



UNITED NATIONS
SECURITY
COUNCIL



Distr.
GENERAL

S/5263
18 March 1963

ORIGINAL: ENGLISH

LETTER DATED 16 MARCH 1963 FROM THE CHARGE D'AFFAIRES OF THE DELEGATION
OF INDIA ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Under instructions from my Government, I have the honour to draw the attention of the Security Council to the Sino-Pakistan border agreement, signed in Peking on 2 March 1963, which unlawfully apports part of the Indian Union territory in Jammu and Kashmir between the two signatories viz., Pakistan and China. A copy of the agreement is enclosed.

2. As the Council is aware, the situation created by Pakistani aggression in this part of India has been under its consideration ever since India's complaint was lodged with the Council in January, 1948. In spite of the Government of Pakistan's earlier denials, the Council's own agencies, like the UN Commission, and the Council's representatives, like Sir Owen Dixon, came to the conclusion that Pakistan had first aided and assisted its nationals in invading Jammu and Kashmir and then sent its armed forces into the State. This was a violation of Indian sovereignty and of the Security Council resolution dated 17 January 1948, which both Pakistan and India had accepted. The Council, therefore, approved the UN Commission resolution of 13 August 1948, which made a specific provision for the vacation of Pakistani aggression in the following clear terms:

"As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State."

Sir Mohammed Zafrullah Khan, Pakistan Representative, stated in the Security Council on 1 February 1962, that Pakistan was committed to the withdrawal of its forces from Jammu and Kashmir. In spite of this commitment imposed by the Council on the Government of Pakistan, it is well known that Pakistani aggression continues, and has continued for fifteen years.

3. Apart from the continuing violation referred to in the preceding paragraph, the Government of Pakistan have again violated the resolution of the Security Council dated 17 January 1948, by entering into an Agreement with the Government of China on the boundary between China's Sinkiang and Pakistan-occupied territory of the State of Jammu and Kashmir. That this has been done deliberately and in the full knowledge that it involves violation of India's sovereignty and of the resolution of the Security Council dated 17 January 1948, is clear from the facts stated in the following paragraphs 4, 5 and 6.

4. On 3 December 1959, the Permanent Representative of Pakistan to the United Nations, in a letter addressed to the President of the Security Council (S/4242), while referring to the Chinese aggression in Ladakh and India's attempts to get this vacated by peaceful discussions stated that "No positions taken or adjustments made by either of the parties to the present controversy between India and China or any similar controversy in the future, shall be valid or affect the status of the territory of Jammu and Kashmir ...". This view was reiterated by him in another letter dated 25 March 1960 (S/4278), addressed to the President of the Security Council. And yet, the Government of Pakistan, contrary to this stand of theirs, have now chosen to enter into this Agreement with the Government of China in violation of the status of the territory of Jammu and Kashmir and the resolution of the Security Council dated 17 January 1948, accepted by the Governments of India and Pakistan.

5. The Government of Pakistan, first, informally sounded China and then sent a diplomatic note, on 28 March 1961, expressing their desire to negotiate an agreement on the demarcation of this boundary. The Chinese Government reacted formally to this offer in February, 1962. On 3 May 1962, the Governments of Pakistan and China issued a joint communique, in which they agreed to conduct negotiations on this subject. The Government of India formally protested to the Government of Pakistan against this development. Copy of this protest note is attached. It would also be relevant to point out that the Indian representative in the Security Council had stated the Government of India's position, authoritatively, during the debates on Kashmir on 4 May 1962 and 22 June 1962. In his statement on 4 May, he said:

/...

"Pakistan has entered into an agreement, if the communique is true, with China, in order to settle our borders. I have said they have no right to dispose of property that is not theirs, and I want to say here on behalf of the Government of India that we shall not be bound by any agreement they may reach, temporarily, permanently or in any other way. We shall not be bound by it or by any agreement in which conditions are created inimical to the security of India. I want to submit that it is a violation of international law and a disregard of the resolutions of the Security Council to trade in the sovereignty of our territory." (S/FV.1011)

6. On 26 December 1962, i.e. on the eve of the Indo-Pakistan talks on Kashmir and other related matters, the Governments of China and Pakistan chose to announce an agreement, in principle, on the alignment of the boundary of Pakistan-occupied Kashmir with Sinkiang. The leader of the Indian delegation pointed out the illegality of such an agreement to Field Marshal Ayub Khan, the President of Pakistan, and Mr. Z.A. Bhutto, the leader of the Pakistan delegation. On 26 January, the Government of India lodged a formal protest against the "agreement in principle" with the Government of Pakistan. In spite of their having been made aware of the illegality of the contemplated agreement, the Government of Pakistan have signed an agreement with China about an area in which both these countries have no locus standi, except that of aggressors. The Government of India lodged a protest, against the signing of this agreement, with the Government of Pakistan on 5 March 1963. Copies of these protest notes are attached for reference.

7. In view of the conflicting claims by Pakistan, it is not clear how much Indian territory Pakistan has unlawfully ceded to China, although it is known to be not less than 2,000 square miles. The agreement claims to be provisional, and yet it is not subject to ratifications.

8. By signing this agreement, the Government of Pakistan has unilaterally altered, not only in its own favour but also in favour of another aggressor, China, the basis of the Security Council resolution of 17 January 1948, and the UN Commission resolution of 13 August 1949. The aggressor on whom an obligation had been imposed to vacate his aggression has not only assumed ownership of the part he has unlawfully occupied by invasion, but has traded in the sovereignty of Indian territory, in collusion with China, to the detriment of the territorial integrity and the security of India.

9. It is requested that this communication be brought to the notice of the members of the Security Council.

Please accept, etc.

(Signed) A.B. BHATKAMKAR
Chargé d'Affaires

AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S
REPUBLIC OF CHINA AND THE GOVERNMENT OF PAKISTAN
ON THE BOUNDARY BETWEEN CHINA'S SINKIANG AND THE
CONTIGUCUS AREAS, THE DEFENCE OF WHICH IS UNDER
THE ACTUAL CONTROL OF PAKISTAN

The Government of the People's Republic of China and the Government of Pakistan,

Having agreed, with a view to ensuring the prevailing peace and tranquillity on the border, to formally delimit and demarcate the boundary between China's Sinkiang and the contiguous areas, the defence of which is under the actual control of Pakistan, in a spirit of fairness, reasonableness, mutual understanding and mutual accommodation, and on the basis of Ten Principles, as enunciated in the Bandung Conference;

Being convinced that this would not only give full expression to the desire of the peoples of China and Pakistan for developing good-neighbourly and friendly relations, but also help safeguard Asian and world peace;

Have resolved for this purpose to conclude the present Agreement and appointed as their respective plenipotentiaries, the following:

Marshal Chen Yi, Minister for Foreign Affairs, for the Government of the People's Republic of China,

Zulfiqar Ali Bhutto, Minister of External Affairs, for the Government of Pakistan,

Who, having mutually examined their full powers, found them to be in good and due form, have agreed upon the following:

Article One

In view of the fact that the boundary between China's Sinkiang and the contiguous areas, the defence of which is under the actual control of Pakistan, has never been formally delimited, the two Parties agree to delimit it on the basis of the traditional customary boundary line, including natural features, and in a spirit of equality, mutual benefit and friendly co-operation.

Article Two

I. In accordance with the principle expounded in Article One of the present Agreement, the two parties have fixed, as follows, the alignment of the entire boundary line between Chinese Sinkiang and the contiguous areas, the defence of which is under the actual control of Pakistan.

(1) Commencing from its north-western extremity at height 5,630 metres (a peak, the reference co-ordinates of which are approximately longitude $74^{\circ}34'E$ and latitude $37^{\circ}03'N$), the boundary line runs generally eastward and then south-eastward strictly along the main watershed between the tributaries of the Tashkurgan River of the Tarim River system on the one hand and the tributaries of the Hunza River of the Indus River system on the other hand, passing through the Kilik Daban (Dawan), the Mintaka Daban (Pass), the Kharchanai Daban (named on the Chinese map only), the Kutejilga Daban (named on the Chinese map only), and the Parpik Pass (named on the Pakistan map only), and reaches the Khunjerab (Yutr) Daban (Pass).

(2) After passing through the Khunjerab (Yutr) Daban (Pass) the boundary line runs generally southward along the above-mentioned main watershed up to a mountain-top south of the Daban (Pass), where it leaves the main watershed to follow the crest of a spur lying generally in a south-easterly direction, which is the watershed between the Akujiga River (a nameless corresponding river on the Pakistan map) on the one hand, and the Taghdumbash (Oprang River) and the Keliman Su (Oprang Jilga) on the other hand. According to the map of the Chinese side, the boundary line, after leaving the south-eastern extremity of this spur, runs along a small section of the middle line of the bed of the Keliman Su to reach its confluence with the Kelechin River. According to the map of the Pakistan side, the boundary line, after leaving the south-eastern extremity of this spur reaches the sharp bend of the Shaksgam or Muztagh River.

(3) From the aforesaid point, the boundary line runs up the Kelechin River (Shaksgam or Muztagh River) along the middle line of its bed to its confluence (reference co-ordinates approximately longitude $76^{\circ}02'E$ and latitude $36^{\circ}26'N$) with the Sorbulak Daris Shimshal River or Braldu River.

(4) From the confluence of the aforesaid two rivers, the boundary line, according to the map of the Chinese side, ascends the crest of a spur and runs along it to join the Karakoram Range main watershed at a mountain-top (reference co-ordinates approximately longitude $75^{\circ}54'E$ and latitude $36^{\circ}15'N$), which on this map is shown as belonging to the Shorbulak Mountain. According to the map of the Pakistan side, the boundary line from the confluence of the above-mentioned two rivers ascends the crest of a corresponding spur and runs along it, passing height 620 metres (21,390 feet) until it joins the Karakoram Range main watershed at a peak (reference co-ordinates approximately longitude $75^{\circ}57'E$ and latitude $36^{\circ}03'N$).

(5) Thence, the boundary line, running generally southward and then eastward, strictly follows the Karakoram Range main watershed which separates the Tarim River drainage system from the Indus River drainage system, passing through the East Mustagh Pass (Muztagh Pass), the top of the Chogri Peak (K2), the top of the Broad Peak, the top of the Gasherbrum Mountain (8068), Indirakoli Pass (named on the Chinese map only) and the top of the Teram Kangri Peak, and reaches its south-eastern extremity at the Karakoram Pass.

II. The alignment of the entire boundary line, as described in Section I of this Article, has been drawn on the 1/one million scale map of the Chinese side in Chinese and the 1/one million scale map of the Pakistan side in English, which are signed and attached to the present Agreement.

III. In view of the fact that the maps of the two sides are not fully identical in their representation of topographical features, the two Parties have agreed that the actual features on the ground shall prevail, so far as the location and alignment of the boundary described in Section I is concerned; and that they will be determined as far as possible by joint survey on the ground.

Article Three

The two Parties have agreed that:

- I. Wherever the boundary follows a river, the middle line of the river bed shall be the boundary line; and that
- II. Wherever the boundary passes through Daban (Pass), the water-parting line thereof shall be the boundary line.

Article Four

I. The two Parties have agreed to set up, as soon as possible, a Joint Boundary Demarcation Commission. Each side will appoint a Chairman, one or more Members and a certain number of Advisers and technical staff. The Joint Boundary Commission is charged with the responsibility, in accordance with the provisions of the present Agreement, to hold concrete discussions on and carry out the following tasks jointly:

(1) To conduct necessary surveys of the boundary area on the ground, as stated in Article Two of the present Agreement, so as to set up boundary markers at places considered to be appropriate by the two Parties and to delineate the boundary line on the jointly prepared accurate maps.

(2) To draft a Protocol setting forth in detail the alignment of the entire boundary line and location of all the boundary markers and prepare and get printed detailed maps to be attached to the Protocol with the boundary line and the location of the boundary markers shown on them.

II. The aforesaid Protocol, upon being signed by the representatives of the Governments of the two countries, shall become an annex to the present Agreement, and the detailed maps shall replace the attached maps to the present Agreement.

III. Upon the conclusion of the above-mentioned Protocol, the tasks of the Joint Commission shall be terminated.

Article Five

The two Parties have agreed that any dispute concerning the boundary which may arise after the delimitation of the boundary line actually existing between the two countries shall be settled peacefully by the two sides through friendly consultations.

Article Six

The two Parties have agreed that after the settlement of the Kashmir dispute between Pakistan and India, the sovereign authority concerned will reopen negotiations with the Government of the People's Republic of China, on the boundary, as described in Article Two of the present agreement, of Kashmir, so as to sign a Boundary Treaty to replace the present Agreement.

Provided that in the event of that sovereign authority being Pakistan, the provisions of this Agreement and of the aforesaid Protocol shall be maintained in the formal Boundary Treaty to be signed between Pakistan and the People's Republic of China.

Article Seven

The Present Agreement shall enter into force on the date of its signature.

Done in duplicate in Peking on 2 March 1963 in the Chinese and English language, both texts being equally authentic.

(Signed) Marshal CHEN YI
Plenipotentiary of the Government
of the People's Republic of China.

(Signed) Zulfikar Ali BHUTTO
Plenipotentiary of the Government
of Pakistan.

Government of India
Ministry of External Affairs

New Delhi, 10 May 1962

The Ministry of External Affairs present their compliments to the High Commission of Pakistan in India and have the honour to state that according to a communique issued by the Government of Pakistan on 3 May 1962, the Governments of Pakistan and China have agreed to enter into negotiations to locate and align that portion of boundary between India and China west of the Karakoram Pass which is presently under Pakistan's unlawful occupation.

When earlier reports about these proposed negotiations appeared in the Pakistan press, the Acting High Commissioner of India had, in his letters Nos.CH/CO/9/61 dated 4.5.61 and HC/180/61 dated 12.6.61 to the Foreign Secretary to the Government of Pakistan, conveyed the surprise and concern of the Government of India and pointed out that these reports were confusing as Pakistan and China had no common boundary between them. The Acting High Commissioner of India had also taken the precaution to warn the Government of Pakistan that the Government of India would not be bound by the results of any such bilateral discussions between Pakistan and the People's Republic of China, should these discussions concern the boundaries of the State of Jammu and Kashmir.

Despite numerous reports in the press and the Pakistan Government's refusal to provide the clarification sought from them, the Government of India had all this time been disinclined to believe that the Government of Pakistan would in fact enter into negotiations with China in respect of the territory of the State of Jammu and Kashmir which forms an integral part of the Indian Union. The Government of Pakistan are obviously not entitled to negotiate with China or any other country about territory that is not their own.

As the Government of Pakistan are aware the international boundary alignment in the sector west of the Karakoram Pass of the boundary of Jammu and Kashmir State of India follows well-known natural features, has been recognized in history for all these years, and does not require fresh delimitation. The position regarding this boundary was made clear in the Note given to the Pakistan Government in September 1960. The Government of India will never agree to any arrangements, provisional or otherwise, between the Governments of China and Pakistan regarding territory which constitutes an inalienable part of the Indian Union.

S/5263
English
Page 10

The Government of India lodge an emphatic protest with the Government of Pakistan and warn them of the grave consequences of their action.

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

The High Commission for Pakistan in India,
New Delhi.

/...

25/26 January 1963

HC-11/1

The High Commission for India in Pakistan presents its compliments to the Ministry of External Affairs and has the honour to refer to the communique issued by the Pakistan and Chinese Governments on 26 December 1962, on their agreement in principle on the alignment of the border between China (Sinkiang) and the territory of Kashmir illegally occupied by Pakistan.

2. The High Commission has been instructed to express the Government of India's surprise and concern at the Government of Pakistan being a party to this communique, and to forward a copy of the Government of India's protest lodged with the Government of the People's Republic of China.

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

Ministry of External Affairs,
Government of Pakistan,
Karachi.

/...

Note given by the Ministry of External Affairs, New Delhi,
to the Embassy of China in India, 31 December 1962

The Ministry of External Affairs presents its compliments to the Embassy of the People's Republic of China and has the honour to refer to the communique issued by the Chinese and Pakistan Governments on 26 December on their agreement in principle on the alignment of the border between China (Sinkiang) and the territory of Kashmir illegally occupied by Pakistan.

2. In their note of 30 June 1962, the Government of India had drawn attention to the attempts of the Chinese Government to exploit, for its own ends, the differences on Kashmir between the Indian and Pakistan Governments. Despite the assertion by the Chinese Government that it does not wish to get involved in the dispute, the calculated release of this communique at a time when delegations from India and Pakistan were attempting to resolve their differences on Kashmir and related matters is clear evidence of China's desire to exploit Indo-Pakistan differences for its own selfish and expansionist designs.

3. The joint communique is a brazen attempt at legitimization of the gains of aggression in the hope that the Chinese Government will thereby secure Pakistan support to Chinese aggression on India and the gains of this aggression.

4. The Government of India protest strongly against this aggressive and expansionist move by the Government of China. They repudiate firmly the validity of any agreement involving Indian territory between parties who have no legal or constitutional locus standi whatever in respect of this territory.

The Ministry of External Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

The High Commission of India presents its compliments to the Ministry of External Affairs and has the honour to refer to the Sino-Pakistan border alignment agreement signed in Peking on 2 March 1963.

2. The High Commission has been instructed to lodge an emphatic protest against this agreement and to forward a copy of the Government of India's protest dated 2 March 1963, lodged with the Government of the People's Republic of China.

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

Karachi, 5 March 1963.

2 March 1963

The Ministry of External Affairs presents its compliments to the Embassy of the People's Republic of China and has the honour to refer to the Chinese Government's note dated 21 February 1963, regarding boundary negotiations between the Governments of China and Pakistan.

2. The Government of India reiterate their deep concern at the Chinese Government's persistence in continuing their arbitrary and illegal efforts to "locate and align the boundary" between China and the areas of Kashmir which have been illegally occupied by Pakistan. As has been stated, repeatedly, by the Government of India, any such illegal arrangements involving Indian territory between parties that have no legal or constitutional locus standi is invalid and unacceptable to the Government of India.

3. The Chinese note asserts that the Chinese Government "has never involved itself in the Indo-Pakistan dispute over Kashmir". This assertion is directly contradicted by the actions of the Chinese Government in entering into negotiations with Pakistan though there is no common border between Pakistan and China. Equally groundless and misleading is the further assertion that "the Sino-Pakistan boundary negotiations and the related agreement have not at all touched upon the ownership of Kashmir". If Pakistan has no common border with China, and China and Pakistan, nevertheless, agree to locate and align a boundary in Kashmir, no further proof is needed to show that the Chinese objective is to come to terms with Pakistan on the question of the ownership of Kashmir and to involve itself in its neighbours' dispute in the interests of its expansionist and chauvinistic policies. The absurd claim made in the Chinese note that the boundary negotiation between Pakistan and China has "promoted the friendship between the Chinese and Pakistani people and is in the interests of Asia and the world peace" is, therefore, nothing but an excuse - and a false excuse at that - for the pursuit of exactly the opposite objective, namely, China's insidious policy of poisoning the mutual relations between the countries of Asia and creating tensions and conflict in this region.

4. In spite of these facts which show direct interference by the Peking Government with Indo-Pakistan relations, the note expresses the insincere hope that the "two sister countries, India and Pakistan, will be able to solve their disputes peacefully". This clearly confirms the fact mentioned in the earlier

Indian note, that the boundary agreement manifests the Peking Government's desire to exploit the differences between India and Pakistan on the Kashmir question, to further its own expansionist interests.

5. It is thus clear that the responsibility for spoiling the relations between China and India and India and Pakistan is not that of India, but that of the Government of China, who are deliberately pursuing a policy intended to destroy the accord and amity which have been developing between India and Pakistan, as a result of the joint talks between the two countries on Kashmir and other related matters. The Chinese Government should certainly know that the statement in their note that "India, encouraged by certain Western Powers, has redoubled its efforts to entice Pakistan into a joint anti-Chinese campaign", is completely baseless, considering the widely known fact that Pakistan is a member of military pacts, including the SEATO which aims at the containment of Chinese expansionism in South East Asia.

The Ministry of External Affairs avails itself of this opportunity to renew to the Embassy of the People's Republic of China the assurances of its highest consideration.

The Embassy of the People's Republic of China,
Jind House, Lytton Road,
New Delhi.

