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GENERAL

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LETTER DATED 15 JUNE 1951 FROM THE MINISTER OF FOREIGN AFFAIRS AND  
COMMONWEALTH RELATIONS OF PAKISTAN TO THE PRESIDENT OF THE  
SECURITY COUNCIL CONCERNING THE INDIA-PAKISTAN QUESTION

I have the honour to refer to the telegram of the President of the Security Council dated 29 May 1951 (S/2181), purporting to summarize the general line of the Security Council's discussion at its 548th meeting held on 29 May 1951, in response to the request contained in my letter dated 4 May 1951, (S/2119) and the Permanent Representative of Pakistan's letter dated 8 May 1951 (S/2145) to call upon the Government of India and the authorities concerned in the State of Jammu and Kashmir to desist from convening a Constituent Assembly in the State.

2. The Government of Pakistan notes that it is the sense of the Security Council that the reports contained in documents S/2119 and S/2145 regarding the steps being taken by the Yuvaraja, Jammu and Kashmir, to convene a Constituent Assembly and to determine the future shape and affiliations of Kashmir "if correct, would involve procedures which are in conflict with the commitment of the parties to determine the future accession of the State by a fair and impartial plebiscite conducted under United Nations auspices".

The Government of Pakistan further notes that in the telegram under reply, the President of the Security Council recalling "the request contained in the resolution of 30 March that the parties create and maintain an atmosphere favourable to the promotion of further negotiations" and that they "refrain from any action likely to prejudice a just and peaceful settlement" has called upon the Governments of India and Pakistan to "do everything in their power to ensure that the authorities in Kashmir do not disregard the Council or act in a manner which would prejudice the determination of the future accession of the State in accordance with the procedures provided for in the resolutions of the Council and of the United Nations Commission for India and Pakistan."

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3. The Security Council would recall that, throughout the period that the Kashmir dispute has been before it, the Government of Pakistan has fully co-operated with the Security Council in its efforts to give effect to the agreed settlement of the Kashmir dispute viz. the determination of the question of the accession of the State to India or to Pakistan by a free and impartial plebiscite conducted under United Nations auspices. Pakistan has repeatedly reaffirmed its acceptance of the UNCIP resolutions of 13 August 1948 and 5 January 1949 and has accepted every subsequent proposal made by the Security Council to give effect to this solemn international agreement.

4. Unfortunately, the same cannot be said of the Government of India. Ever since the conclusion of the International Agreement contained in the UNCIP resolutions of 13 August 1948 and 5 January 1949 the Government of India, in an effort to wriggle out of its commitments, has been persistently and deliberately wrecking the efforts of the Security Council, its organs and representatives, as well as of friendly agencies outside the United Nations, to secure implementation of the agreement. It has publicly declared its intention not to co-operate in any way with the United Nations Representative in the implementation of the Security Council's resolution of 30 March 1951, and is conspiring with the Maharaja's Government and Sheikh Abdullah to torpedo the international agreement regarding Jammu and Kashmir by convening a puppet Constituent Assembly, elected under the shadow of Indian bayonets, to determine the "future shape and affiliations" of the State.

5. It will be recalled that in the preamble to its resolution of 30 March 1951, the Security Council affirmed "that the convening of a Constituent Assembly", as well as "any action that Assembly might attempt to take to determine the future shape and affiliations of the entire State or any part thereof" would not constitute a disposition of the State in accordance with "the principles embodied in the resolutions of the Security Council and UNCIP." Paragraph 8 of the resolution called upon the Governments of India and Pakistan "to take all possible measures to ensure the creation and maintenance of an atmosphere favourable to the promotion of further negotiations and to refrain from any action likely to prejudice a just and peaceful settlement".

6. The Indian representative sought to assure the Security Council that the Constituent Assembly "is not intended to prejudice the issues before the Security Council, or to come in its way", and that while the Assembly may "express an opinion" on the question of accession, "it can take no decision on it".

7. The Security Council was not satisfied with these assurances. Almost all the members who took part in the discussions preceding the adoption of the resolution of 30 March 1951, expressed their grave apprehensions regarding the step contemplated by the Maharaja's Government, and appealed to India to prevent its adoption.

(1) On 21 March 1951 the distinguished representative of the United Kingdom expressed his concern in the following terms -

"I wish I could say to the Council that we feel satisfied from what the representative of India has said that the Government of Pakistan has no cause for disquiet in respect of the proposed Constituent Assembly. Indeed, if it had not been for a series of disturbing pronouncements by Sheikh Abdullah and by Ministers of the Government of India and of the Kashmir State Government, the Council would probably have felt that what the representative of India has told the Council was a sufficient guarantee that nothing would be done by the Constituent Assembly which would in any way prejudice the settlement of the future accession of Kashmir in the manner to which the two Governments and this Council are committed,

"But when the Council is confronted with a statement by the Prime Minister of the Kashmir State Government that 'without caring for the opposition of Pakistan, Britain and America, the proposed Constituent Assembly for the State will be set up on the due date to decide all big issues including accession', the view of the Government of India as stated by its representative 'that while the Constituent Assembly may, if it so desires, express an opinion on this question it can take no decision on it' does not hold out any real promise that the Government of India will take all steps possible to prevent the Kashmir State Government from action which must inevitably

prejudice the work of the United Nations in settling this dispute. I, therefore, wish to make a further earnest appeal to the representative of India to make clear beyond all doubt that his Government will do everything in its power to prevent action which will damage the work of the Council of which he himself is so distinguished a member". (S/PV/537, pp. 11-12)

(11) The distinguished representative of Turkey, observing that a free and impartial plebiscite conducted under the auspices of the United Nations was the only way to bring about a just solution of the question of Jammu and Kashmir, added "once we have accepted this principle, we must also admit that such measures as convening a Constituent Assembly which will not be representative of the whole territory, in order to decide the future of the State, would not be in harmony with this principle". (S/PV/538, p. 56)

(111) The distinguished representative of China felt that the convening of a Constituent Assembly would be a prejudicial act and made the following remarks in this regard on 30 March 1951.

"In the first place, a constitution adopted before the plebiscite would have the tendency, or at least the appearance of having the tendency, of making a formal definite relationship of Kashmir to India. In the second place, the constitutional provision which the Constituent Assembly may adopt may dovetail the State political structure of Kashmir so closely to the State political structure of India as to signify definite accession. Such tendencies or appearances may arouse suspicions and passions which may make the solution of the problem more difficult than it is now". (S/PV/539, p. 21)

(iv) The distinguished representative of Ecuador pointed out that "in the present circumstances the Constituent Assembly of Jammu and Kashmir cannot be considered as representing the people as a whole or as a free manifestation of the people's will, and the decisions of such an assembly can neither change nor deprive of their effect the international undertakings entered into by India and Pakistan in respect of the plebiscite". (S/PV/539, pp. 6-7)

(v) The distinguished representative of the United States, after pointing out that the question of the final disposition of the State of Jammu and Kashmir was an international question with which the Security Council had been seized for more than three years, concluded that the Council "should be entitled to assume that the Government of India will prevent the Government of Kashmir from taking action which would interfere with the responsibilities of this Council". (S/PV/537, p. 27).

8. The Council's resolution of 30 March 1951 was accepted by Pakistan; rejected by India. The Government of India went a step further. On 30 April 1951, the day on which the Security Council approved the appointment of Dr. Frank Graham as the new United Nations Representative, the Yuvaraja of Kashmir issued a proclamation convocing the Constituent Assembly. In my letter dated 4 May 1951 (S/2119) I drew the attention of the Security Council to this serious development and requested the Council to "take adequate measures to stop the Government of India and the authorities concerned in the State of Jammu and Kashmir from pursuing a course of action which, besides prejudicing further negotiations for the implementation of the International Agreement, is bound to create an explosive situation charged with grave possibilities affecting the maintenance of international peace".

9. The verbatim record of the 548th meeting of the Security Council held on 29 May 1951 in which the Council considered my letter, has now been received and has been carefully considered by the Government of Pakistan. A perusal of the record shows that the Indian representative has merely repeated the identical assurances that were previously given by Sir B. N. Rau during the course of the debate preceding the adoption of 30 March 1951 resolution by the Security Council, with which the members of the Council were at that time neither satisfied nor reassured. The Government of Pakistan regrets to observe that instead of condemning the move, and calling upon India and the Maharaja's Government not to proceed with the convocing of the Constituent Assembly, the Security Council has now expressed satisfaction at the so-called assurances given by the Indian representative that the Constituent Assembly was "not intended to prejudice the issues before the Security Council or to come in its way".

10. The Security Council appears to have been misled into believing that the proposal to convene a Constituent Assembly in Kashmir was only the act of the Maharaja's Government and that India was not a party to it. This is by no means the case. No less an authority than the Prime Minister of India has been reported to have declared in a speech at Srinagar on 4 June 1951, that "the Constituent Assembly was being convened by the Government of the State with the full approval of the Government of India". He added that, notwithstanding what had been said by the Security Council, India and the Maharaja's Government would "continue the necessary preparations for the holding of the Constituent Assembly".

The Prime Minister of India is also reported to have stated that India "would not co-operate in any way in the implementation of the resolution of the Security Council of 30 March 1951, which it has not accepted". This statement was reiterated at a press conference held in New Delhi on 11 June 1951, in the course of which India's Prime Minister is also reported to have said "that no country had any business to interfere with what India or Shoikh Abdullah's Government did in Kashmir", and that the Government of India would "tolerate no nonsense about Kashmir, come what may".

11. In the face of these defiant declarations, it is idle to hope that the Government of India and the Maharaja's Government would help to create and maintain "an atmosphere favourable to the promotion of further negotiations", or that they will "refrain from any action likely to prejudice a just and peaceful settlement" of the Kashmir dispute. The proposal to convene a Constituent Assembly is not only a prejudicial act, but is deliberately designed to by-pass the United Nations and to prevent the holding of a free and impartial plebiscite.

12. It would thus appear that the attempt of the Security Council to persuade the Government of India to stop the Kashmir State Government from convening a Constituent Assembly in the State has not proved successful and the President of the Council's communication in this regard dated 29 May 1951 has been treated with scant respect by the Government of India. On the contrary, the Government of India in collusion with the Maharaja's Government is persisting in action

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which is patently opposed to the clear provisions of the Security Council's resolution of 30 March 1951.

13. The Government of Pakistan feels that if the Government of India is permitted to pursue the course it has set before itself, this would undermine all chances of a pacific settlement of the Kashmir dispute and would lead to the creation of a grave threat to international peace.

14. The Government of Pakistan is constrained to observe that the hesitancy of the Security Council to assert its authority and to enforce its resolutions relating to Kashmir, has encouraged the Government of India and Sheikh Abdullah to persist in their intransigence, and has immensely increased the difficulties which the United Nations Representative will have to face in discharging the mission entrusted to him. The Government of Pakistan is also firmly of the opinion that there will be no just and peaceful settlement of the Kashmir dispute until the resolutions of the Security Council and UNCIP providing for a free and impartial plebiscite are faithfully implemented, and until everyone is made to realize that international commitments and obligations cannot be broken or repudiated with impunity.

15. In view of these facts the Government of Pakistan would again respectfully, but strongly, urge the Security Council to retrieve the situation by taking effective and adequate measures to stop the Government of India and the authorities concerned in the Jammu and Kashmir State from convening the proposed Constituent Assembly.

16. On its part the Government of Pakistan wishes to reassure the Security Council that, consistent with its past policy, it would continue to honour the obligations accepted by it under the UNCIP resolutions of 13 August 1948 and 5 January 1949 and would extend to the United Nations Representative its full co-operation and support in the discharge of his mission.

(Signed) ZAFRULLA KHAN  
Minister of Foreign Affairs  
and Commonwealth Relations