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LETTER DATED 10 OCTOBER 1989 FROM THE PERMANENT REPRESENTATIVE OF
IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to enclose herewith a copy of the international appeal concerning prisoners of war issued by the International Meeting of Experts, held at Geneva from 29 to 30 May 1989.

I should be grateful if you would have this letter and its annex circulated as a document of the Security Council.

(Signed) Abdul-Amir A. AL-ANBARI
Ambassador
Permanent Representative

Annex

[Original: English]

INTERNATIONAL PROGRESS ORGANIZATION

INTERNATIONAL MEETING OF EXPERTS ON THE EXCHANGE OF PRISONERS-OF-WAR
BETWEEN IRAN AND IRAQ

(Geneva, 29 and 30 May 1989)

APPEAL

The International Meeting of Experts on the Exchange of Prisoners-of-War between Iran and Iraq as a Requirement of International Law and Human Rights, organized by the International Progress Organization, met at Geneva on 29 and 30 May 1989 to discuss the important issue of the release and repatriation of prisoners-of-war (POWs) and make recommendations to the parties in conflict, the United Nations and public opinion in order to accelerate the solution of this most pressing problem.

The International Meeting included experts on law, political personalities and the representatives of various non-governmental organizations. The attendance and the discussions displayed an awareness of the urgent humanitarian issue and the sense of responsibility that it generated. After having heard several statements from the legal, humanitarian and other related viewpoints, the Meeting evaluated different aspects of the question and decided to summarize its conclusions in the form of an appeal.

The International Meeting considered the exchange of POWs between the Islamic Republic of Iran and the Republic of Iraq to be mainly a matter of legal and humanitarian responsibility. The participants agreed that no matter how much material conditions in the POW camps improved, the psychological circumstances and the agony of their families in the mother countries required humanitarian consideration above all else. In general, all POWs, whether in captivity for a long time or not, expect release and repatriation. Prolonged captivity, even under reasonable conditions, creates a severe strain and may in itself be considered "inhuman" treatment. This is particularly true for very young detainees.

The International Meeting agreed that both parties were under the legal obligation to release and repatriate the prisoners taken from the other side. Article 118 of the Third Geneva Convention of 1949 ^{1/} stipulated that the obligation be discharged "without delay after the cessation of active hostilities". In contrast to article 75 of the Geneva Convention of 1929, ^{2/} the present Convention links release and repatriation not to a treaty of peace, but to the ending of the actual armed conflict. On 8 August 1988, the Islamic Republic of Iran and Iraq agreed on a cease-fire, based on Security Council resolution 598 (1987), that became effective 12 days later. Active hostilities have not existed since then. The Islamic Republic of Iran and Iraq are thus obliged to

implement article 118. On several occasions, they have reaffirmed their commitment to the Third Geneva Convention in general and to repatriation in particular.

Paragraph 3 of Security Council resolution 598 (1987) also urges the Islamic Republic of Iran and Iraq to release and repatriate POWs without delay. There exists no legal justification for any further delay in carrying out this obligation.

To date, however, only a fraction of the POWs have been returned to their countries of origin. More than nine months after the cease-fire, the overwhelming majority of the POWs are still not back home. This fact accentuates the humanitarian and the legal aspects of the tragedy. There is no justification for further delay.

It is the considered opinion of this International Meeting that a human question of such magnitude ought not to be allowed to become the object of political bargaining. To work for the immediate and total exchange of the POWs, in conformity with the requirements of international law, is a humanitarian duty. Human beings should not be made bargaining chips in political and military conflicts. It is for this reason that the organizers have contacted both parties to the conflict. The meeting is moved by a desire to address itself to both sides and hear the views of each, with the aim of bringing them together under the common denominator of human responsibility.

Closely connected with this point is the fact that the implementation of the Geneva Convention is a collective responsibility, to which all signatories must adhere. It cannot be linked to the course of negotiations. The obligation is total and collective.

The participants welcomed all constructive steps, such as the unilateral release of some sick or wounded POWs by the Islamic Republic of Iran and Iraq. It was within that framework that the International Meeting also applauded the suggestion of the Iraqi President Saddam Hussein, made to the President of the International Progress Organization on 5 March 1989. The President announced that Iraq was ready for a full and comprehensive exchange of POWs irrespective of where peace negotiations would lead. He also confirmed that any concern about the recruitment of POWs into their respective countries' armed forces after repatriation could be addressed by guarantees from both sides, enforced by the United Nations, that they would not be recruited until peace was totally established between the Islamic Republic of Iran and Iraq. The International Meeting fears that any refusal to release and repatriate them may lead to the renewal of hostilities.

The Meeting welcomed all initiatives that contributed to the alleviation of suffering and to the provision of continued security to the POWs after repatriation. By the terms of the Third Geneva Convention, repatriation must be carried out with due respect to the free will of the released prisoners. The initiatives of the United Nations and the International Committee of the Red Cross (ICRC) are likewise very much appreciated. The participants deeply appreciate the efficient, dedicated and tireless manner in which the United Nations, its Secretary-General and several of its missions have discharged their assignments.

ICRC provides an example of unflinching endeavour to protect the rights of prisoners by repeated visits to both countries, sometimes under difficult conditions, mediation efforts and some actual repatriation.

In support of all efforts to implement fully the Geneva Convention and the Security Council resolution, the International Meeting also established an effective means in the form of a standing group of experts entrusted with co-ordination with the United Nations and ICRC, as well as the Governments of the Islamic Republic of Iran and Iraq.

The participants strongly reiterate their call for the immediate and comprehensive release and repatriation of all POWs and other detained persons on both sides as a requirement of international law and human rights.

Geneva, 30 May 1989

Notes

1/ Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949; United Nations, Treaty Series, vol. 75, No. 972.

2/ Convention concerning the Treatment of Prisoners of War; League of Nations, Treaty Series, vol. CXVIII, p. 343.

