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UNITED NATIONS CONFERENCE ON PROHIBITIONS OR RESTRICTIONS OF USE
OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE
EXCESSIVELY INJURIOUS OR TO HAVE UNDISCRIMINATE EFFECTS

SUMMARY RECORD OF THE 4TH MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 12 September 1979, at 10.30 a.m.

President: Mr. ADENIJI (Nigeria)

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The meeting was called to order at 11.05 a.m.

TRIBUTE TO THE MEMORY OF MR. AGOSTINHO NETO, PRESIDENT OF THE PEOPLE'S REPUBLIC OF ANGOLA

1. On the proposal of the President, the members of the Conference observed a minute of silence in tribute to the memory of Mr. Agostinho Neto, President of the People's Republic of Angola.

CONSIDERATION OF PROHIBITIONS OR RESTRICTIONS OF USE OF CERTAIN CONVENTIONAL WEAPONS WHICH MAY BE DEEMED TO BE EXCESSIVELY INJURIOUS OR TO HAVE INDISCRIMINATE EFFECTS (agenda item 3) (continued) (A/CONF.95/3)

2. Mr. RAJAKOSKI (Finland) said the Finnish Government considered that the Conference reflected the concern of the international community to alleviate the suffering caused to both civilian populations and combatants by certain conventional weapons with extremely dangerous effects and thus to serve the cause of disarmament and peace and security in the world, in accordance with the purposes and principles of the Charter of the United Nations. As had been stressed by the Ministers for Foreign Affairs of the Nordic countries at their meeting at Reykjavik on 30-31 August 1979, it was therefore important for the Conference to achieve concrete results.

3. Although not easy, the task entrusted to the Conference by General Assembly resolution 32/152 was not insurmountable. Indeed, the Conference could base itself on the work of the International Conference on Human Rights held at Teheran in 1968, the Geneva Diplomatic Conference on International Humanitarian Law, the Conference of governmental experts which had taken place at Lucerne in 1978 and at Lurano in 1976, and especially the Preparatory Conference; as a result of the two sessions of that Conference, progress had been made on a number of substantive questions, particularly the protection of the civilian population, work on a number of draft agreements had been or was nearly completed, and some differences of opinion had been narrowed.

4. While it was true that the Conference still had a number of important issues to resolve, it was nevertheless in a position to take decisions on the question of incendiary weapons, since it was generally recognized that at least a qualified prohibition of the use of such weapons was necessary and possible, on the regulation of the use of landmines and other devices, and the proposal - supported by Finland - concerning non-detectable fragments.

5. With regard to the draft proposal on the regulation of the use of small calibre weapons submitted by Mexico and Sweden, his delegation thought that it should be studied further and considered at a later stage.

6. Finland believed that it would be necessary to strengthen the restrictions and prohibitions on which the Conference seemed to be close to agreement, to keep under constant review developments in technology and their effects from the humanitarian and military standpoints, and to continue to study the proposals relating to other weapon categories which were not the subject of an agreement. The Conference should therefore establish a periodic review and follow-up mechanism to deal with those questions.

7. In order to be effective, the decisions to be taken by the Conference should be acceptable to the greatest possible number of States, in particular, the major military Powers. The Conference therefore had a duty to act with determination, but it should also be willing to make compromises in order to be able to achieve results by means of consensus. That was the only way in which it could fulfil its mandate, and his delegation was prepared to make the best possible contribution to that goal.

8. Mr. LANG (Austria) said that the Conference was the result of United Nations activities relating to codification and development of international law and of the desire of all mankind for the effective achievement of disarmament and protection of human rights during armed conflicts. It was also the starting point for an improved protection of human beings, whether civilian or military. Austria had always been guided by humanitarian principles, considering that a neutral country had a special mission to protect all victims of warfare from unnecessary suffering and to ensure the dignity of the human person, even during hostilities. It had therefore endeavoured to translate that conviction into reality and consequently welcomed the fact that several proposals before the Conference were almost ready for adoption.

9. The very interesting proposal concerning an "umbrella treaty" to which several optional protocols could be attached had advantages and disadvantages which should be carefully weighed. Such an approach would no doubt make it possible to adopt by consensus a text which might be supplemented and amplified at a later stage; on the other hand, the objective of the universal and comprehensive application of all the regulations adopted by the Conference might not be achieved. His delegation was confident that the group of legal experts would be able to find a solution to that problem that would be acceptable to the international community as a whole.

10. The scope of the prohibition of the use of incendiary weapons should be extended to include combatants. The proposal concerning the regulation of the use of landmines and other devices was acceptable in spite of its shortcomings. The provisions of article 3, paragraph 3 (a) (iv) (A/CONF.95/C, annex II, appendix B), relating to protection of members of United Nations forces or missions established to perform peace-keeping, observation and fact-finding functions were particularly satisfactory, since his Government bore in mind that several of its soldiers in the United Nations service had been killed by the explosion of mines the presence of which had not been detected or communicated.

11. Lastly, with regard to the question of a review mechanism, as far back as the thirty-first session of the General Assembly, Austria had expressed its support for periodic review conferences to be held after a certain number of years or at the request of a number of contracting States for the purpose of examining the implementation of existing prohibitions, elaborating further prohibitions or extending existing ones to new categories of weapons.

12. Mr. MELLBIN (Denmark), said that, as a result of the work of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, the two expert conferences at Lucerne and Lugano and the Preparatory Conference, there was a possibility of agreement being reached on prohibition or restrictions of use of certain conventional weapons, even if a total prohibition was not reached in every case. In seeking realistic solutions acceptable to all, the Conference should be guided primarily by humanitarian considerations.

13. The Preparatory Conference had opened the way for the conclusion of an agreement on certain categories of weapons: mines and booby-traps, fragments not detectable by X-rays, incendiary weapons and, to a lesser extent, small calibre projectiles. The Conference should therefore concentrate its efforts on matters on which there was a large area of common ground before seeking to reach agreement on other issues by establishing a periodic review mechanism.

14. His delegation hoped in particular that the Conference would reach agreement on restricting the use of incendiary weapons, which, although prohibited since 1868 (the St. Petersburg Declaration), had continued to be used against civilians and military personnel. The proposal submitted by his Government, together with that of Norway, should make it possible to regulate the use of those weapons and to alleviate human suffering during armed conflicts.

15. The task of the Conference was to consider proposals designed to prohibit or restrict the use of certain conventional weapons, not to eliminate such weapons. It would not therefore have to resolve the serious problems of verification which arose with regard to disarmament in the strict sense of the term.

16. Mr. AN ZIYUAN (China) said that the small and medium-sized countries, concerned by the acceleration of the arms race and the war preparations of the super-Powers, were demanding the right to participate in the solution of disarmament and security problems and were calling for prohibitions or restrictions of use of certain conventional weapons. The Chinese delegation therefore welcomed the convening of a conference on the question and hoped it would be successful. The Geneva Conventions and their protocols were unfortunately not being observed by all countries and the principles they laid down were often being blatantly disregarded. More and more use was being made of increasingly destructive weapons, causing an ever larger number of casualties. That was why the peoples of the world were demanding prohibitions or restrictions of use of such weapons as part of a process of genuine disarmament.

17. It was a deplorable fact that two super-Powers were taking part in an accelerated conventional weapons race and that both were devoting 80 per cent of their huge military budgets to the strengthening of their conventional armed forces, which had long exceeded their defence requirements. Since the use of such weapons constituted a threat to international peace and security, conventional disarmament was as important as nuclear disarmament and the success of the Conference would in fact depend on the attitude of those two countries. Moreover, the reactionary Government of South Africa and the racist, colonialist régime of Rhodesia were completely disregarding the Geneva Conventions and brutally suppressing the national liberation movements of some African countries. Their crimes must be stopped, together with Israel's crimes against the Arab countries and the Palestinian people.

18. To be effective, an agreement on prohibitions or restrictions of use of certain conventional weapons should be linked to the struggle of the world's peoples against aggression, expansionism, colonialism and hegemonism. The provisions of the agreement should also guarantee the independence, sovereignty, territorial integrity and security of all countries without preventing third world and other small countries from acquiring the armed forces necessary to safeguard their security and territorial integrity.

19. Because the Chinese people had long suffered from imperialist armed aggression, it had consistently opposed war and military occupation. It desired international peace and stability in order to complete its modernization, and its national defence had always been geared to the safeguarding of socialist construction and world peace. The Chinese delegation would thus wholeheartedly support any proposals which adhered to humanitarian principles and ensured the security of all countries and world peace.

20. Mr. CAPPELEN (Norway) said that the primary responsibility of the United Nations was to preserve international peace and security. He considered that, as a result of the preparatory work for the Conference, the areas of agreement and disagreement had been clarified and efforts should be concentrated on achieving tangible results without wasting time on issues which were not yet ripe for solution. It was important to remember that humanitarian considerations took precedence over all others, no matter how legitimate. Since, however, the decisions taken must enjoy general support, an effort must be made to strike the proper balance between humanitarian considerations and security needs, while ensuring that the latter did not serve merely as a pretext.

21. The Conference should give its main attention to the question of incendiary weapons on which there appeared to be the best possibility of reaching agreement. The various formulations proposed were less important than the need to ensure the best possible protection for civilian populations and to identify situations where military personnel should also be protected. It should also be possible to reach agreement on restricting the use of landmines and booby-traps, despite the remaining areas of disagreement.

22. Finally, the Norwegian delegation was in general agreement with the Mexican proposal for an "umbrella treaty" with separate protocols for the various types of weapons and the different forms of restriction. Many questions, however, remained to be studied in detail, in particular, that of the review mechanism to be set up. He welcomed the fact that the working group on that subject was to start its work shortly.

23. Mr. GAYNOR (Ireland) said that, after the horror and devastation of the wars during the present century and the efforts made in various bodies to ensure respect for humanitarian law in armed conflicts, the world expected substantive results from the Conference that would give practical effect to the principles of that law. Urgent action was needed since man's inventive genius was being devoted to the development of ever more sophisticated and hence more lethal, weapons. Participants in the Conference must be motivated by a commitment to ensure maximum safety for the civilian population and to protect combatants by reaffirming the principle that weapons should be designed so as to remove a combatant from the field of battle in a manner which caused the least possible harm to his person. In addition, as provided in Article 35 of Additional Protocol I to the Geneva Conventions, the use of weapons causing damage to the environment should also be prohibited.

24. Of all the conventional weapons whose total or partial prohibition the Conference was to consider, none evoked stronger condemnation than incendiary weapons, since they were the most deadly both for combatants and the civilian population. His delegation could not accept that such weapons were indispensable from a military point of view; in its view, humanitarian law demanded that each delegation should show the political will to agree to prohibit the use of such weapons.

25. He welcomed the work done by the Preparatory Conference on landmines and booby-traps and on weapons containing fragments not detectable by X-rays, and was gratified by the support for the proposals on that subject. Developments in that field were fast and it was important to agree on guidelines to supplement existing international law so as to ensure that such developments did not conflict with basic humanitarian standards.

26. Much remained to be done in many other areas, but, in addition to the need to ensure that humanitarian law prevailed whenever possible, it must also be borne in mind that prohibition of the use of certain weapons (fragmentation weapons, blast weapons, etc.) could have a positive impact in preventing their development and acquisition in times of peace. The attempt to ensure respect for humanitarian law in armed conflicts was unfortunately always countered by the argument that possession of a particular weapon conferred military advantages, and many countries hesitated to agree to prohibit a weapon which they believed made an important contribution to their defence.

27. If the international community was to continue to deepen and develop the principles and practice of humanitarian law, it would be necessary to establish an effective review mechanism, which should, in his view, have three functions: to consider issues which might arise with regard to the objectives set out in the final document of the Conference, to make a further examination of the proposals submitted but possibly not resolved at the Conference and, finally, to facilitate the study of any new developments in weapons systems which might be deemed to be excessively injurious or to have indiscriminate effects. A review conference should be held at an appropriate time after the entry into force of the final document of the Conference.

28. The Secretary-General of the United Nations should be asked to assist in furthering the objectives and the application of the provisions of the final document. A consultative committee of experts should also be established with the task of ensuring respect for the provisions of that document.

29. Mr. ENE (Romania) considered that there were favourable auspices for the Conference, since it represented a direct continuation of the international action for the promotion of humanitarian law set in motion by the United Nations General Assembly at its tenth Special Session devoted to disarmament. Romania, which strongly supported the prohibition of all weapons of mass destruction, and first and foremost of nuclear weapons, was in favour of restricting the scope of any other weapons used to apply force in relations between States. The results obtained at the Conference would, however, only be a first step; action would have to be continued and that would require the setting up of a general and coherent legal framework on the lines of the "umbrella treaty" proposed by Mexico at the Preparatory Conference.

30. His delegation hoped that the protocols on non-detectable fragments and the rules governing the use of landmines and other provisions would be adopted. Incendiary weapons were deadly and had indiscriminate effects: his delegation therefore advocated total prohibition of their use. It would also participate actively in studying other questions on the agenda, in particular, the problem of small-calibre projectiles causing particularly serious injuries.

31. The provisions to be adopted should not, however, jeopardize the territorial integrity of States nor impair the right of peoples freely to determine their own future, and the agreements should establish equal obligations for all States. At the present stage of substantive negotiations, there was only one way to make progress and achieve tangible results: to allow all delegations to participate directly in each stage of the work. The rules of procedure drawn up by the Preparatory Conference were fortunately quite clear on that point since bodies that were not fully representative must not be allowed to take the place of open bodies, which alone were competent to negotiate on substantive questions.

The meeting rose at 12.40 p.m.