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LETTER DATED 8 APRIL 1971 FROM THE PERMANENT REPRESENTATIVE OF INDIA TO
THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the Permanent Representative of Pakistan's letter of 13 February 1971 (S/10116) and, in reply thereof, to state as follows:

My Government has viewed with concern and amazement the attempt made by the Permanent Representative of Pakistan in his letter to magnify a situation far beyond its true proportions, to suppress the truth and to implant a number of mis-statements.

2. This letter from the Permanent Representative of Pakistan would not merit a lengthy reply but for the necessity to expose some of the gross mis-statements made in it, as follows:

(A) Contrary to the assertion made by the Permanent Representative of Pakistan, the Government of Pakistan never deplored the act of hijacking of the Indian Airlines aircraft.

(B) Contrary again to the claim made in the letter under reference, Pakistan authorities delayed the return of the passengers and the crew to India - a distance of 36 miles - by 50 hours, citing difficulties which are not confirmed by eye-witnesses, and they have failed to return the baggage, cargo, mail and other contents of the hijacked aircraft.

(C) Contrary once more to the statement made in the letter in question, the Pakistan authorities made no effort to disarm and dislodge the hijackers from the aircraft and to take them into custody; on the other hand, they aided and encouraged them in various ways - not the least of which was the act of transmitting their so-called demands to my Government.

3. The serious concern of my Government over the possibility of the crime of air piracy being committed in the air space of the Indo-Pak sub-continent was communicated to the Government of Pakistan last year. On 1 September 1971 the

High Commissioner for Pakistan at New Delhi was informed by my Government that there was reliable information that there existed a conspiracy in Pakistan to hijack Indian aircraft to Pakistan. The High Commissioner was requested to convey this information to his Government with the request that they take necessary measures to prevent such a happening. Instead of taking action as requested by my Government, the Government of Pakistan simply asked for disclosure of the source of information. After careful consideration of the sequence of facts and circumstances of the incident of the hijacking of the Indian aircraft to Pakistan and its deliberate destruction, my Government came to the conclusion that there was active and direct complicity of the Pakistan authorities, not only in the hijacking of the aircraft but also in its eventual destruction by burning which, curiously enough, was televised by the Government-controlled Lahore station of Pakistan Television, by extending its normal programme by half an hour. The grounds and the conclusion were communicated in clear terms to the Government of Pakistan in the note dated 9 February 1971 (copy enclosed).

4. The President of the Council of ICAO was informed by my Government on 1 February 1971 about the hijacking, and to the best knowledge of my Government, Pakistan has yet to take action on the suggestions made by him to the Pakistan authorities. I enclose a copy of the message sent by the President of the Council of ICAO.

5. In suspending overflights by Pakistan civil and military aircraft, the Government of India acted in the interest of maintaining the minimum necessary standards of safety and security of international civil aviation against hijacking and its attendant dangers to life and property. It is universally acknowledged that a material breach by a State of its obligations arising from treaties and agreements entitles a party specially affected by the breach to invoke it as grounds for suspending the operations of the rights and obligations flowing from the treaty, in whole or in part, in the relations between itself and the defaulting State. Pakistan cannot, therefore, take advantage of its own default and pose itself as an aggrieved party, after violating its own international obligations. India has not prohibited overflights by aircraft of any other State except Pakistan as no other country has engaged in conduct similar to that of Pakistan. Freedom of transit and transport is extended in the context of the broad and universally

accepted objective of fostering international friendship and good neighbourliness. This particular objective has unfortunately been totally negated by Pakistan in the pursuit of its policy of hostility towards my country. It will be recalled that after the unfortunate conflict of August-September 1965, my Government had, on a specific request from the then President of Pakistan, agreed to the resumption of overflights even without insisting on prior normalization of relations - which it would have been well within its rights to do. Pakistan has, much to our regret, reciprocated this unilateral gesture of friendship with only a continuation of its policy of confrontation and interference in our internal affairs.

6. I have been instructed also to place on record my Government's position that the situation arising out of Pakistan's complicity in the hijacking and wanton destruction of our aircraft is a matter entirely amenable to settlement through bilateral negotiations. This has been reiterated in my Government's communication to the Pakistan Government dated 3 March 1971 (copy enclosed).

7. I have, for obvious reasons, refrained from engaging in an argument over the irrelevant and extraneous matter introduced by the Permanent Representative of Pakistan for the purpose of confusing the issue. It will no doubt be observed that the allegation of a "serious situation" being created by my Government has no substance in fact; indeed, the situation itself can be resolved through Pakistan fulfilling its obligation and entering into purposeful negotiations with my Government with the object of arriving at a settlement, and not with that of increasing tension.

8. I request that this letter be circulated as a Security Council document.

(Signed) S. SEN

MINISTRY OF EXTERNAL AFFAIRS

No. PSP/411/6/71

New Delhi, 9 February 1971

The Ministry of External Affairs presents its compliments to the High Commission for Pakistan in India and with reference to the Note-Verbale dated 5 February 1971, handed over to the High Commissioner for India, by the Ministry of Foreign Affairs of the Government of Pakistan, has the honour to state as follows:

The Government of India categorically reject the disclaimer of the Government of Pakistan of their responsibility for and involvement in the crime of hijacking of the Indian Airlines aircraft to Lahore airport, on 30 January 1971, and its blowing up on 2 February 1971. Instead of showing a willingness to settle the matter amicably and agreeing to pay compensation for the loss and damage caused, the Government of Pakistan have sought to confuse the issue by introducing wholly extraneous matters and have even gone to the extent of questioning the sovereignty and territorial integrity of India. The Government of India regard this attitude of the Government of Pakistan as totally unco-operative, negative and obstructive. If the Government of Pakistan are not willing to settle the matter of compensation and to return the two hijackers to face their trial in India, the situation may deteriorate, and Government of Pakistan will be wholly responsible for any consequences that may follow.

The Government of India are fully convinced, on the basis of evidence, that the premeditated criminal act of hijacking and wanton destruction of the Indian Airlines aircraft within the protected area of Lahore International Airport was the direct result of the Government of Pakistan having permitted their territory to be used for instigating, abetting and encouraging unlawful and subversive activities against India. The Government of India wish to remind the Government of Pakistan that on 1 September 1970, they had informed the Government of Pakistan through their High Commissioner in New Delhi about the existence of a conspiracy in Pakistan to hijack Indian aircraft to that country. It was because of the active involvement of agencies of the Government of Pakistan in such subversive activities that the Government of India had recently to declare a member of the diplomatic personnel of the Pakistan High Commission in India persona non grata.

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The responsibility of the Government of Pakistan for the criminal hijacking and deliberate destruction of the Indian Airlines aircraft is borne out, inter alia, by the following facts:

- (i) The Government of Pakistan gave asylum to the two self-confessed criminals even while they were threatening to blow up the plane and before they had been disarmed and had surrendered themselves to the Pakistan authorities;
- (ii) They have publicly expressed their solidarity with these criminals and their associates;
- (iii) They refused to disarm the hijackers and take them into custody;
- (iv) They failed to take adequate measures to protect the aircraft and its contents;
- (v) They permitted the two criminals to move and act freely in the airport area and terminal building, including making long-distance telephone calls to their accomplices in Pakistan and meeting political leaders like Mr. Z.A. Bhutto, Mian Mahmood Ali Kasuri, etc., journalists and others freely;
- (vi) The criminals were provided with food and other amenities for three and a half days, thus facilitating their continued unlawful occupation of the plane;
- (vii) The Lahore Station of Pakistan TV - a Government organization - was obviously with foreknowledge, able to film and later televise the entire sequence of the blowing up of the aircraft;
- (viii) The two criminals, even after they had come out of the aircraft, were allowed to prevent the local Fire Brigade from fighting the flames engulfing the aircraft;
- (ix) Crowds were permitted to congregate in the protected area of an international airport when the authorities had all the resources of a Martial Law administration available to them;
- (x) The two criminals were allowed to destroy the aircraft in full view of the troops, police and other airport personnel; and
- (xi) The Government of Pakistan created unnecessary delays and difficulties frustrating the attempts of the Government of India to be of assistance in bringing back to India the passengers, crew and contents of the aircraft besides the aircraft itself.

The conduct of the Government of Pakistan in relation to this act of air piracy compelled the Government of India to enforce certain measures for ensuring safety of aviation and the restoration of public confidence in air transit. Accordingly, they were compelled to reroute their own services to avoid overflying Pakistan and to suspend overflights across Indian territory by Pakistan aircraft, both civil and military. The violation by the Government of Pakistan of their international obligations under the Tokyo Convention of 1963 on Certain Offences on Board Aircraft, the Solemn Declaration of the Extraordinary Session of the Assembly of the International Civil Aviation Organization held at Montreal in June 1970, the United Nations General Assembly resolution 2645 (XXV), and the Hague Convention of December 1970, and their failure even now to give compensation for the loss and damage caused to India and to prosecute the two hijackers and return them to India make it clear that the Government of Pakistan are not willing to ensure the safety and security of aviation and air transit over the sub-continent. It is therefore necessary to continue these restrictions until the Government of Pakistan accept their responsibility and make amends for what has been done and give assurances about the future.

The Government of India are amazed at the accusation made by the Government of Pakistan that India's action will interfere in the carriage of essential supplies for relief work in East Pakistan. They would like to remind the Government of Pakistan that they had given the extraordinary facilities of a blanket clearance, covering unrestricted number of overflights, even at night, by Pakistan Air Force aircraft across Indian territory, for ferrying relief supplies to East Pakistan, for a period of over two months. Further, it was the Government of Pakistan that created all kinds of difficulties and obstructions in the way of commencing and maintaining the deliveries of relief supplies from India for the cyclone-affected people of East Pakistan. In any case, if the Government of Pakistan wish to fly any relief supplies to East Pakistan, they can still do so in foreign aircraft. Instead of accusing the Government of India, the Government of Pakistan should ponder whether through their wilful interference in the internal affairs of India they are not creating a situation of confrontation which is not in the interests of the people of India or Pakistan.

The Government of India take serious objection to the reference to the internal affairs of India in the note under reference, and wish to remind the Government of Pakistan of their obligation to vacate their aggression on Indian territory in the Indian State of Jammu and Kashmir. If the Government of Pakistan persists in its attitude of openly or clandestinely interfering in India's internal affairs, they will be wholly responsible for the consequences of this policy.

The Government of India categorically reject the insinuation in the same note that the Pakistan High Commission in India and its personnel were deliberately subjected to demonstrations, and draw the attention of the Government of Pakistan to the extraordinary behaviour of the personnel of the mission whose fusillade of brickbats and bottles injured the police and other personnel engaged in the duty of protecting the mission and its personnel. The Government of Pakistan should realize that these spontaneous demonstrations were only a natural expression of the indignation of all sections of the Indian people against the deliberate provocation of the Government of Pakistan. The Government of India categorically deny that any member of the Pakistani mission was injured or even touched by the demonstrators. The Government of India had assured the Pakistani mission that all possible measures had been taken and would continue to be taken to safeguard their security and this assurance has been fully implemented by the Government of India through the very elaborate preventive measures they took.

The demands made by the Government of India are logical and simple: first, the Government of India should be compensated for the loss of the aircraft, and secondly, the two criminals who hijacked the aircraft should be surrendered to Indian authorities so that they can stand their trial.

The Ministry of External Affairs avail themselves of this opportunity to renew to the High Commission of Pakistan in India the assurances of their highest consideration.

9 February 1971.

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MINISTRY OF EXTERNAL AFFAIRS

No. PSP/411/6/71

New Delhi-11, 3 March 1971

The Ministry of External Affairs presents its compliments to the High Commission for Pakistan in India and, with reference to Note dated 13 February 1971 handed over to the High Commission for India in Islamabad by the Ministry of Foreign Affairs, Government of Pakistan, has the honour to state as follows:

2. The Government of India regret to note that instead of making any effort to seek an amicable settlement of the situation arising from the hijacking and eventual destruction of the IAC aircraft on the lines suggested in the note of 9 February 1971, the Government of Pakistan have again sought to confuse the issue by introducing extraneous and irrelevant matters and by making obviously incorrect statements, e.g. that Indian aircraft continued to overfly Pakistan even after overflights by Pakistani aircraft had been banned. The Government of Pakistan are well aware that overflights of Pakistan territory by Indian aircraft had completely ceased before the ban in question was imposed.

3. The Government of India have already stated their position to the Government of Pakistan. The Government of Pakistan's failure to deal with the two hijackers and the manner in which they have dealt with the whole matter cannot but be an open encouragement to the repetition of such criminal acts in future.

4. The Government of India wish to remind the Government of Pakistan that after the Indo-Pakistan conflict of August/September 1965, they would have been well within their right to disallow the resumption of overflights so long as relations between India and Pakistan had not been fully normalized. However, on a specific request made by the then President of Pakistan, the Government of India agreed, in February 1966, to forego their right to demand prior settlement of outstanding issues and consented to resume mutual overflights. Such overflights by the scheduled services of the civil airlines of one country across the territory of another are, as the Government of Pakistan are aware, a matter of privilege. They constitute a facet of the normal relations between the countries concerned and the privilege in question is extended in the context of the broad and universally accepted objective of fostering better relations and friendliness within the family of nations. In this context, the Government of India would reiterate that

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the hijacking of the IAC aircraft and its destruction were the direct result of the policy of confrontation and interference pursued by the Government of Pakistan over the years. In the circumstances, the Government of India are constrained to conclude that the hostile policy of the Government of Pakistan against India and the manner in which they have dealt with the recent hijacking of the Indian aircraft pose a direct threat to the safety of aviation and air transit and the national security of India. The Government of India are therefore perfectly within their right to demand action against the hijackers, compensation for loss and adequate assurances from the Government of Pakistan regarding the future.

5. The Government of India take serious objection to the slanderous accusations contained in the note under reply and categorically reject them. They further wish to state that should the Government of Pakistan genuinely desire an amicable settlement of the present question and restoration of normal relations, they should refrain from interfering in our internal affairs. On their part, the Government of India would be willing to receive from the Government of Pakistan directly through normal diplomatic channels any concrete indications of the willingness of the Government of Pakistan to proceed towards a settlement of the question of compensation for the loss of the IAC aircraft, the punishment of the two criminals who hijacked it and adequate assurances regarding the future.

6. The Ministry of External Affairs avails itself of this opportunity to renew to the High Commission of Pakistan in India the assurances of its highest consideration.

The High Commission of Pakistan in India,
New Delhi

MESSAGE SENT BY THE PRESIDENT OF THE COUNCIL OF INTERNATIONAL
CIVIL AVIATION ORGANIZATION TO DIRECTOR GENERAL CIVIL AVIATION,
KARACHI, PAKISTAN

Regarding unlawful seizure Indian Airlines aircraft. Confident Pakistan acting in accordance with ICAO Assembly Resolution A17-5. Has permitted or will permit aircraft, occupants and cargo continue their journey immediately. Would appreciate your information regarding present situation. I am also very concerned by possibility proliferation hijacking in that part of the world unless severe measures taken. Therefore trust Pakistan will follow Assembly Declaration A17-1 and prosecute perpetrators so as to deter repetition similar acts.
