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LETTER DATED 5 MAY 1954 FROM THE REPRESENTATIVE OF ISRAEL ADDRESSED TO
THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to draw attention to the observations which I made at the 670th meeting of the Security Council concerning Jordan's obligations under Article 32 and Article 35 (2) of the United Nations Charter.

I enclose the relevant passage from the verbatim record of yesterday's session.

My Government would be glad to have assurance that the conditions laid down in Article 35 (2) for the discussion of a complaint by a non-Member State against a Member State have been fulfilled.

I have the honour to request that this letter be circulated to all members of the Security Council.

Accept, Sir, etc.

(Signed) Abba Eban
Ambassador and Permanent
Representative of Israel
to the United Nations

Relevant Passage from Verbatim Record of the 670th
Meeting of the Security Council
4 May, 1954.

"... I would only, in concluding, invite the Security Council's attention to a preliminary matter of great political and juridical importance which I think should be clarified at an early stage. I refer to the status and obligations of Israel and Jordan in this discussion, with special reference to Article 35, paragraph 2 of the United Nations Charter.

The position is that the Government of Jordan has brought to the Security Council's attention a dispute with the Government of Israel. The letter from the Representative of Lebanon, dated 1 April 1954, makes it clear that the first item on the agenda has been submitted on behalf of the Government of Jordan as a complaint against the Government of Israel. My delegation, too, has presented a series of complaints which constitute a dispute between Israel and Jordan within the framework of a treaty by which both States are bound. A member of the United Nations, in bringing such disputes to the Security Council, is, of course, bound to accept the condition of pacific settlement provided in the Charter. That obligation is inherent in membership of the United Nations.

The Charter lays down precise conditions, which I hereby invoke, for the discussion of disputes in the Security Council between Member and non-Member States. These conditions seek to create equality of obligation between those who are bound by the Charter and those who are not. I shall first quote Article 32 of the Charter:

'... any State which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a State which is not a Member of the United Nations.'

Certain statutory conditions for such participation are prescribed in Article 35, paragraph 2 of the Charter, which reads:

'A State which is not a Member of the United Nations may bring to the attention of the Security Council ... any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.'

I wish formally and officially to enquire whether, in inviting a Jordan representative to the Security Council for the purpose of presenting a complaint against Israel, the Council has satisfied itself that Article 35, paragraph 2 has been complied with; that is, whether the Government of Jordan has given notice, or will give notice, that it accepts in advance the obligations of pacific settlement provided in the Charter. If this indispensable legal condition is not complied with, we should surely be following an abnormal and unprecedented course - abnormal because the Charter's injunctions would not have been met; unprecedented because in all similar cases the Security Council has required and received an indication of readiness by a non-Member State to accept the obligations of pacific settlement provided in the Charter. Thus, in 1950, the Hashemite Kingdom of the Jordan brought a complaint against Israel to the Security Council, alleging that Israel's occupation of Naharayim did not conform with the Armistice Agreement. In admitting this complaint to the agenda and inviting a Jordan representative to present the complaint against Israel, the President of the Security Council, Mr. Warren Austin, the United States representative, made the following statement at the Security Council's 511th meeting:

'An appropriate document has been filed by the representative of the Hashemite Kingdom of the Jordan, in conformity with Article 32 and Article 35, paragraph 2 of the Charter, wherein this State has undertaken the obligations for pacific settlement provided in the Charter.' (Official records, Security Council, fifth year, 511th meeting, page 2).

It is clear, then, that Sir Pierson's distinguished predecessor correctly regarded, at the 511th meeting, the filing of such a document as an indispensable condition for the admission of a complaint by Jordan against Israel.

It is of the utmost importance for my Government to ensure that its juridical rights are not overlooked. If we are to discuss a Jordan complaint, as we wish to do, we should do so on equal terms of obligation and in strict conformity with the Charter. If for any inadvertent reason this condition has not yet been fulfilled, I respectfully request, in the interests of legality and equity, that the Jordan representative should be invited to fulfil the condition referred to in Article 35, paragraph 2 of the Charter. I am sure that this will not cause any difficulty, because it is exactly what was done in a similar case in 1950.

In view of the proposals for pacific settlement which may arise during the course of this discussion, it is especially important that the acceptance by both parties of the obligations of pacific settlement provided in the Charter should be duly enunciated. Accordingly, I wish to seek an assurance, through the President, that Article 35, paragraph 2 of the Charter has been or will be complied with."
