

## Treaties, Maps and the Western Sector of the Sino-Indian Boundary Dispute

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The treaties and other diplomatic exchanges between India and China or Tibet on the subject of the Western Sector of the Sino-Indian boundary are surprisingly numerous. They are as follows:—

1. The Ladakh-Tibet Treaty of 1684 (or 1683).<sup>[1]</sup>
2. The Dogra-Tibet Treaty of 1842 and the confirmatory Treaty between the Sikhs and the authorities in Tibet.<sup>[2]</sup>
3. The British note to the Chinese authorities in Tibet, dated 4 August 1846.<sup>[3]</sup>
4. Correspondence between the Governor of Hong Kong and the Chinese authorities in Canton in 1847.<sup>[4]</sup>
5. Discussions in 1852 between the local authorities in Ladakh and Gartok on the question of the Ladakh-Tibet border.<sup>[5]</sup>
6. The British note to the Chinese Government of 14 March 1899.<sup>[6]</sup>
7. The Simla Convention, map appended to the texts of 27 April and 3 July 1914.<sup>[7]</sup>

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1 No text of this agreement between Tibet and Ladakh survives, but there are references to it in chronicles which are discussed in L. Petech, *A Study on the Chronicles of Ladakh* (Calcutta, 1939).

2 The text of the Dogra-Tibet Treaty of 1842 has been published in Sir C. Aitchison, *Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries*, vol. XIV (Calcutta 1929-31).

3 Text published for the first time in A. Lamb, *The China-India Border* (London, 1964), Appendix I, pp. 176-9.

4 For a discussion of this correspondence, see A. Lamb, *Britain and Chinese Central Asia: the road to Lhasa 1767-1905* (London, 1960).

5 The text of the agreement resulting from these discussions was first printed by Panikkar. See K. M. Panikkar, *Gulab Singh 1792-1858; Founder of Kashmir* (London, 1930), of which a revised edition was published in 1953 under the title *The Founding of the Kashmir State*.

6 The correct text of the British note to China of 14 March 1899 was first published in A. Lamb, *The China-Indian Border*, *op. cit.*, Appendix II, pp. 180-2. It has subsequently been published in R. A. Huttenback, "A Historical Note on the Sino-Indian Dispute over the Aksai Chin", *China Quarterly*, No. 18, 1964.

7 The Simla Convention maps of 1914 were first published, though at a much reduced scale, in India, Ministry of External Affairs, *Atlas of the Northern Frontier of India* (New Delhi, 1960).

8. Negotiations in 1924 between the British and the Tibetan local authorities at Gartok over the alignment of some sectors of the Indo-Tibetan border.<sup>[8]</sup>

9. The great mass of Sino-Indian exchanges beginning in the middle 1950s.<sup>[9]</sup>

Quantity, however, does not always mean clarity; and the significance of these various treaties, notes and conversations has not emerged beyond dispute as a result of the evolution of the Sino-Indian crisis. As far as treaties, etc., are concerned, the Indian side has attempted to establish the following points:

(a) That the entire Sino-Indian border in Ladakh has been defined in the past by international agreement; and

(b) That the boundary so defined conforms in every respect to the boundary which the Indian Republic now claims.

To produce conviction on these two points, the Indian side would be required to demonstrate that:

(c) The treaties and other agreements to which they refer do, in fact, relate to all the border concerned, and not merely to certain limited stretches of it; and

(d) That the treaties and other agreements can be so interpreted as to lead to precise geographical definitions.

Do the Indians succeed in demonstrating this?

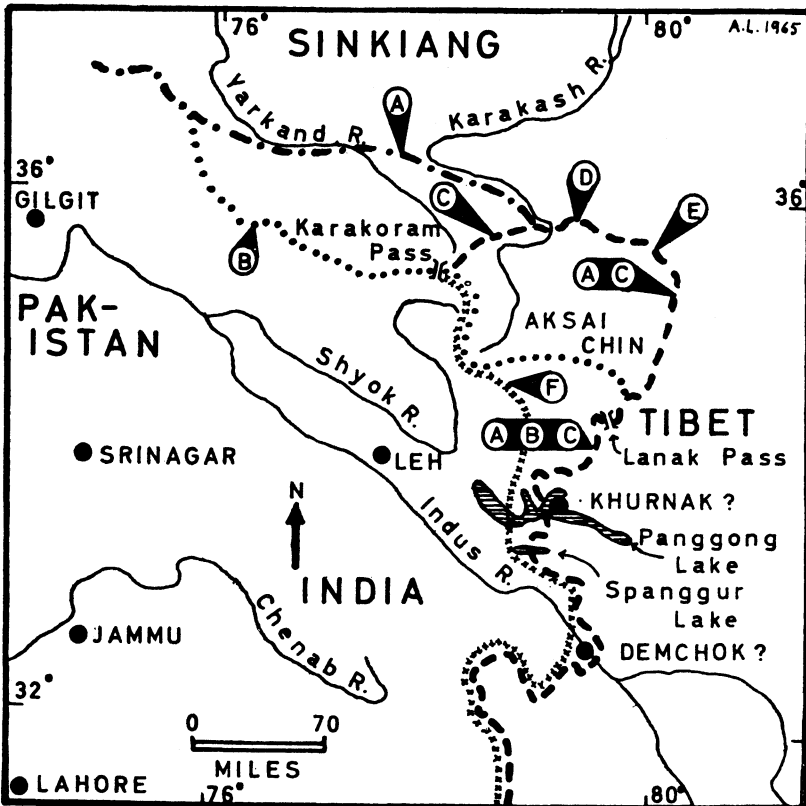
There can be no doubt that the 1684 (or 1683) agreement between Ladakh and the authorities then controlling Tibet did in fact take place.<sup>[10]</sup> Unfortunately, no original text of it has survived and its terms can only be deduced. In its surviving form there seems to be a reference to a boundary point at "the Lhari stream at Demchok", a stream which would appear to flow into the Indus at Demchok and divide that village into two halves.<sup>[11]</sup> The intention of the 1684 agreement was clear enough. Ladakh had attempted to annex Tibetan territory but had been repulsed. The *status quo ante* was now being restored. But what, exactly, was the *status quo*? This question cannot

8 The 1924 discussions are referred to by the Indian side in *Report of the Officials of the Governments of India and the People's Republic of China on the Boundary Question*, Ministry of External Affairs, Government of India (New Delhi, 1961), p. 55. This report is hereafter referred to as the *Officials' Report*. It gives but the briefest mention of the 1924 discussions, which appear to have concerned the ownership of Khurnak and Nyagzu on the north side of Panggong Lake, which the Tibetans claimed.

9 Most of this correspondence has been published by the Government of India, Ministry of External Affairs, as successive volumes of *Notes, Memoranda and Letter exchanged between the Governments of India and China*. These hereafter will be referred to as *White Paper* followed by the appropriate volume number.

10 The authorities are not agreed as to the date of this Treaty. Alexander Cunningham, for example, in his *Ladak* (London 1854) gives 1687 as the date, while A. H. Francke and L. Petch are undecided between 1683 and 1684.

11 H. E. Richardson, *Tibet and its History* (London 1962), p. 246.



A. Advanced border as shown on the majority of British maps published between 1918 and 1947.

B. Border offered by the British to China in 1899 and marked on a number of British and other maps. This represents the best watershed line.

C. Border claimed by the Indian Republic and shown on Indian maps since the 1950's.

AC. To the north and east of Aksai Chin the claim of the Indian Republic follows the advanced British border; but, from the Karakash River westwards to the Karakoram Pass, it departs from the advanced British line to join the line proposed by the British in 1899. This particular compromise between the two British lines is shown on no map published during the period of British rule in India.

ABC. South of the Aksai Chin the two British lines and the present Indian claim more or less agree. India, however, claims possession of Demchok and Khurnak, both of which places were shown on British maps as being in Tibet. In the Khurnak region the difference between the British and Indian lines is too small to be marked on this map. In the Demchok region the British line followed a course very close to that of the present Chinese claim.

D-E. Between D and E the present Indian claim follows the same alignment as the extreme western end of the "Red Line" on the map appended to the two texts of the Simla Convention of 1914. The "Red Line" on the Simla Convention map was described as marking the border between Tibet and China. Hence some territory which was considered to be Tibetan in 1914 is now claimed by India.

F. The present Chinese claim. It will be seen that the 1899 British line roughly partitions the disputed area between the present Indian and Chinese claims. The greater part, if not all, of the Chinese road between Sinkiang and Tibet lies on the Chinese side of the 1899 boundary.

be answered in detail for the period before 1684. Nor can it be shown that Ladakh territory at this period extended up into the Aksai region. The earliest Indian evidence bearing on the Aksai Chin question which the Indian side have so far produced does not antedate the middle of the 19th century.

The 1842 treaty is really, in so far as it concerns the boundary, no more than a confirmation of the terms of the agreement of 1684. It merely refers to customary boundaries without any attempt at verbal definition, and it is accompanied by no map.<sup>[12]</sup> Nowhere in the text is there any indication that it relates to the Aksai Chin area, a point which, when we come to consider maps, we will see is of some importance. The 1842 treaty arose because of an abortive aggression by Gulab Singh, the Dogra ruler of Jammu, against western Tibet; and its purpose was, among other things, to indicate the point beyond which the Dogras should not advance eastwards in the future.

The 1842 treaty was negotiated before the Dogras acquired Kashmir proper and before the Dogra State, today called the State of Jammu and Kashmir, came under British paramountcy in 1846. With the British acquisition in 1846 of an interest in the Kashmiri territory of Ladakh also came a British interest in the terms of the 1842 treaty. On 4 August 1846 the Governor General of India, Hardinge, addressed a note to the authorities in Lhasa, with a copy to the Chinese Government in Peking, cancelling one of the clauses (not relating to boundaries) of the 1842 treaty. This unilateral action might, perhaps, be argued to provide justification for the Tibetans and Chinese to consider the entire 1842 text as null and void. There is no evidence, however, that any reply was ever made to Hardinge's note, which the Chinese and Tibetans appear to have ignored completely. In the following year, 1847, during a correspondence between the British Governor of Hong Kong and the Chinese provincial authorities at Canton, the Chinese made it clear that they had no wish to discuss the alignment of the Ladakh-Tibet border (which the British were then proposing to demarcate by a joint Anglo-Chinese Commission) on the grounds that the border had already been well established and it would be wise to adhere to ancient boundaries.<sup>[13]</sup> All this

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12 Judge Fitzmaurice, in his separate opinion in the *Preah Vihear Case*, made an interesting comment on this type of treaty:

"Confirmation only confirms what is; it cannot *per se* alter, add to, or detract from the latter, which must be ascertained *ab extra*—in this case by reference to the previous treaty settlements and the events relevant to them." [I.C.J. Reports 1962, p. 62.]

The 1842 treaty, on this analysis, confirms that a boundary exists, but does not tell us where it is. The treaty that could have given this information, that of 1684, has not survived in the form of its full text, and we have no means of determining exactly what line of frontier was contemplated in 1684. The chronicles which refer to this treaty are singularly deficient in precise geographical details.

might be taken to mean a Chinese confirmation of the 1842 treaty, despite the British note of August 1846. In 1852 the Kashmiri authorities in Ladakh and the local Tibetan authorities in Gartok in Western Tibet appear to have come to some confirmatory agreement as to a portion at least of the boundary referred to in the 1842 treaty. It is extremely doubtful whether Kashmir at this time possessed the power to enter into such agreements, having transferred its foreign relations to the British by the Treaty of Amritsar of 1846. Thereafter, with the exception of some Anglo-Tibetan discussions in 1924 on a portion of the boundary on the northern shore of the Panggong Lake, no further agreements appear to have been entered into on the Tibet-Ladakh border south of the Lanak Pass until the 1950s and the beginnings of the present Sino-Indian crisis.

With the possible exception of the 1924 discussion, the corpus of documents relating to the Ladakh-Tibet border south of the Lanak Pass contain no specific geographical definitions.<sup>[14]</sup> It is clear beyond reasonable doubt that there *was* a border; but its precise whereabouts is not so easy to determine. Moreover, there is absolutely no evidence during the period 1684 to 1852 that the territory of Ladakh was thought to extend on to the high desolation of the Aksai Chin plateau. The Tibet-Ladakh border, it could be argued, began at the Ladakh-Tibet-Spiti trijunction and petered out just north of the Panggong Lake in a desert no man's land. It is possible that this traditional boundary may have extended as far as the Lanak Pass at the head of the Changchenmo Valley; but it has yet to be shown that it extended further northwards into the Aksai Chin area.

For the Aksai Chin portion of the western sector the first document of an international nature is the British note to the Chinese Government of 14 March 1899. In this note the British Government proposed to the Chinese a boundary from the Karakoram Pass (which may be taken as the effective western terminus of the disputed Sino-Indian border) to a point a few miles north of the Lanak Pass, which we have postulated here as the extreme northern point of the traditional Ladakh-Tibet border referred to in the 1684 and 1842 treaties. The 1899 note completes the process indicated by the 1684 and 1842 agreements; and from that moment it can be said that some kind of

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13 No Chinese texts of any of these communications have ever been produced. It is doubtful if the Canton authorities possessed the power to discuss with foreigners the affairs of remote frontier tracts of the Chinese Empire. In any case, it is clear that the Canton authorities, in their replies to letters from the British, merely intended to indicate politely that they did not intend to discuss their frontiers. The British at the time so interpreted the Chinese messages; and there is no evidence to suggest that in 1847 the Government of India considered that any Anglo-Chinese definition of frontiers in Ladakh had been arrived at.

14 The 1684 Treaty may have made a reference to "the Lhari stream at Demchok"; but as its text no longer survives, we cannot be sure that this was in fact the case.

definition of boundaries had taken place along, to all intents and purposes, the entire length of the frontier of Ladakh with both Tibet and Chinese Turkestan.

Unlike the 1684 and 1842 agreements, the 1899 note contains a clear verbal definition, which can be plotted easily enough on the map and which was arrived at after nearly a decade of discussion between British officers and the Chinese authorities in Kashgar and Yarkand.<sup>[15]</sup> It is clearly an important document, a verbal declaration of British boundary ideas which was never to be repeated during the period of British rule on the subcontinent. Unfortunately, the Chinese never replied formally to the note, though they indicated informally on a number of occasions their agreement as to its boundary alignment.

The British note to China of 1899 is quoted in evidence by the Indian side as "showing that the northern boundary of Ladakh ran along the Kuen Lun up to 80° Longitude". On this understanding the 1899 note was referred to in 1959 in a letter from Prime Minister Nehru to Prime Minister Chou En-lai, and it has been adduced in support of Indian arguments by Sri Krishna Rao, Legal Adviser to the Indian Ministry of External Affairs, in articles in learned journals devoted to the study of international law. It is surprising to discover, therefore, that the 1899 note does not in fact provide any comfort for India. Far from supporting the present Indian claim, the 1899 note outlines a boundary which would almost exactly partition the disputed Aksai Chin area and hand to China some 7,000 square miles (estimated) of territory which India now claims.<sup>[16]</sup>

15 It is interesting to see that during this period the Chinese authorities in Sinkiang raised specific claims to the Aksai Chin region, to which they despatched an officer on a journey of inspection. They also, at this time, challenged British maps which showed Aksai Chin as being part of the Indian Empire. All this, which could have some bearing on any application against the Chinese of the doctrine of estoppel, was never raised during the course of the 1960-1961 Sino-Indian discussions. The Chinese, throughout their argument with India over the border, have presented a very badly prepared case (see Lamb, *The China-India Border*, *op. cit.*, pp. 102-3).

16 For example, in the letter from Mr Nehru to Chou En-lai of 26 September 1959, *White Paper* No. II.

Dr K. Krishna Rao, Legal Adviser to the Indian Ministry of External Affairs, who relied on the 1899 note has said:—

"A British proposal in 1899 for delimiting the northern frontier between Ladakh and Sinkiang (this did not cover the eastern frontier of Ladakh with Tibet) clearly mentioned the fact that the northern boundary of Ladakh ran along the Kun Lun range to a point east of longitude 80° east where it met the eastern boundary of Ladakh. China never objected to this definition; the proposal was not implemented solely because she did not consider necessary a formal definition of the traditional boundary in this area."

(K. Krishna Rao, "The Sino-Indian Boundary Question and International Law" (1962), 11 *I.C.L.Q.*, p. 388.

Dr K. Krishna Rao appears to think that the boundary proposed in 1899 represents "the traditional boundary". This may well be the case. However, it cannot be said that this particular boundary ran along the Kun Lun. The 1899 note proposed a line which ran considerably south of the Kun Lun,

*Continued on p. 43*

Another agreement which, if indirectly, has some bearing on the boundary described in the 1899 note is the Simla Convention of 1914. The map appended to this document (and to be found with both texts, the text of 27 April 1914 initialed by the British, Chinese and Tibetan representatives and the text of 3 July 1914 declared binding by the British and Tibetan representatives) marks the boundary of Tibet by means of a thick red line. The right hand end of this particular line is the so-called McMahon Line, separating Tibet from Assam. The left hand end of this red line terminates on the banks of the Karakash River north of Ladakh; and for some 60 miles or so of its length it coincides with the present Indian claimed border with China. Thus for some distance in the extreme north-east of Ladakh, in the Aksai Chin territory, the Simla Convention map showed a Sino-Tibetan border where Indian maps today show a Sino-Indian border.<sup>1171</sup> The only conclusion to be drawn from this fact is that India is now claiming territory which was shown as Tibetan (even if the limits of this territory south of the red line were not defined) on the map appended to the Simla Convention. This map was initialed by the Chinese. Subsequently it was signed by the British and Tibetans. The present Indian Government holds that it is a valid instrument in international law. All of which suggests that the Simla Convention map does not go to strengthen the Indian case in Ladakh. Strangely, the Chinese never seem to have noticed the implications of this document.

The Simla Convention map is not the only map to have played a role in the discussions arising from the Sino-Indian boundary dispute. In the case of the western sector both the Chinese and Indian sides have placed much emphasis on the evidence of maps; and this evidence we must now examine. Of British and other Western maps we may, perhaps, distinguish three major categories which were produced in support of the Indian contention that the boundary was in British

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16 *Continued from p. 42*

roughly dividing the area between the Chinese and Indian claims in the Aksai Chin region into two equal portions. The following are the actual words with which the 1899 note defined this particular stretch of boundary: "from the Karakoram Pass the crests of the range run nearly east for half a degree (100Li), and then turn south to a little below the 35th parallel of North Latitude. Rounding then what on our maps is shown as the source of the Karakash, the line of hills to be followed runs north-east to a point east of Kizil Jilga and from there, in a south-easterly direction, follows the Lak Tsung Range until that meets the spur running south from the Kuen Lun Range which has hitherto been shown on our maps as the eastern boundary of Ladakh. This is a little east of 80° East Longitude." (Lamb, *The China-India Border*, *op cit.*, Appx. II, p. 182.)

17 The implications, in this respect, of the Simla Convention maps of 1914 were, it would appear, first made public by A. Lamb in a paper entitled "A note on a problem of boundary definition in Ladakh" which was presented to the International Conference on Asian History at Hong Kong in September 1964. The gist of this paper, with maps, has since been published in *The Far Eastern Economic Review*, No. 125 of 20 May 1965, pp. 350-51.

times identical with that now claimed by the Indian Republic:—<sup>[18]</sup>

(a) Official maps, issued by the Government of India and by the British Home Government, and certain maps produced by British officials on duty and included in official reports;

(b) unofficial maps by travellers who had personally visited the regions concerned;

(c) miscellaneous unofficial maps produced by cartographers with no direct personal experience of the regions concerned: i.e. maps in late nineteenth century German or French atlases and maps published by non-official British cartographical institutions, all of which, of course, tending to rely on the available published material, and hence tending to derive their ideas as to boundaries in the British Indian Empire from British sources.

In addition, the Indian side produced the following categories of maps of Chinese origin:—

(a) Old Chinese maps, some dating back to the 18th century, and compiled without the benefit of Western surveying and cartographic techniques;<sup>[19]</sup>

(b) Chinese maps published by official bodies, but based on Western cartography and showing boundaries copied without modification from Western maps;<sup>[20]</sup>

(c) similar maps published by Chinese individuals, even though possibly enjoying official rank.<sup>[21]</sup>

18 A selection of these maps was published by the Government of India, Ministry of External Affairs, in 1960 under the title *Atlas of the Northern Frontier of India*.

19 *Atlas, op. cit.*, Map No. 10, is an example of this category, a Chinese map of 1762. The map shows no boundary line as such, merely indicates that the southern boundary of Chinese Turkestan lies somewhere in a range of mountains which are indicated by physiographic symbols drawn in perspective.

20 *Atlas, op. cit.*, reproduces a number of examples of this category of map. Map No. 6, a map of Tibet from the *New Atlas and Commercial Gazetteer*, published in Shanghai some time after 1917, is a good example. A study of the portion of this map which covers the Aksai Chin region shows that, here, it is based on Indian surveys which had, in fact, on some British maps been somewhat modified by later information. This map was clearly based largely on non-Chinese sources. Indeed, it seems to have been published by non-Chinese persons. On the sheet which the Indian Government has reproduced it is clearly stated that the copyright for this particular map lies with Edwin J. Dingle and H. J. Fruin. These two men do not, on the face of it, sound like Chinese officials.

21 In this category is the famous map of Hung Tajen (Hung Chün), who was Chinese Minister at St Petersburg from 1887 to 1890. Hung Chün transliterated a series of Russian maps of Central Asia into Chinese, and published the result of this work in 1890 in 35 sheets which were on public sale in Shanghai. George Macartney, who was British representative in Kashgar, obtained in 1893 the sheet of this map which related to the Kashmir-Sinkiang border and sent a tracing of it to the Indian Government. This map series, though published by a Chinese Official, was certainly no more a statement of Chinese *official* policy than was the map at the back of Mr Nehru's



In opposition to all this, the Chinese selected from the same categories of maps, to which they added a number of Chinese official maps including recent military maps (not intended for general publication) showing boundaries more or less as they claimed. Some of these same Chinese maps the Indian side produced as evidence of the vagueness or variability of Chinese boundary ideas.

A great deal of misleading argument took place between the Chinese and Indians about these maps during the 1960-1961 discussions. The Chinese, for example, endeavoured to attach official status to a map produced by an unofficial British cartographer, Johnston, in the early 1860s and reproduced by the Great Trigonometrical Survey of India for purposes quite unrelated to those of a boundary.<sup>[22]</sup> The Indians, likewise, tried to make out that the translations of Russian maps made c. 1890 by Hung Chün, at one time Chinese representative in St. Petersburg, were official Chinese statements of boundary alignment. There is, unfortunately, not space here to consider all the various categories of maps and their implications. It must suffice to point to a number of general conclusions which emerge from a study of maps relating to the disputed Sino-Indian boundary.

A very surprising fact is that neither side managed to produce a map antedating the 1950s, either official or unofficial, which showed the Chinese or Indian claims *exactly* as they were described during the 1960-1961 Sino-Indian discussions. Both the Chinese and the Indian boundaries are, from the evidence of maps, essentially new, or newly modified, boundaries. Because of the better quality of their cartography, it is easier to demonstrate this point for the Indian side than the Chinese side, and we will confine ourselves here to the former.<sup>[23]</sup> The British had direct concern with Ladakh, as part of their Kashmir dependency, for just over a century, from 1846 to 1947. During that time the Survey of India issued a number of maps of the region, some at very good scales, 1:250,000 or better, which were used as the basis for maps by cartographers all over the world. Let us

21 *Continued from p. 44*

*Discovery of India* a statement of *official* Indian policy when it showed the whole of NEFA as part of Tibet. In 1960-1961 the Indian side maintained that Hung Chün's maps were official Chinese maps. See *Official's Report*, *op. cit.*, p. 150. For some account of the origins of Hung Chün's maps, see A. W. Hummel, ed., *Eminent Chinese of the Ch'ing Period (1644-1912)*, 2 vols. (Washington, D.C., 1943), vol. 1, pp. 360-61.

22 See *Peking Review*, Nos. 47 and 48, 30 November 1962.

23 The Indian side, in *Atlas*, *op. cit.*, has produced a number of maps published in China showing boundaries in the Aksai Chin area which depart from those shown on British maps. The earliest of these is the map of China attached to *The International Development of China*, by Sun Yat-sen. In addition, there are Chinese maps of 1933, 1935, 1947 and 1950. All these are very small scale maps; but it could be argued that there are small variations between them in the frontier alignment shown and, further, that none of them agree *exactly* with the present Chinese claim. The variations, however, are certainly not large, and it is more likely that they are the result of careless cartography than of fluctuations in Chinese policy.

examine the Sino-Ladakhi boundaries shown on these maps, and their derivatives like the relevant sheets of the international 1:1,000,000 series and the World Aeronautical Chart 1:1,000,000 series. To do so usefully, we must first break that boundary up into two sections. The first section would be from the Karakoram Pass to the Lanak Pass, in the Aksai Chin region. The second section would be from the Lanak Pass, at the head of the Changchenmo valley, southwards across the Pangong Lake and the Indus to the borders of Spiti.

For the first section, maps have tended to show one of two boundaries.<sup>[24]</sup> First, there is a boundary which follows the Indian claim more or less from the Lanak Pass to the Kunlun range, where it diverges northwards from the present Indian line to include much more of the Karakash basin.<sup>[25]</sup> The boundary on such maps runs 60 miles or more north of the Karakoram Pass, which Pass is a boundary point on the Indian claim. Second, and this is rather less frequently shown, there is a boundary which follows the line of the 1899 proposals, placing the whole Karakash basin in Chinese territory and partitioning the present Indian claim in Aksai Chin.<sup>[26]</sup> The first line involves an

24 The majority of official British maps, published after World War I, show no border at all between Kashmir and either China or Tibet. Examples of such maps are:

*Southern Asia (Kashmir Sheet)*, Political edition, 1:2,000,000. Published by Survey of India, 1929 (No. 2792 D22-3/4M, 1000).

*Jammu and Kashmir State*, 15.783 miles to the inch, published by the Survey of India, 1942, to accompany the 1941 Census of India Report (No. 2175 E41-D.O. 1,1/M, 3000 1942).

*Kashmir and Jammu and Gilgit Agency*, 15.783 miles to the inch, published by the Survey of India, 1945 (No. 2070 D30 - D.O. 1, 1/M, 450 1941).

None of these maps shows any boundaries between Kashmir and Sinkiang and Tibet, though they show boundaries between other portions of the Indian Empire and Tibet and Afghanistan.

25 An official map showing this boundary in Asia 1:4,000,000, sheet 33, *Northern India*, Geographical Section. General Staff, No. 2957, published by the War Office, London, 1927.

An unofficial British map showing the same boundary is *India, Pakistan, Ceylon*, 1:4,000,000 (J. Bartholomew and Son, Edinburgh, 1950).

A non-British map, originating from an official source, which shows this frontier is *Southwest Asia* 1:1,000,000, Sheets NI-44 and NJ-44, *Pangong Tso and Ho-tien*, published by the Army Map Service, (AM), Corps of Engineers, U.S. Army, Washington, D.C., AMS 1301, 1950.

26 The 1899 boundary is shown on *Eastern Turkestan*, a map specially prepared by the Foreign Department, Government of India (No. 346E, F.D. - February 08 - 670) for inclusion in the 1909 edition of Aitchison's *Collection of Treaties*. The boundary on this map is indicated by means of a colour wash, and is not as precise as might be wished. The same boundary, however, is shown very clearly as a line on *Map of Kashgaria*, issued for official use only by the Intelligence Branch, Division of the Chief of Staff, India, September 1907 (No. 5824).

A few travellers have shown the 1899 line in maps to illustrate the published accounts of their journeys. See, for example, the map in Helmut de Terra, "On the world's highest plateaus: through an Asiatic no man's land to the desert of ancient Cathay", *National Geographic Magazine*, vol. 59, January-June 1931, p. 323.

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India many thousands of square miles greater than the present claim; the second line involves an India about 7000 square miles smaller than the present claim. No map has so far been produced, dating to pre-Independence times, which shows the Indian claim exactly as it is now stated, though Drew's map of the 1870s comes quite near.<sup>[27]</sup> Here, however, the Karakash basin is placed entirely on the Chinese side, while the Indians now claim the upper portions of it. For the Aksai Chin sector, I have deliberately excluded consideration of maps published before 1865, since these, which generally tend towards an even smaller India (i.e. Walker's map, Johnston's map), are based on quite inadequate information.<sup>[28]</sup> No such maps, in any case, suggest an exact correspondence with the present Indian claim.

The present Indian claim, it would seem, was first put on official Indian maps in the 1950s; and it clearly involved a departure from existing practice for which no explanation was offered at the time and none has been offered since. What, in fact, seems to have happened is that the Indian Government decided upon a kind of compromise between the two boundary lines shown on maps. In the region of the Karakoram Pass it adopted the line of the 1899 proposals. Further east, it adhered to the forward boundary. Thus between the Karakoram Pass and the Kunlun the present Indian claimed boundary is in effect a diagonal running between the two alignments shown on British maps which ran roughly parallel with each other but 60 to 100 miles apart.

Let us now consider the section of boundary from the Lanak Pass southwards to Spiti. A very good idea of its alignment was derived by Strachey and Cunningham in 1846-1848, and the maps of this area published in the 1860s by the Survey of India as part of the Kashmir Survey, at a scale of 1:500,000, are substantially accurate (which they are certainly not for the Aksai Chin area) and show the boundary clearly. These have been the basis of subsequent maps, and in the

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The 1899 boundary is also shown on some maps published by non-British official bodies. For example, the *World Aeronautical Chart* 1:1,000,000 series, Sheet No. 432, *Nanga Mountain* (4th ed., February 1949), published by the Aeronautical Chart Service, U.S. Air Force, Washington, D.C. It should be noted that later editions of this map show other boundary lines, either the advanced boundary of the maps listed in note 25 above, or the present Indian claimed boundary. The series, however, does not start showing the Indian claimed boundary until the late 1950s following the opening rounds of the Sino-Indian boundary dispute.

27 Map, at a scale of 1:1,000,000, enclosed in F. Drew, *Jummoo and Kashmir Territories* (London, 1875).

28 Johnson travelled across the Aksai Chin plateau in 1865. His map, though very rough, provided the British with their first reasonably clear ideas as to the topography of this region. Earlier maps are of no value for Aksai Chin.

The first good set of maps of Kashmir, though still very defective in the Aksai region, were *Photozincographed Sections of part of the Survey of Kashmir, Ladak, and Baltistan or Little Tibet*, 20 sheets, 8 miles to the inch, published by the Great Trigonometrical Survey of India, Dehra Dun, October 1868.

publications of the Survey of India there has been no change in boundary over this stretch from the 1860s until the end of British rule in India in 1947. Since 1947 there have been two modifications, of which more shortly.

A study of the work of Cunningham and Strachey in the 1840s, and of the Kashmir Survey of the 1860s, shows the existence of two alignments which differ from each other in respects which can only be described as minor. In the maps which Strachey produced on the basis of personal inspection of the boundary in an attempt to clarify the implications of the 1842 treaty, the border where it crosses the Indus is at Demchok, passing right through the centre of that place which is located on both banks of a stream at its junction with the Indus. The tributary stream was the border. Further north, Strachey's border passed by the western end of the Spanggur Lake. In the maps of the Kashmir Survey the border has receded a trifle westwards from Demchok, now crossing the Indus some ten miles to the west of that spot. The Spanggur Lake, instead of falling entirely in Tibet, is now bisected by the boundary. Both Strachey and the Kashmir Survey place Khurnak, on the north shore of the Panggong Lake, within Tibet.

Indian maps published since the 1950s do not agree entirely either with Strachey or with the Kashmir Survey. In the Demchok region, where Strachey located the Tibet-Ladakh boundary as passing right through Demchok village, and where British maps from the time of the Kashmir Survey of the 1860s onwards have shown the border to lie some ten miles or so to the *west* of Demchok, the Indians now show the boundary to run about three miles *east* of Demchok. In the Khurnak region on the north shore of the Panggong Lake Indian maps now show Khurnak, as Indian, while on British maps this spot was, without exception, shown as Tibetan. Nyagzu, on British maps either on the border or within Tibet, on Indian maps is now shown as well within India. Thus on the lower portion of the boundary in the Western Sector of the Sino-Indian boundary dispute, as in the upper or Aksai Chin sector, present Indian claims do not agree exactly with the boundaries shown on maps of the British period. From the Panggong Lake to Spiti, indeed, the Indians now claim more territory than was shown as Indian on British period maps; and from the Spanggur Lake southwards the Chinese claim is closer to British maps than is the Indian claim.

Indian commentators, both official and unofficial, have repeatedly declared that the Indian border with China in the Western Sector follows "the watershed".<sup>[29]</sup> A study of maps shows that, while in

29 The watershed principle is affirmed or implied twice in the treaties and other international instruments relating to the Sino-Indian (or Indo-Tibetan) border, in the Anglo-Chinese Convention relating to the Sikkim-Tibet border of 1890, and in the British note to China of 1899. In the Anglo-Tibetan notes of March 1914, which enshrine the McMahon Line, there is no mention of the watershed; nor was there any mention of a watershed in connexion with the McMahon line section of the boundary of Tibet indicated in the map appended

general the border which the Indians claim does follow a watershed of some kind, yet there are places where the border departs from the watershed. It cuts across the upper reaches of the Karakash River, for example, where a true watershed line would run southwards around the basin of that river system. At one point along the western edge of the Aksai Chin region the Indian claim includes a limb of the Nopte Lake or its flood plain. Further south the Indian line crosses the Panggong Lake, the Spanggur Lake and the Indus River. Watersheds, by definition, cannot run across lakes or rivers; and there appears to be some contradiction between Indian theory and Indian practice in respect to the watershed.

The running of the boundary across the Karakash is clearly the product of the wish to have a fairly straight line between the Karakoram Pass and the peak on the Kunlun Range which the Indian claim to be the extreme north-eastern tip of Ladakh. Some observers,

29 *Continued from p. 48*

to the Simla Convention, though a sketch of watershed border between China and Tibet was considered during the course of the Simla Conference.

In many places, in all three sectors of the Sino-Indian boundary, the line departs from the watershed to cross rivers or lakes. The McMahon Line, for example, crosses the Lohit, the Siang, the Subansiri and the Nyamjang. The Sino-Indian border in the Sikkim-Bhutan area crosses the Mochu, placing the Tibetan tract of the Chumbi Valley on the Indian side of the main Himalayan watershed. In the middle sector of the Sino-Indian border crosses the Sutlej. In the eastern sector the Indian-claimed border crosses the Indus, the Spanggur and Panggong Lakes, a limb of the Nopte Lake, some streams flowing into the Amtogar Lake and, finally, the Karakash River.

The Sino-Indian border, even as the Indians claim it, can hardly be said to run along *the* watershed, though it may correctly be described as following a series of watersheds between river and lake crossings.

Dr Krishna Rao appears to be under the impression that the watershed principle, as an abstract concept of boundary definition, was confirmed by the *Preah Vihear* judgment, which, in fact, involved an express repudiation of the watershed principle in one special and limited instance. The 1904 Franco-Siamese Treaty specified that the border in the Dangrek Range should follow "the watershed". The 1907 map, Annex I, showed in the Preah Vihear region a boundary which did *not* follow the watershed. Thailand maintained that, were the 1904 watershed principle adhered to, instead of the Annex I map, Preah Vihear would come within Thai territory. By deciding to uphold the Annex I map the Court, in effect, it is submitted, repudiated the watershed.

This decision is particularly interesting in the context of the Sino-Indian boundary dispute in that the Indian side has raised an exactly contrary argument in the case of the McMahon Line north of Tawang. Here the line, if the co-ordinates of the 1914 map are now plotted on the ground, does not follow the watershed. Accordingly, the Indians by unilateral action advanced the McMahon Line to the nearest convenient watershed on the Chinese side. Even had the agreements which defined the McMahon Line contained references to the watershed principle (which they did not, unlike the Franco-Siamese Treaty of 1904) the *Preah Vihear* judgment would appear to go against the legality of the Indian action in altering the alignment of the McMahon Line. See *Preah Vihear* judgment, *loc. cit.*; K. Krishna Rao, "The *Preah Vihear* Case and the Sino-Indian boundary question", *Indian Journal of International Law*, vol. 2, 1962, p. 356; K. Krishna Rao, *International Law Aspects of the Sino-Indian Boundary* (Bombay, 1963); *White Paper VIII*, pp. 9, 15-6.

like F. Drew who was Governor of Ladakh in the 1870s, have shown a boundary running along the Karakash watershed; but to do so is to create an untidy salient of Chinese territory. The crossing of the Nopte Lake by the present Indian claim line is also capable of explanation. Originally the line here followed the watershed between the Sarigh Jilganang and Nopte Lakes. Improved surveys during the twentieth century, however, resulted in changes on the map of the course of this watershed. These changes were not matched by corresponding modifications in the frontier line. In other words, in the Nopte Lake region the watershed has moved away, as it were, from the boundary. The crossing of the Panggong Lake arises from the fact that the boundary could not possibly be run right round the watershed: too much Tibetan territory would be involved. Thus, at the Panggong Lake the boundary is shown as following watersheds between streams flowing into the Lake, and a choice of watersheds is possible. The watersheds followed by the boundary on British maps, in this region, are not the same as the watersheds the Indians now claim, as has been noted already. In the Spanggur Lake region, again, a choice of watersheds is possible. In the earliest accurate British maps of this district, those prepared by Strachey, the boundary is shown to follow the watershed between the Indus and the entire Spanggur basin. Later British maps, and the present Indian claim, agree in showing the boundary as bisecting the Spanggur Lake, approaching and leaving it by watersheds between streams flowing into the lake. Finally, at the Indus crossing, again a choice of watersheds is possible. Here the present Indian claim does not agree with British maps.<sup>130]</sup>

The Indus crossing is one of the few points of the Tibet-Ladakh border where it is possible to arrive at some kind of topographical description of a boundary point relating to the 1842 treaty. It is clear that here the "traditional boundary was not a watershed at all, but rather the *thalweg* of a stream flowing into the Indus and dividing the inhabited place of Demchok into two sections.

From the evidence of maps and treaties, how might arbitration resolve the western sector of the Sino-Indian boundary dispute? The only international exchanges relating to the Aksai Chin portion of the boundary (for which it is impossible to prove that the 1842 treaty applies) prior to the Indian claim in the 1950s are the British note to China of 1899 and the map appended to the two texts of the Simla Convention of 1914. Both these very strongly indicate the justice of a partition of Aksai Chin between Indian and Chinese claims, such a partition following the line of the British boundary proposals of 1899. There is some cartographical evidence for such a boundary, while there appears to be no cartographical evidence for an Aksai Chin boundary exactly as the Indian side now claims it. South of the Aksai Chin area it is reasonable to suppose that the 1842 treaty applies;

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30 For this section generally, see Lamb, *The China-India Border*, *op. cit.*, Chapter 5, pp. 59-73.

yet the absence of geographical definitions in the surviving versions of this treaty raises difficulties. It might be argued that the maps prepared by Strachey in the late 1840s and by the Kashmir surveyors in the 1860s marked the "traditional" boundary referred to in the agreements of 1842 and 1684 (or 1683). Strachey and the Kashmir surveyors do not entirely agree; but in both cases, south of the Panggong Lake, their maps are closer to the Chinese claim than to the claim of the Indians. Here, it would seem, the evidence of maps and treaties rather favours China.<sup>[31]</sup>

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31 Max Huber, the Arbitrator in the celebrated *Palmas Island Case*, United Nations Reports of International Arbitral Awards, vol. II, pp. 852-4, wisely advised great caution in considering the evidence of maps. Huber, however, was dealing mainly with the earlier European cartography of the Malaysian archipelago, where errors were both frequent and breath-taking in their magnitude. The late nineteenth century maps of Ladakh made by the Survey of India are generally reliable, sufficiently so at any rate to provide a working basis for boundary discussion.

Recently greater emphasis has been placed upon the evidence of maps in international boundary disputes. (See G. Weissberg, "Maps as Evidence in International Boundary Disputes: a reappraisal", *American Journal of International Law* (1963), vol. 57, p. 781.) In both the *Case Concerning Sovereignty over Certain Frontier Lands*, I.C.J. Reports, 1959, p. 209, and the *Temple of Preah Vihear Case*, I.C.J. Reports, 1962, p. 6, the crucial maps were those which were, or could be argued to be, related to Boundary Treaties and Boundary Commissions. No such maps can be produced in the case of the western sector of the Sino-Indian boundary dispute. The 1899 note, which contained a fairly precise geographical description of a boundary alignment, also remarked on the fact that it was not necessary to mark out on the ground a border marked by so obvious a sequence of natural features. The 1842 Treaty, and its predecessor in 1684, are very deficient in geographical data; and the evidence that the boundaries shown by Strachey in the 1840s and the Kashmir surveyors in the 1860s are the same as the boundaries referred to in the 1684 and 1842 Treaties is far from conclusive, though there is a reasonable assumption that this is indeed the case, an assumption which would have been strengthened somewhat had Strachey and the Kashmir surveyors been in complete agreement on the Tibet-Ladakh boundary alignment.

The Indian side, perhaps, could be argued to be bound by the frontier shown consistently on British maps. However, there are certain difficulties here. First, from Khurnak southwards we have seen that the Indians are claiming more territory than that shown on British maps, which might possibly be argued to imply a challenge to the validity of those maps as indications of boundary alignments. Second, north of the Panggong Lake British maps tend to show one or other of two boundary alignments, neither of which the Indian side now accepts in its entirety. Indeed, the Indian side has adopted what appears to be a compromise between these two lines. One of these lines conflicts with the terms of the 1899 note, and, moreover, includes within India territory which India does not claim and for which it would be extremely difficult, if not impossible, for her to establish even a *prima facie* case for a claim.

Even the best maps involved in the consideration of the western sector of the Sino-Indian boundary dispute, therefore, raise problems not present in either the *Case Concerning Sovereignty over Certain Frontier Lands* and the *Temple of Preah Vihear Case*. In the author's opinion Max Huber's advice is still valid. In the Sino-Indian boundary dispute, extreme caution must be used in the assessment of the evidence of maps.

It should be noted, however, that such evidence has not been advanced with any impressive consistency by the Chinese in support of their claims. In the Aksai Chin region the Chinese have, so far, made no use of either the British note of 1899 or of the map appended to the two Simla Conventions. Their claim is greater than the evidence of the 1899 note and the Simla Conventions (and the Chinese, in any case, refuse to accept the validity of the Simla proceeding of 1913-1914) could possibly warrant. The Chinese claims north of the Panggong Lake are supported either in detail or in general by no maps of the British period; and the basic factor in the definition of Chinese claims here appears to have been the requirements, in the 1950s, of the Chinese military.

In conclusion, it would seem that on the basis of the evidence of maps and treaties, the settlement of the western sector of the Sino-Indian boundary dispute through arbitration could well involve—

- (a) A partition of the Aksai Chin plateau (a desert region without permanent inhabitants) along the lines of the British note to China of March 1899, which would mean the abandonment by China and India of claims to about 6000 square miles of territory apiece; and
- (b) From the north shore of the Panggong Lake southwards a reversion to the position shown consistently on British maps from the 1860s, which would involve the abandonment of Indian claims to Khurnak and to any territory east of Demchok if not to the western half of the Demchok itself.

The area involved in the Khurnak and Demchok regions, when compared to the disputed tract in the Aksai Chin plateau, is very small; but, unlike the Aksai Chin, it involves a number of permanently inhabited places.