, passing through Goa territory on their way to British territory, may be allowed to transport their firearms without any hindrance at all.

I beg, therefore, to request your Excellency that the reciprocity pointed out in the last paragraph of the above referred letter may have

effect with regard to Portuguese military and civil officers passing through British territory on their way to Portuguese territory.

God preserve your Excellency,
Government Palace at New Goa,
21st November, 1908.

(Signed) J. M. DE S. HORTA E COSTA,
Governor-General.

No. 8034.

Political Department,
Bombay Castle,
18th December, 1908.

To:

His Excellency
Jose Maria de Souza Horta e Costa,
Governor-General of Portuguese India.

Most Illustrious and Excellent Sir,

Referring to the correspondence ending with your Excellency's letter No. 147, dated the 21st November, 1908, I have the honour to state that orders have been issued to the British Customs authorities to allow Portuguese officers passing through British territory from one part to another of Portuguese territory to transport their fire-arms without let or hindrance. A simple declaration by the officers concerned that they are proceeding to Portuguese territory will suffice to secure this concession.

Accept, Most Illustrious and Excellent Sir, the assurances of profound respect with which I have the honour to subscribe myself,

Your Excellency's
Most obedient, humble servant.
(Signed) G. S. CLARKE.

True Copy
(Signed) Superintendent.

Annex C. No. 70

BARODA COLLECTORATE

1948

No. A/49. 23/48

SECTION A

SUBJECT: NAGAR-AVELI

Transport of goods to Nagar Aveli in transit through Indian Territory from Daman. Exemption from duty. Request from the Portuguese Government.

Copy of a letter from the Consul for Portugal at Bombay No. 1323 Proc. 13-D/b/47, dated the 27th November, 1947.

I have the honour to inform you that the Government of Portuguese India state that, according to the report made by the Government of Damão, a temporary Custom House has been set up along the Road "Pimpolia" which goes to the bridge Vasco da Gama, confined with the territory of the Indian Union; that the Custom Office is established for preventing the entry of goods and other articles of primary necessity in the District of Nagar Aveli in a quantity not higher than a seer; that with the adoption of the above-mentioned measure the population of the said District is deprived of importing from the neighbouring Indian territory the foodstuff for their living; that even such articles as wheat, flour, sugar, etc., when transported from the District of Damão to that of Nagar-Aveli, are subject to the payment of duty in the territory they have to cross; and that over and above there are other articles such as salt whose transit through Indian territory is prohibited.

The Government of Portuguese India further state that with a view to allow greater facilities to the population of the District of Nagar-Aveli it is their intention to establish, in agreement with the Government of Indian Union, a special regimen in order that the payment of duty may not be demanded on goods other than of local production when they are in transit, transported from Damão to Nagar-Aveli; and the said Government have asked me to approach the Government of Bombay on the subject.

Therefore I beg to submit for the consideration of the Government of Bombay the above proposal of making free the above transit and to request you to be so good as to give the same your kind attention.

(Below copy of a letter from the Consul for Portugal at Bombay, No. 1323 Proc. 13-D/b/47, dated the 27th November, 1947.)

No. S. 131/185-A-I.

Political and Services Department,
Bombay Castle,
16th January, 1948.

Forwarded with compliments to the Collector of Central Excise, Bombay, for favour of remarks.

By order of the Governor of Bombay.
(Signed) Illegible.

For Chief Secretary to the Government of Bombay,
Political and Services Department.

D.
13/1/48.

NOTE:

Ref. Endt. No. S.131/185-A-I dt. the 16th January, 48,
from the Chief Secy., G. of Bombay.

This is a proposal from the Consul for Portugal at Bombay to the Govt. of Bombay, in which he states that the Govt. of Portuguese India desire that all goods imported from Daman to India Dominion territory, in transit to Nagar Aveli may be exempted from import duty.

2. The Portuguese territory of Daman is divided into two parts, Daman & Nagar Aveli with the Indian Dominion territory between the two. All goods going to Nagar Aveli from Daman are charged to import customs duty at our Land Customs Stations. So also goods such as rice, liable to export duty, are charged to export duty, when going from Nagar Aveli to Daman. For Customs purposes, the Nagar Aveli territory of the Portuguese Indian Govt. is treated as Indian Custom territory. In the year 1900, the Govt. of Bombay gave assurance to the Portuguese Govt. that "Nagar Aveli" Paragana should be treated as a part of British (now Indian) territory. It is still so treated and for Customs purposes it is not considered foreign.

3. Prior to 1933, all imports from Nagar Aveli to India were exempt from duty but as it was found that goods of higher tariff from Daman were smuggled into Nagar Aveli and then freely passed into India, which caused a great loss of Customs revenue, a notf. No. 69 of the 23 of Dec., 1933, was issued by the Govt. of India, prohibiting the import of foreign dutiable goods from this Paragana to India, with the exception that goods produced in that territory & also goods previously imported into that territory from India (otherwise than in transit thro India) were exempt from duty. All goods imported from Daman into the intervening Indian territory or in transit to Nagar Aveli are liable to duty.

4. Now that the Portuguese Govt. desire that the levy of duty on goods going from Daman to Nagar Aveli thro' the Indian territory should be done away with, the question will have to be considered at higher level.

The procedure for the working of our Customs administration between these two Portuguese territories has been printed in detail in paragraph 208 and onwards on p. 67 of B.C.P.S., Part II.

5. In this connection, attention is invited to the Collr's report to the Board, at Slip C in the file No. A/49-123/47 of 1947 placed below. The Collr. has suggested in the concluding portion of paragraph 3 of this report that the best solution would be to do away with the Daman Frontier line by coming into a Tariff Agreement with the Portuguese Indian Govt. This is the only solution, if the request made in the letter under reference is to be complied with. So long as the Daman and N. Aveli territories are treated as foreign territories, we cannot exempt from duty any goods coming from Daman whether for use in Indian Dominion territory or in transit to Nagar Aveli.

6. It will be seen from para. 2 of the Consul's letter at p. 3 that the Portuguese Govt. intend establishing a special regiment in order that the payment of duty may not be demanded on goods other than of local products when they are in transit from Daman to Nagar Aveli. This cannot be allowed as such a regiment will clash with our Customs interest. If approved therefore, we may invite the Bombay Govt's attention to our U.O. endt. No. A/49-123/47 of the 18th July, 1947 (Slip D), in the file placed below & inform them that we have no other remarks to offer, since the matter of coming into Tariff agreement with the Portuguese Govt. rests now with the Govt. of India.

(Initialled)

5/2.

Send a copy to A. C. Anand for very early remarks. If no reply is recd. within 10 days send a reminder.

(Initialled)

6/2.

Resubmitted with a draft endorsement to Mr. A. C. Anand for approval.

J.W.

6/2.

A. C. Anand reminded on 24. 2. 48.

(Initialled)

23/2.

We may inform the Govt. in terms of the A. C.'s report.

(Initialled)

27/2.

Yes.

(Initialled)

27/2.

Resubmitted with a draft reply to the Chief Secy. to the Govt. of Bombay Political and Services Dept., Bombay, for favour of approval.

J. W.

28/2.

A revised draft is put up for appl.

(Initialled)

2/3.

File is closed.

(Signed) Illegible.

M. A.

10/11.

(Below endorsement No. S.131/185-A.I. dated the 16th January, 1948, from the Chief Secretary to the Govt. of Bombay, Political and Services Department, Secretariat, Bombay, forwarding a copy of a letter from the Consul for Portugal at Bombay No. 1323 Proc. 13-D/b/47 dated the 27th November, 1947, regarding the duty charged on goods imported from Daman in transit to Nagar-Aveli.)

No. A/49-23/48.

Express.

Bombay, the 7th February, 1948.

A. C. Anand.

Copy with a copy of the enclosure forwarded for *immediate* remarks.

O/c

(Initialled)

7. 2.

For Collector, C. E., Bombay.

A/49-23/48.

A. S. Kyte, Esqr.,

M.B.E.,

Central Excise.

The Chief Secretary to the Government
of Bombay,
Political and Services Department,
Bombay.

Bombay.

5th March, 48.

Sub.:—Daman and Nagar-Aveli—Transport of goods between,
through the Indian Dominion territory—Outpost at
Pimpolia.

I invite a reference to your endorsement No. S-131/185-A-I dated the 16th January, 1948, forwarding for remarks a copy of the letter

No. 1323 Proc. 13-D/b/47 dated the 27th November, 1947, from the Consul for Portugal, at Bombay to the Government of Bombay.

2. In this connection, my Assistant Collector at Anand reports that the outpost referred to by the Consul in his letter to the Government of Bombay is not a Customs outpost established by this Department. The enquiries made by him in this regard reveal that the outpost at "Pimpolia" was established by the District Civil Supplies Department; some time in September-October, 1947, with a view to preventing infiltration of rationed and controlled articles to the adjoining territory of Nagar-Aveli. It is stated that a similar out-post is established also at Dunga. The establishment posted at these places have instructions not to permit exports of certain articles in excess of the specified quantities that may be allowed for personal consumption, to Nagar-Aveli. The complaint made by the Consul therefore is against the measures taken by the District Authorities of the Civil Supplies Department and not against this Department.

3. So far as this Department is concerned, the territory of Nagar-Aveli, although it is politically a Portuguese Indian territory, is considered as Indian territory for all customs purposes. Therefore all imports from Daman, whether they are made for consumption in the Indian Dominion territory or in the Nagar-Aveli territory, are liable to customs import duty.

O/c. (Signed) Illegible,
Collector of Central Excise,
Bombay.

No. 6-107.

Anand, the 20th February, 1948.

Collector.

Sub.:—Customs outpost at "Pimpolia"—Establishment of—
Complaint by the Consul for Portugal at Bombay.

Ref.:—Your No. A/49-23/47 of 7. 2. 48.

The Customs outpost referred to by the Consul for Portugal at Bombay in his letter addressed to the Chief Secretary to the Government of Bombay is not an outpost established by this Department. My inquiries with the Circle Officer, Vapi however, reveals that the outpost referred to therein has been established by the District Civil Supplies Department, since September/October, 1947, obviously with a view to prevent infiltration of rationed and controlled commodities to the adjoining territories of the Nagar-Aveli Pragma. A similar outpost has also been established at Dunga. The establishment posted there have instructions not to permit the export to the Portuguese possessions of Nagar-Aveli of certain articles in excess of a specified quantity that may be allowed for personal consumption. The complaint by the Consul is therefore

against the measures introduced by the Civil Supplies authorities. The matter therefore be referred to that Department.

(Signed) Illegible,
Assistant Collector,
Anand.

Collector of Central Excise,
Bombay.
Feb. 21 48.

Annex C. No. 71

BARODA COLLECTORATE

File No. V (b) 8 (128) Cus/49.

Subject: Salt—import of from Daman to Nagar Aveli Pargana

The Secretary,
Central Board of Revenue,
New Delhi.

A. S. Kyte, Esquire,
Central Excise.

4th June, 1949.

Sub:—Daman salt—import of from Daman to Nagar Aveli Pargana.

I enclose a copy of a letter No. 1147/33, dated the 17th May 1949, from the Governor of Daman, requesting for a permission for the import of Daman Salt from Daman to Nagar Aveli Pargana for local consumption.

2. The territory of Nagar Aveli although it is politically a Portuguese Indian territory, is considered Indian territory for all customs purposes. The importation of Daman salt from Daman into India Dominion is prohibited, vide Notification No. 475-S.R., dated the 25th January, 1895, appearing at page 46 of the India Sea Customs Manual (IV edition). The object of imposing this restriction was to safeguard the salt revenue of the Government of India. This position has since changed with the removal of central excise duty on salt from the 1st April, 1947 and salt has now become a free article. I do not therefore see any point in continuing the age-old embargo placed on the importation of salt from Daman. I therefore request that the Government of India may kindly be moved to cancel their notification of 1895 prohibiting the bringing into India of salt by land from Daman or the same may be held in abeyance for the present.

A. S. KYTE,
Collector of Central Excise,
Bombay.

ASK.30
KMB. 1

Annex C. No. 72

GOVERNMENT OF INDIA

MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI

Legation of Portugal,
New Delhi.

Proc. 6, 8.

No. 81.

The Legation of Portugal present their compliments to the Ministry of External Affairs and, with reference to the Ministry's Aide-Memoire, of the 23.6.1949, have the honour to transmit herewith a "Memorandum" containing the information supplied by the Governor of the Portuguese District of Daman, on the matter of some illicit exports of jowar which the Bombay authorities believe took place from Nagar-Aveli Pragana to Daman, during 1948, across Indian Union Territory.

As it appears from that information, although the local Portuguese authorities admit that such exports may have taken place in 1948, in small quantities, on account of the reasons mentioned in the "Memorandum", they had already, as soon as the matter was known to them, taken proper measures to avoid similar occurrences in the future, and no longer any infractions of the same nature have been verified during the current year.

The Governor of Daman, when giving his reply, called the attention of this Legation to the difficulties he has been experiencing lately when dispatching articles or goods destined by the Government of the District to the official services at Nagar-Aveli and vice-versa.

Until some time ago such articles could cross the territory of the Indian Union, without difficulty, when accompanied by a certificate of the Daman Government declaring that they were for the use of the Portuguese official departments. At the moment, however, the Indian Customs houses, in different instances, have not allowed the passage of such articles although accompanied by the certificate, unless import duties are paid for their entry into Indian Union territory, when they are dispatched from Daman to Nagar-Aveli, and only on the presentation of export "permits" issued by the authorities concerned, when moving from Nagar-Aveli to Daman.

This practice is of course creating serious difficulties to the Government of the Daman District.

The Government of Daman have already approached the Bombay authorities on the matter, obtaining the reply that they have submitted it to the Government of the Indian Union for decision.

The Government of Daman are also anxious to obtain the removal of certain difficulties encountered for the entry in Nagar-Aveli of some Indian Union articles essential to the life of the population of the territory articles which are only controlled in the Dominion for purposes of export. Restrictions for the entry of such articles have appeared, as "permits" etc. The Daman authorities, pointing out that Nagar-Aveli is a "free zone" and is functioning as such for the products it sends to the "Indian Union", expresses the hope that, on a basis of reciprocity, such articles might have a free access to the territory.

The Portuguese Legation venture to ask the good offices of the Ministry in order that the matters above mentioned may be submitted to the kind appreciation of the Indian authorities concerned. For this the Legation express their best thanks in anticipation.

Delhi, 25th July, 1949.

The Ministry of External Affairs,
New Delhi.

Note D.3122,—Eur. 1/49.

[See Annex 21 to Memorial, p. 54.]

Legation of Portugal,
New Delhi.

No. 19 Proc. 6, 8.

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to refer to the Ministry's note No. D. 3122, Eur. 149, of the 16th November, 1949, in connection with transit of goods between Nagar-Aveli and Daman.

The contents of the note were duly communicated to the Government of Portuguese India, who have asked the Legation to convey their appreciation for the re-establishment of the previous arrangement in respect of the export of rice and other local produce from Nagar-Aveli to Daman across Indian territory.

As regards the arrangement suggested in Paragraph 2 of the note, for the movement of Government stores from Daman to Nagar-Aveli, the authorities at Goa view with concern the delays that would unavoidably develop from a previous approach to the Consul General in India, and the consequent steps he still would have to take with other Indian authorities any time that a request for the movement of such goods had to be presented. In many instances the items might be of no great importance, not justifying therefore what might be a complicated procedure; in others they may be urgently required, in which case the delays involved would greatly hamper the normal administration of the Nagar-Aveli territory.

Having these consideration in mind, and with the hope that it may be favourable considered by the Indian authorities, the Government of the Portuguese State of India would like to suggest the following alternative: that Government stores from Daman to Nagar-Aveli be allowed to be moved in transit across Indian territory, under the condition that such goods would be accompanied by certificates issued by the Government of the District of Daman, in which the nature and quantity of the goods would be indicated, and guaranteeing that they were Government stores and destined for use in the public services of Nagar-Aveli. The Portuguese Legation would greatly appreciate to be informed if such a suggestion would be acceptable to the Indian Government, and

take this opportunity to renew the assurance of their highest consideration.

Delhi,

3rd February, 1950.

(Seal)

The Ministry of External Affairs,
Government of India,
New Delhi.

No. F. 5 (16)—Eur. I/50.

$\frac{2nd}{8th}$ March, 1950.

The Ministry of External Affairs present their compliments to the Legation of Portugal and with reference to their Note No. 19/68, dated the 3rd February, 1950, regarding transit of goods between Nagar-Aveli and Daman have the honour to say that the procedure suggested in para 2 of this Ministry's note No. D. 3122/49 dated the 16th November, 1949, had been specifically suggested so as to facilitate the movement of Government stores from Daman to Nagar-Aveli. The Government of India regret that they do not see their way to accepting the suggestion that goods should be allowed to pass through the Indian Union territory without payment of customs duties merely on the certificate issued by the Government of the District of Daman. In the light of past experience regarding the working of the arrangement for the export of foodgrains from Nagar-Aveli to Daman, the Government of India consider that certificates issued by the local Portuguese authorities should be countersigned by the Consul General of India at Goa.

The Legation of Portugal,
New Delhi.

No. 5 (16)—Eur. I/50.

[See Annex 22 to Memorial, p. 55.]

Annex C. No. 73

NOTE NO. 96 PROC. 7, 7 FROM THE LEGATION OF PORTUGAL, NEW DELHI
TO THE MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to refer to the recent action of the Indian authorities who put difficulties and hindrances in the way of the Governor of Damão to cross the Indian territory between Damão and Nagar Aveli.

On the 20th July, 1954, the Governor of Damão was prevented by the Indian authorities at the frontier from entering the Indian Union,

on his way from Damão to Nagar Aveli, under the pretext that it was necessary to have two separate visas, one to go and the other to return, and not both visas on the same passport as those which the District Magistrate had issued.

On the 21st two separate visas were obtained, as requested, and the Governor's transit through Indian territory was allowed, but, on his return trip between Dadra and Damão, he was forced by the Indian authorities to go back to Dadra, where he stayed for some considerable time, under the pretext that they had not received instructions from their superiors.

The Legation of Portugal, on behalf of their Government, while registering with grave concern this unwanted and unjustifiable procedure lodge a strong protest against the referred-to action of the Indian authorities, which only caused unnecessary embarrassment to the Portuguese administration in those territories.

The Legation avail themselves of the opportunity to renew to the Ministry the assurances of their highest consideration.

New Delhi, 23rd July, 1954.

Annex C. No. 74

[See Annex 50 to Memorial, pp. 87-88.]

Annex C. No. 75

[See Annex 51 to Memorial, pp. 88-90.]

Annex C. No. 76

[See Annex 52 to Memorial, pp. 90-93.]

Annex C. No. 77

NOTE NUMBER TWO

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to transmit herewith the following communication from the Government of Portugal.

The attention of the Government of the Indian Union is earnestly drawn to the fact that it is inconsistent as well as contrary to the most elementary principles of good relationship between civilized countries, for the Union Government to declare and invoke their intention of entering into negotiations and of reaching an understanding by agreement, and at the same time to continue:—

(A) To keep completely isolated the Portuguese enclaves of Dadra and Nagar Haveli which were invaded by armed persons proceeding from surrounding Indian territory. Those enclaves according to the only information which the Portuguese Government has succeeded in obtaining are being subjected to treatment as if by bandits and the population is being the victim of atrocities. As a result of direct measures of the Indian Government the inhabitants are cut off from the outside world and deprived of the protection due from lawful authority;

(B) To maintain a state of economic blockade along their frontiers with Portuguese territories in India, thus manifestly violating principles of International Law to which the Indian Union itself claims to subscribe—notably Article 1 of the United Nations Charter;

(C) To fail to comply with its international obligations in respect of postal traffic;

(D) To allow in its territory a violent campaign in the Press, over the radio and by other means whereby Portuguese territorial integrity is overtly threatened;

(E) To allow bands of disorderly persons, not always unarmed (as has just been shown at Tiracol) to muster in their territory for the purpose of violating the Portuguese frontiers—which they have already done on occasion—thus creating a dangerous state of tension incompatible with the duties of international good relationship.

By these means the Indian Union is pursuing a course not in accordance with the conciliatory principles theoretically proclaimed in its recent notes and particularly out of keeping with the Union's duty as a member of the Community of Nations.

It is hoped that the Indian Union will re-consider, and at once desist from, such a course of action which is out of keeping with all accepted norms and is only deserving of condemnation.

The Legation avail themselves of the opportunity to renew to the Ministry the assurances of their highest consideration.

New Delhi, 22nd August, 1954.

Ministry of External Affairs,
Government of India,
New Delhi.

Annex C. No. 78

Ministry of External Affairs,
New Delhi.

August 24th, 1954.

The Ministry of External Affairs present their compliments to the Legation of Portugal and have the honour to acknowledge the two notes dated the 22nd August, 1954, communicated to them by the Legation on behalf of the Government of Portugal.

2. The Government of India deeply regret that the Portuguese Government have failed to convey their agreement to a meeting of the appointed representatives of the two Governments on the 24th August as suggested by the Government of India or to propose any alternative date.

3. The Government of India further regret that the Government of Portugal, by casting unwarranted doubts on the intentions of the Government of India and questioning the *bona fides* of their act of ready acceptance of the principle of the original Portuguese proposal, appear to find reasons for their attitude and for apprehensions about the purpose of the Conference to which they agreed only a few days ago. In a further endeavour to promote the processes of conciliation and negotiation, the Government of India wish to state categorically that it is not their desire that the negotiations between the representatives of the two Governments should be either inconclusive or unnecessarily prolonged or that they should create misunderstandings as alleged by the Portuguese Government. The Government of India accepted the proposal of the Portuguese Government for impartial observation and report, as soon as it was made, as it rendered possible a constructive approach to the problem or such part of it as the two sides agreed to consider at present.

4. The acceptance conveyed in the Note of the Government of India of the 10th August, and reiterated in their subsequent notes, has a firm basis, namely, the acceptance of the principle of impartial observation and report. This principle stands agreed as between the two Governments and further, the two Governments have already appointed representatives to a conference as proposed by the Government of India and accepted by the Portuguese Government.

5. It was the firm belief of the Government of India that a beginning had thus been made and conversations could begin. In their present Note (Number One) the Portuguese Government have expressed their unwillingness to proceed with the Conference between the representatives of the two Governments unless the Governments of India agree in advance to certain conditions presented to them in the form of a demand, which on the face of them are matters which themselves should be the subject of the Conference. Thus, the Government of India are called upon by the Portuguese Government to accept their propositions, instead of their being sought to be discussed and agreed at the Conference.

6. The Government of India, in their desire to reassure the Portuguese Government of their earnest desire to avail themselves of the opportunity of the method of negotiation offered by the Portuguese Government's

proposal, laid down no conditions for prior acceptance. They proposed and agreed themselves, that the several detailed propositions pertaining to methods and other details put forward by the Portuguese Government and which bear any relation to the agreed principle may be considered at the Conference. They also proposed and agreed that the parties, if they so desire, may consider other propositions relevant to the purposes of the Conference. The Government of India have not said that there should be no agenda for the Conference. On the other hand, they assume that according to normal procedures, the Conference will agree on an agenda and the method of adopting it. The Government of India have set out clearly in their Notes that the purpose of a meeting of the representatives of the two Governments is the implementation of the principle already agreed between them.

7. In view of the plain meaning of the replies of the Government of India in this regard, they do not feel that the Portuguese Government have any cause for reasonable apprehension that the purpose of the Conference is obscure or the methods suggested are anything other than normal. They have already informed the Portuguese Government that the prior determination of views and methods by means of Notes is neither a practical nor usual step in regard to such negotiations. The Government of India, therefore, regret that they are unable to entertain the proposal in paragraph 2 (A) and (B) of the Portuguese Note (Number One). They would further remind the Portuguese Government that they appointed their representatives on the basis of the reply of the Government of India dated 14th August, 1954, which expressly sets forth the position of the Government of India.

8. With regard to the discussion of the matters other than the issue of impartial observation and report, which appears to be the purport of paragraph 2 (c) of the Portuguese Government's note, the Government of India wish to state that:—

(A) they have no objection, in principle, to further Conferences considering any matter of mutual concern or relevant to the relations between the two Governments; and

(B) they have no objection to the matters referred to in paragraph 2 (c) of the Portuguese Note (Number One), in as far as they may arise from the consideration of the issue of impartial observation, being considered by the proposed meeting of the representatives of the two Governments. It would, however, be for the representatives to decide by agreement as to the relevancy of such matters.

The Government of India only wish to assure the Portuguese Government once again that they do not at present insist on any exclusions or inclusions of any specific proposition relevant to the agreed principle.

9. The Government of India, however, consider that the proposal for a second Conference as set out in paragraph 2 (c) of the Portuguese Note (Number One) is a different proposal and should be considered separately and as appropriate. If the proposal already agreed upon between the two Governments were sought to be implemented by them without delay, it would enable both Governments to give consideration to other matters.

10. The Government of India note that the Government of Portugal in their Note (Number Two) repeat the unfounded allegations and charges to which the Government of India have given replies in the past. They charge the Government of India with breaches of international law and custom, with organising and condoning violence and supporting armed bands. The Government of India deeply regret that the Portuguese Government continue to make these allegations and reiterate that they are totally unfounded and should not have been made, much less repeated. They express the hope that the Portuguese Government will, on reflection, consider that they should be withdrawn. The allegations being totally unfounded, the Government of India do not consider it necessary, or indeed desirable, in view of their hopes about the proposed Conference to pursue them or enter into acrimonious debate.

11. The Government of India desire to submit to the Portuguese Government the expression of their views on two points relevant to the present correspondence:—

(A) They would consider that the solution of problems is ill-served by the imputation of motives and the adoption of phraseology which is not normal in correspondence between two Governments, especially as correspondence is released for publication.

(B) The procedure adopted by the Government of Portugal, in spite of repeated objections to the same by the Government of India, of issuing their Notes to the Press, without agreement between the parties concerned, soon after they are handed in and before the Government of India have time to peruse them or give their reply, is not in accordance with normal practice or calculated to assist in solutions.

12. In view of the reaffirmations of the clear position of the Government of India and the reiteration of their desire to pursue negotiations to implement the principle of the proposal made by the Portuguese Government and readily accepted by the Government of India, they earnestly hope that the Portuguese Government will enable the representatives of the two Governments to meet without delay.

The Ministry of External Affairs avail themselves of the opportunity to renew to the Legation of Portugal the assurances of their highest consideration.

(Seal.)

The Legation of Portugal,
New Delhi.

Annex C. No. 79

No. D.6220—Eur.I/54

GOVERNMENT OF INDIA

MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI

Dated the 30th August, 1954.

The Ministry of External Affairs present their compliments to the Legation of Portugal in India and with reference to the Legation's Note

No. 96 (Proc. 7, 7) dated the 23rd July, 1954, have the honour to state as follows:—

It is a fact that the Governor of Daman was stopped at the Customs post on the 20th of July, 1954, and a normal check carried out. He was asked for certain clarifications regarding the visa for his return journey. The Governor was not, however, prepared to give the clarifications and went away saying that he would again come after he had obtained two separate visas to Nagar Aveli and back to facilitate his journey. The officials at the Customs post did not, however, prevent the Governor of Daman from entering Indian territory or ask him to obtain two separate visas.

With regard to the incident on the 21st July, referred to in the Legation's note, after careful inquiry the Government find that no such incident took place. It appears that the Governor of Daman, while he was returning to Daman from Dadra, for some reason or the other, feared for his safety and decided to stay within the limits of Dadra. Later on he approached the Indian Police Officer at the prohibition post to ascertain whether he could go to Daman safely. On being informed that he could do so in complete safety he proceeded to Daman.

The Ministry take this opportunity to renew to the Legation the assurances of their highest consideration.

(Seal and date.)

Legation of Portugal,
New Delhi.

Annex C. No. 80

LEGATION OF PORTUGAL, NEW DELHI.

No. 141.
Proc. 7, 7.

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to communicate the following.

2. The Portuguese Hospitaller Sisters of the Franciscan Order have requested the Portuguese Overseas Ministry for information about the situation of the members of the Mission "Our Lady of Fatima" in Canoel, Nagar Aveli.

3. As it is known, on account of the measures taken by the Indian Union Government, a situation *de facto* continues which unables the Portuguese authorities to enter in communication with the said territory.

4. It is therefore requested from the Indian authorities that the information sought for be obtained and transmitted to this Legation and also that all possible protection be given to all members of that Religious Mission whether they are still in Canoel or whether they were forced to abandon that Portuguese territory.

The Legation of Portugal avail themselves of the opportunity to renew to the Ministry of External Affairs the assurances of their highest consideration.

New Delhi, 30th August, 1954.

Ministry of External Affairs,
Government of India,
New Delhi.

Annex C. No. 81

LEGATION OF PORTUGAL, NEW DELHI

NOTE NUMBER TWO

The Legation of Portugal presents its compliments to the Ministry of External Affairs and have the honour to transmit herewith the following communication from the Government of Portugal:—

1. The Portuguese Government unfortunately cannot look upon the reply of the Government of the Indian Union to its Note number two of 22nd August as satisfactory. Strictly speaking, it does not amount to a reply.

2. Yet inasmuch as the Government of the Indian Union repeats its intentions of pacification, negotiation and understanding, it is to be supposed that it will now be ready to make it possible for the Portuguese authorities to have access to the territories of Dadra and Nager-Aveli, which continue to be isolated by the agency of the Indian Union and are illegitimately in the hands of armed bodies of men who came from the Union.

3. The Portuguese Government would like to obtain a precise reply on this point, with the urgency which the irregular situation of those territories clearly requires.

4. The Legation avails itself of the opportunity to renew to the Ministry the assurances of its highest consideration.

New Delhi, 30th August, 1954.

The Ministry of External Affairs,
Government of India,
New Delhi.

Annex C. No. 82

Ministry of External Affairs,
New Delhi, the 1st Sept., 1954.

The Ministry of External Affairs present their compliments to the Legation of Portugal and have the honour to reply as follows to the two notes presented to them by the Legation on the 30th August:—

1. The Government of India welcome the fact that the Portuguese Government, on further consideration, have accepted their proposal that negotiations should commence without delay between the two Governments for implementing the agreed principle of impartial observation. The Portuguese Government have suggested the 7th September as the date for commencement of the negotiations. This date is acceptable to the Government of India.

2. The Government of India, however, note that the Portuguese Government have again attached some conditions to their acceptance of the proposal. They have asked for a prior assurance from the Government of India that the negotiations will be confined to "facts relating to

violation of frontiers". They profess to entertain some doubt as to whether agreement exists between the two Governments on the principle of impartial observation. They have stated that the agreement is "merely apparent" and they have repeated their previous complaint that the Government of India are "evading the issue".

3. The Government of India regret that the Portuguese Government should continue to make such statements in spite of the fact that the Government of India's position in this matter has been clearly explained to them. This explanation has been given in a series of notes to the Portuguese Legation. In order to remove any doubt or misunderstanding which might still exist, the Government of India wish to state their position in this matter once again.

4. In their note of the 8th August, the Portuguese Government drew attention to what they described as "a dangerous situation" in or around the Portuguese Possessions. They made some allegations about violation of frontiers and other matters, including the activities of Goan nationalists and of Indian authorities. They suggested that as there were "two contradictory versions on which light must be thrown for the good of peace", there should be an impartial observation of facts.

5. The Government of India, while repudiating the allegations made against them, readily agreed, in principle, with the suggestion of the Portuguese Government. They agreed that there should be a joint endeavour by the two Governments to ascertain facts and to find peaceful solutions. They accepted the principle of impartial observation and suggested that, in accordance with normal practice, ways and means of implementing the principle should be discussed between representatives of the two Governments.

6. The Government of India have steadily adhered to this position. They wish to reaffirm their acceptance of the principle of impartial observation. With regard to the scope of the negotiations, they have made it clear that they are not insisting in advance on the exclusion or inclusion of any specific matter which is relevant to the agreed principle. They consider that all matters relevant to the agreed principle should be discussed in the course of the negotiations and that neither side should ask the other to accept in advance certain conditions which would detract from the value of the negotiations on the basis of the agreed principle.

7. The Government of India wish to reaffirm their earnest desire to implement the principle of impartial observation at the earliest possible date. They consider that the proposal that has been made is a constructive approach to present difficulties and to the problem confronting the two Governments. They have laid down no prior conditions and their representatives will be willing to consider and to discuss with the Portuguese representatives any matter relevant to the agreed principle which may be raised in the course of the negotiations. Their representatives may also, on their side, put forward relevant matters for consideration. They suggest that the Portuguese Government should, in the interest of a peaceful solution, refrain from laying down prior conditions in order that negotiations may commence on the 7th September, or any other suitable date, for implementing the agreed principle of impartial observation of facts.

8. The Portuguese Government have also suggested that separate negotiations should take place in respect of matters other than that of impartial observation. The Government of India have already stated—and they wish to repeat—that they have no objection, in principle, to negotiations taking place in respect of any matter of mutual concern to the two Governments; also that they have no objection to the matters referred to in paragraph 6 (B) of the Legation's note No. 1, in so far as they may arise from, the consideration of the issue of impartial observation, being considered at the proposed meeting of the representatives of the two Governments. As was pointed out in their last note, however, it will be for the representatives of the two Governments to decide whether any such matter is relevant to the issue of impartial observation.

9. The Government of India, however, understand that the Portuguese Government would prefer that the matters mentioned in paragraph 6 (B) of their note No. 1 should be discussed in the course of separate negotiations. The Government of India have pointed out in their note of August 24th that this is a different proposal which should be considered separately as and when appropriate. If the proposal about impartial observation which has been agreed to by the two Governments is sought to be implemented by them without delay, it would enable both the Governments to give consideration to other matters.

10. The Portuguese Government have also suggested that facilities should be given to their officials to gain access to certain territories which have passed out of Portuguese control. In respect of some incidents which have taken place in these territories, they have repeated their allegation that armed bodies of men came from the Indian Union. The Government of India have already pointed out that this allegation is completely unfounded. They regret that the Portuguese Government should persist in making such allegations. They wish to state once again that they do not permit—and have not permitted in the past—any illegal transit of persons across the frontier, or violations of the frontier. In previous notes, they have explained the reasons which prevent them from giving facilities to the Portuguese police or other authorities for traversing Indian territory. *In view of the existing situation, they regret their inability to grant the facilities that have been asked for.*

11. The Government of India accept, in principle, the suggestions of the Portuguese Government with regard to the issue of communiqués by agreement between the two delegations after negotiations have commenced. They regret, however, that their suggestion that notes sent by one Government to the other about a matter which is still under discussion should not be released to the Press except by agreement with the other Government, has not been accepted by the Portuguese Government. The Government of India, however, propose to follow this practice on their part even though the Portuguese Government continues to adhere to the practice they have adopted of issuing their notes to the press soon after delivery. The present note will, therefore, be issued to the press on the evening of the 2nd September for publication in the morning of the 3rd September, unless the Portuguese Government wishes that the release of this note should be further delayed.

The Ministry of External Affairs avail themselves of this opportunity to renew to the Legation of Portugal the assurances of their highest consideration.

Annex C. No. 83

LEGATION OF PORTUGAL, NEW DELHI

The Legation of Portugal presents its compliments to the Ministry of External Affairs and has the honour to transmit herewith the following communication from the Government of Portugal.

1. With sole reference to the subject dealt with in its note No. 2 of 30th August—access to the Portuguese territories of Dadra and Nagar Aveli, still cut off and in the hands of bodies of armed men who came from the Indian Union—the Portuguese Govt. notes that the Govt. of the Indian Union maintains its refusal to give Portuguese authorities (no matter whom, and be it but a three-man delegation) the right of transit to those territories. The Portuguese Govt. further records that the Govt. of the Indian Union holds that the violent occupation of the territories, accompanied by acts of positive brigandage and crimes of killing and serious bodily injuries, was not carried out by bodies or armed men from the Union. It also records that in support of this last assertion the Union Govt. states that it does not permit, and has not permitted in the past, any illegal transit of persons across the frontier or violations of it.

2. As a result, the position of the Govt. of the Indian Union is the following:—

(A) It recognises, as was inevitable, that the territories of Dadra and Nagar Aveli are subject to Portuguese Sovereignty, being separated from the Indian Union by frontiers which the latter respects and declares itself incapable of violating;

(B) It claims it neither had, nor has, any part in the illicit events which have taken place in those territories and in the course of which persons foreign to the legitimate constituted authority attacked and subverted it;

(C) But on the other hand it has refused, until now, to co-operate in any way with the Portuguese Govt. in order to permit this manifestly illegitimate state of affairs to be remedied.

3. The Portuguese Govt. judges that such a refusal is contrary to the obligations of international law and the standards of co-existence between States, thus involving a serious responsibility for the Union Govt. The Portuguese Govt. has already said it, and asserts it anew, as it protests against an attitude which is incompatible with the purposes of understanding and the readiness to reach peaceful solutions by which the Govt. of the Indian Union professes to be moved.

4. The Portuguese Govt. cannot cease insisting on receiving access to the territories which belong to it. It should not be thought that long diplomatic notes and affirmations of theory, in any case invalidated by facts, can conceal the violent usurpation which subsists or remove the need for remedying the situation. Precisely because there are accomplished violations and because an illegitimate situation arising from the use of force continues to exist, the settlement of the difference by peaceful means demands and presupposes that, in the first place, the authorities of the injured country be again granted unhindered and normal access to the territories which were, and continue to be, the victims of violence.

5. So long as these facilities are not granted, however, immediate action is necessary to throw more light on the situation. Accordingly, and because the motive put forward by the Govt. of the Indian Union for refusing transit facilities resides in the claim that the state of excitement of its people would not permit even Portuguese delegates to pass through in conditions of security (Indian note of 20th July), the Portuguese Govt. requests the Govt. of the Indian Union to authorise the access to Dadra and Nagar Aveli of a few delegates of third countries chosen by Portugal—in regard to whom this popular excitement cannot even be alleged—in order to proceed, inside the Portuguese territories, to examine the situation in accordance with the mandate that will be given them by the Portuguese Govt.

6. As it is a question of territories separated from the Indian Union by an inviolable frontier, it is obvious that the fact of their being entered by delegates from third countries, because the State which exercises sovereignty in them so wills, is something which only falls within the competence of the latter State. It is hence made clear that the request formulated in the foregoing paragraph covers solely the fact of transit across surrounding Indian territory. It is also made clear that for the same reasons this resorting to nationals of third countries has nothing to do with the appointment of impartial observers by mutual agreement, for the purpose of observing circumstances in the territories of both States connected with territorial violations.

7. Neither is it necessary to add, therefore, that the present request in no way affects the Portuguese proposals already set forth and open to the acceptance of the Indian Union without time limit, in accordance with Note No. 1 of 30th August. They are distinct and independent matters.

The Legation of Portugal avails itself of the opportunity to renew to the Ministry the assurances of its highest consideration.

New Delhi, 6th September, 1954.

The Ministry of External Affairs,
Government of India,
New Delhi.

(Seal).

Annex C. No. 84

[See Annex 54 to Memorial, pp. 95-96.]

Annex C. No. 85

LEGATION OF PORTUGAL, NEW DELHI

No. 154.

Proc. 7, 7.

The Legation of Portugal present their compliments to the Ministry of External Affairs and, for the information of the Indian Government, have the honour to enclose herewith the text of a "Communiqué" of the Portuguese Ministry of External Affairs, released in Lisbon on the 12th September, 1954.

The Legation of Portugal avail themselves of the opportunity to renew to the Ministry of External Affairs the assurances of their highest consideration.

New Delhi,

13th September, 1954.

(Seal).

The Ministry of External Affairs,
Government of India,
New Delhi.

COMMUNIQUÉ OF THE PORTUGUESE MINISTRY OF EXTERNAL AFFAIRS,
RELEASED IN LISBON, ON THE 12TH SEPTEMBER, 1954

The News Agencies have transmitted the text of a Note handed by the Government of the Indian Union to the Minister of Portugal in New Delhi. That Note, which was today received by the Ministry of External Affairs, is being studied and a reply will be made in due time. Simply: As the publication of the said Note, by the Indian Union, against the estimation and desire recently expressed by their Government can only have propaganda aims, with the resulting confusion for public opinion, the following is forthwith stated.

1. Against the assertion of the Government of the Indian Union that the Portuguese Government do not desire the negotiations regarding the international observation, it is once more repeated that the Government of New Delhi was informed that the Portuguese proposal for international observation, destined to observe violations of frontiers, continues to stand; but not for the "study of the situation in the Portuguese territories in India" with the scope that, since the beginning, the Government of the Union has pretended to give to the latter expression.
2. Contrary to the lamentation of the Government of the Indian Union that the Portuguese delegation had not been sent to New Delhi for these negotiations, such as they were proposed and, it had seemed to the Portuguese Government, had been accepted, it is stated that the composition of the Portuguese delegation was in due time communicated to the Indian Government and the delegation is in New Delhi ready to start negotiations any day the Indian Union pleases.
3. Contrary to the assertion that the Government of the Indian Union desire negotiations for the establishment of an international observation of acts of frontier violation it should be concluded that the

Indian Union do not wish it, or facilitate it, for obvious motives. In accordance with their statements, there should not have been violations of the Portuguese frontiers, from which it would be deduced that there is no proper matter for the observation, and that, therefore, the negotiations to which they declare themselves disposed would naturally fall upon basic problems which cannot be subject to the judgment of third parties.

4. As by the development of the discussion the conclusion is drawn that the question of the observers could not be expected to be settled within a useful time, and the situation of the territories, invaded and subjugated by bands coming from the Indian Union, compels that certain measures be taken urgently by the Sovereign Power, the assent of the Indian Union was requested for the visit of some foreign observers chosen by the Portuguese Government, in order to gather the necessary information on the existing situation in Dadra and Nagar Aveli. The Government of the Union in their Note show themselves afraid of a formal refusal and they pretend to submit those observers to the legal regime of travellers, with the discretionary attitude which is easy to admit on the part of the Indian authorities, that would withdraw from that observation all the guarantees and conditions needed for it to take place. That is, the answer on this point virtually corresponded to a refusal.

5. The attitude of the Government of the Indian Union as regards the passage of Portuguese authorities to Dadra and Nagar Aveli continues to be one of refusal, with arguments that, as they are more than specious, cannot be understood and do not adjust themselves neither to the rights of Portugal nor to the international duties of the Indian Union, who, in this way and by their own attitude, place themselves in a position of connivance with the acts committed in those territories against the Portuguese Sovereignty, the Order, the Public Peace and the interests of the inhabitants.

Annex C. No. 86

No. D. 8168-Eur.I/54.

Ministry of External Affairs,
New Delhi.

September 23/24, 1954.

The Ministry of External Affairs present their compliments to the Legation of Portugal in India and in continuation of Foreign Secretary's D.O. letter No. 481-FS/54, dated the 10th September, 1954, have the honour to bring to the Legation's notice that during a scrutiny of the applications of Portuguese officials from Nagar Aveli who had sought asylum in India it was found that 32 of them had made false declarations. It was found that these persons had been recruited in Goa and sent to Dadra and Nagar Aveli in May and June, 1954, without permits being obtained to transit Indian territory. The Legation is no doubt aware that the Governor-General of the Portuguese colonies in India was informed by our Consulate-General that all Goan officials from the

1st of April, 1954, must hold a permit for entry into, or transit through, India.

2. The Government of India are convinced that these violations of Indian regulations by these Portuguese officials were with the express encouragement of the Portuguese Administration of Goa and Daman. The Government of India lodge their emphatic protest against these illegal acts of the Portuguese authorities. Though these officials by contravening the regulations of the Government of India have made themselves liable to prosecution the Government of India have decided, as a special case, to deport them.

The Ministry take this opportunity to renew to the Legation of Portugal the assurances of their highest consideration.

Legation of Portugal,
New Delhi.

Annex C. No. 87

LEGATION OF PORTUGAL, NEW DELHI

No. 191.

Proc. 7, 7.

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to transmit herewith the reply of the Portuguese authorities to the allegations contained in the Ministry's note No. D. 8168-Eur. 1/54, of the 24th September last, that some Portuguese officials from Nagar-Aveli, who left that territory after the aggression committed against it, had previously passed through Indian territory without having obtained permits from the Indian Consulate General at Goa.

2. The Portuguese authorities understand that in their Note the Ministry wished to refer to the recruitment of Police officials made in Nagar Aveli, when the measures taken by the Indian Government to isolate that territory—which, as is known, so greatly facilitated the passage of the armed gangs who lately occupied it—were causing the most justifiable concern to the Portuguese authorities.

3. Although among the candidates who presented themselves to be recruited, some were from Goa and Daman, these persons were not *officials* when they crossed Indian territory; they only became so after being recruited in Nagar Aveli by the Police authorities there.

4. No violation therefore of the Indian regulations in force at that time ever took place; the protest presented by the Indian Government has thus no foundation whatsoever and is hereby emphatically rejected.

5. In transmitting this information for the purpose of re-establishing the truth, the Legation cannot but express their great surprise that the Indian authorities should still be trying to find grounds to mention violations of the law in matters connected with the aggression against Dadra and Nagar Aveli. It cannot be forgotten the important part they played in promoting the success of that aggression—measures of every sort to isolate those territories; their encirclement by armed personnel to

facilitate the passage of the assaulting bands; allowing the formation and arming of those bands in Indian territory; ultimately, letting them pass through to commit aggression against peaceful neighbouring territories. All these acts are certainly most serious violations of the Law of Nations, for which the Indian authorities remain responsible. Instead of recognizing this and acceding to the request of the Portuguese Government that facilities of transit be granted for the re-establishment of law and order in these territories, they still complain about non-existent violations of the law supposed to have been perpetrated by the authorities who, after all, have been the victims of aggression and are therefore the aggrieved party.

The Legation avail themselves of the opportunity to renew to the Ministry the assurances of their highest consideration.

New Delhi, 16th November, 1954.

(Seal).

Ministry of External Affairs,
Government of India,
New Delhi.

Annex C. No. 88

LEGATION OF PORTUGAL, NEW DELHI

No. 140.

Proc. 7, 76.

The Legation of Portugal present their compliments to the Ministry of External Affairs and have the honour to convey the following.

2. The situation in the territories of Dadra and Nagar Aveli, as it has been made clear, causes the greatest concern to the Portuguese Government.

3. It is unnecessary to repeat the detailed description of the events that took place in July and August, last year, when armed bands coming from the Indian Union invaded Portuguese territory, overcame, at the cost of Portuguese lives, the resistance that the tiny local police forces were able to offer, and finally took the place of the Portuguese authorities by usurping the administration of the territories. It is but too well known that only the connivance and help of the Indian authorities made this act of force possible; just as it is also known that only thanks to the position adopted by the Indian Union, who has prevented the access of Portuguese authorities or any kind of international observation, has it been possible to keep the territories in a *de facto* situation which is an offence against international law and the deep-rooted sentiments of the population.

4. The Portuguese Government have received truly alarming reports on the situation in Dadra and Nagar Aveli, where the inhabitants have been having a most difficult time, due to present conditions there and the fact that measures taken by the Indian authorities have made it impossible for these people to communicate with the outside world.

5. The authorities of the Portuguese State of India have recently received reliable information according to which the inhabitants of the

territories, and particularly the local public servants and the Catholics, have been harassed, coerced and persecuted to an enormous extent by the illegal and high-handed actions of those who now arrogate to themselves the right of administering these Portuguese territories.

6. The invaders have kept the population in a state of constant alarm. There has been a succession of persecutions and searches and assaults of private houses and public buildings. At times, as happened to the Parish Priest of the church at Silvassa, the inhabitants are beaten up and have to receive medical treatment for their injuries. When the public servants refused to take up their duties again after the invasion, compulsion was used. But here difficulties immediately arose due to the fact that the occupants of Dadra and Nagar Aveli refuse to comply with the law in force and are trying to introduce English and Guzarate in the judicial and administrative services. In order to check the use of Portuguese, schools of Guzarate and Hindi have been set up in almost every village, especially where there are mission schools, in an effort to combat missionary influence.

7. The population are deprived of the most elementary liberties. All correspondence is censored; Portuguese newspapers may not circulate and listening in to the Portuguese Radio Stations is not allowed. The inhabitants of Dadra and Nagar Aveli are not free to leave and enter their territories.

8. Economic conditions are distressing. The invaders arbitrarily increased existing taxes and introduced new ones. Their policy seems to be to protect the Varlies, who are granted every facility. There is a shortage of foodstuffs, and certain sections of the population are even prevented from buying their minimum food requirements.

9. Every attempt has been made to get the local population to express approval of incorporation in the Indian Union. At first the public servants were asked for a voluntary declaration. When this was not forthcoming strict instructions were issued: the declaration was to be compulsory and refusal to subscribe to it would mean dismissal. Despite this, the public servants refused to betray their country. A similar declaration was demanded from the concessionaires of State lands under pain of seeing the land revert to the new administration. Notwithstanding the threat, more than 80 Christian concessionaires refused to comply and applied for authorization to leave for Daman.

10. The intervention of Indian authorities in the administration of the territories is clear. The cash in the safe of the Finance Office—131,983.0.0 Rupees—was counted and then taken to Indian territory by Lalbai Naique. At the end of December the Bombay State Government sent Mr. Bharot, an Indian and a retired Civil Servant of the Indian Union, to these Portuguese territories as Administrator General. His mission was to investigate why the public servants refused to collaborate with the so-called new administrators and to settle the serious differences dividing the latter. Again, the permits to enter and leave Dadra and Nagar Aveli are subject to the approval of the Indian Authorities, and this approval is indispensable in order to cross the frontier. These facts, given merely as examples, demonstrate clearly enough the interference of Indian authorities in the present administration of Dadra and Nagar Aveli.

II. In view of all the foregoing the Government of India cannot escape a grave responsibility for the distressing situation of the population of the Portuguese territories of Dadra and Nagar Aveli, people who throughout their vicissitudes have worthily displayed the fact that they are Portuguese. The Portuguese Government wish to call the attention of the Government of India to this serious situation which causes them so much concern, and they express the hope that the Government of India will end by reconsidering the matter and permitting the Portuguese authorities to have access to these territories. This represents a right of the Portuguese State, whose existence is solemnly affirmed and to whose exercise corresponds an obligation on the part of the Indian Union that is not to be argued away.

The Legation avail themselves of the opportunity to renew to the Ministry of External Affairs the assurance of their highest consideration.

New Delhi, 6th August, 1955.

(Seal).

Ministry of External Affairs,
Government of India,
New Delhi.

Annex C. No. 89

Portuguese Delegation,
Barcelona,

the 8th April, 1921.

My Dear Sir Louis,

As I have told you my Government desires to arrive at a fair arrangement regarding some difficulties in India, where it will be very difficult to apply the Convention we are discussing at Barcelona:—

(A) Transit Damão Nagar Aveli.—An arrangement that will be most convenient for this transit that owing to some difficulties arising out of the salt trade, could be made on such basis as would be negotiated between the two local Governments.

(B) As the salt question is difficult to settle, it would be wiser not to include this product in the transit arrangement.

(C) Taxes.—It would be impossible for the Government of Portuguese India to suppress some taxes, which are very important for the Indian treasure, such as the emigrants or immigrants tax and some special taxes on certain goods. Could you recommend to your Government the advisability of trying to arrive at some agreement between the two local Governments in a way that would be advantageous to both?

I must say that our Local Government can only negotiate *ad referendum* of our Colonial Office, but I am convinced that this office's approval

will be granted to any agreement presented by our Local Government.

With my best compliments, believe me, etc.,

A. D'ANDRADE.

To

Sir Louis Kershaw,
Delegate for India at the
First General Conference of
Communications and Transit.

I CERTIFY that these Annexes are either an exact copy or a faithful translation of the relevant originals.

(Signed) BALRAJ KRISHNA KAPUR,
Agent of the Government of India.
