

dum will be made to the electors of the present Legislative Assembly in the North-West Frontier Province to choose which of the alternatives mentioned in paragraph 4 above they wish to adopt. The referendum will be held under the aegis of the Governor-General and in consultation with the provincial Government.

. . .

The Tribes of the North-West Frontier

17. Agreements with tribes of the North-West Frontier of India will have to be negotiated by the appropriate successor authority.

D. LAWS AND DECREES

INDIAN INDEPENDENCE ACT, 1947

[See below PAKISTAN, section B. Laws and Decrees, 1. Indian Independence Act, 1947, 2(2) and 7(1)]

Argentina

Transmitted by a letter dated 13 March 1963 of the Permanent Mission to the United Nations¹

A. OBSERVATIONS

[Succession of States in the case of partition of British India — Extradition Treaty of 22 May 1889 between Argentina and the United Kingdom extended to Pakistan by virtue of a new agreement — The question of India's claim to enjoy the benefits of the Treaty of Amity, Commerce and Navigation of 1825 between Argentina and the United Kingdom]

1. The problems which the Argentine Government has encountered in the matter of succession of States relate specifically to the independence of India and Pakistan and to the partition between those two countries.

2. In 1953 it was agreed with the Government of Pakistan that the extradition treaty signed with the United Kingdom in 1889² would be regarded as being in force in relation to Pakistan. It should be explained, however, that the Argentine Ministry of Foreign Affairs had previously, in 1952, informed the Embassy of the Republic at Washington that the extradition treaty concluded between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland could not be considered to be in force with Pakistan because the latter was an independent State. The following year, the Government of Pakistan requested the Argentine Government to reconsider the view it had expressed concerning the validity of the extradition treaty. This approach was regarded by the Argentine Government as the expression of a wish that the treaty in question should remain in force between Pakistan and

¹ Original Spanish. Translation by the Secretariat of the United Nations.

² De Martens, *Nouveau Recueil Général de Traités*, deuxième série, tome XX, p. 193. Signed at Buenos Aires on 22 May 1889.

the Argentine Republic. The principle on which the Argentine Ministry of Foreign Affairs based its position was that the Government of the new independent State of Pakistan should be allowed freedom of action.

3. Later, in 1958, the Argentine Government departed from this principle in connexion with a request made by India that section XIII of the Treaty of Amity, Commerce, and Navigation signed in 1825 between the United Kingdom and Argentine Governments should be kept in force. The principle underlying this new position was stated as follows: "Treaties concluded by a State do not extend *ipso jure* to its colonies. In the Argentine-United Kingdom Treaty of 1825, no reference was made to the colonies apart from the statement in article 2 that 'there shall be between all the Territories of His Britannic Majesty in *Europe*, and the Territories of the United Provinces of Rio de la Plata . . .'. Hence, it must be concluded that India could in no way claim the right to enjoy the benefits of a Treaty to which it was never a party and which was not even applicable to its territory." Moreover, the legal continuity between British India and present-day India is very much open to question. While it is true that India remained in the United Nations as a Member after becoming independent, it must be remembered that this was a compromise solution, which was not recommended by the Legal Committee of the Organization (see A/C.1/212 of 11 October 1947). Furthermore, the Argentine Republic stated in the First Committee at that time that the partition between India and Pakistan had meant the extinction of British India and that, therefore, neither of the new States should be regarded as the successor (see A/C.6/156 of 2 October 1947).

4. Thus it may be concluded that, although the position taken and the principle applied have not always been the same with regard to treaties whose validity is in dispute in relation to countries that have recently gained independence and that were formerly colonies of the countries with which those treaties were originally concluded, the validity of the extradition treaty signed by the Argentine Republic with the United Kingdom was in fact extended to Pakistan by virtue of a new agreement signed in 1953 and formalized by an exchange of notes.

B. TREATIES

EXCHANGE OF LETTERS CONCERNING THE STATUS AS BETWEEN ARGENTINA AND PAKISTAN OF THE ANGLO-ARGENTINE EXTRADITION TREATY OF 22 MAY 1889. WASHINGTON, 23 AND 28 DECEMBER 1953

I

A.E.253

Washington, 23 December 1953

Sir,

I have the honour to refer to your Embassy's note No. F.62/53/4 of 17 September 1953 requesting information concerning the views of the Argentine Government as to whether the Treaty for the Mutual Extradition of Fugitive Criminals, signed by the United Kingdom and the Government of the Argentine Republic on 22 May 1889, is in force between the Argentine Republic and Pakistan.

I have pleasure in informing you that, since the *note verbale* in question implies the expression of a desire for the continuation, between the

Argentine Republic and Pakistan, of the Treaty for the Mutual Extradition of Fugitive Criminals, my Government has no objection to regarding it as continued.

Accept, Sir, the assurances of my highest consideration.

(Signed) Hipolito J. PAZ
Ambassador

His Excellency, the Ambassador of Pakistan
Mr. Syed Amjad Ali
Embassy of Pakistan
Washington, D.C.

II

F.62/53/10

28 December 1953

Sir,

I have the honour to refer to your note No. A.E. 253 of 23 December 1953 concerning the views of the Argentine Government as to whether the Treaty for the Mutual Extradition of Fugitive Criminals, signed by the United Kingdom and the Government of the Argentine Republic on 22 May 1889, is in force between the Argentine Republic and Pakistan.

I am particularly pleased to learn from your note that the Government of the Argentine Republic has no objection to the continuation between the Argentine Republic and Pakistan of the aforementioned Treaty for the Mutual Extradition of Fugitive Criminals. I have transmitted this information to my Government.

Accept, Sir, the assurances of my highest consideration.

(Signed) S. AMJAD ALI
Ambassador

His Excellency Mr. Hipolito J. Paz
Ambassador Extraordinary and Plenipotentiary of Argentina
Embassy of Argentina
Washington, D.C.

Australia

*Transmitted by a note verbale dated 27 May 1963
of the Permanent Mission to the United Nations*

A. TREATIES

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT BETWEEN THE GOVERNMENTS OF AUSTRALIA AND THE NETHERLANDS (ACTING ON BEHALF OF THE GOVERNMENT OF INDONESIA) CONCERNING THE FINAL SETTLEMENT OF CLAIMS THAT HAVE ARISEN OR MAY IN FUTURE ARISE IN RELATION TO FACTS, MATTERS AND THINGS OCCURRING UP TO AND INCLUDING 31 DECEMBER 1948. CANBERRA, 12 AUGUST 1949¹

1. The Government of Indonesia shall pay to the Government of Australia and the Government of Australia shall accept in full settlement

¹ United Nations, *Treaty Series*, vol. 34, p. 213. Came into force on 12 August 1949.