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DISARMAMENT COMMISSION

Letter dated 2 May 1980 from the Permanent Representative
of Spain to the United Nations addressed to the Chairman
of the Disarmament Commission

I have the honour to transmit herewith a working paper on conventional disarmament and to request that it should be issued as an official document of the Disarmament Commission.

(Signed) Jaime de PINIES
Permanent Representative of Spain
to the United Nations

Annex

WORKING PAPER

Limitation and control of the production and transfer of
conventional weapons

I. INTRODUCTION

In the arms race the main factor as far as volume is concerned, is conventional weapons. While the major arms producers are constantly manufacturing more sophisticated equipment in increasing quantities, the countries which a few years ago confined themselves to importing their weapons are now, to a large extent producing them in their own territory. As in the case of nuclear weapons, there is a dual proliferation of conventional weapons, both vertical and horizontal.

While it is calculated that, over the past 50 years, the world's gross national product has increased five times, military expenditure is now 10 times higher. Of this expenditure, at least 30 per cent is invested in weapons, which are mostly conventional weapons since nuclear weapons are possessed by very few countries and are not being transferred. Of the approximately \$480 billion which mankind is spending for this purpose at the present time, the amount which is contributing to the acceleration of the arms race in the case of weapons which are available to any country that has the economic resources to acquire them is thus enormous, and the statistics do not indicate any tendency towards a reduction, in fact the opposite.

The General Assembly, at its tenth special session devoted to disarmament, took note of this situation, and in paragraphs 81-85 of the Final Document refers to the desirability, in the context of progress towards general and complete disarmament, of pursuing the limitation and gradual reduction of armed forces and conventional weapons. Moreover, it is recommended that bilateral, regional and multilateral agreements should be concluded with a view to the limitation and reduction of armed forces and of conventional weapons and that consultations should be held, where appropriate conditions exist, for the consideration of different aspects of conventional disarmament. Lastly, it is recommended that the arms supplier and recipient countries should carry out consultations on the limitation of all types of international transfer of conventional weapons with a view to promoting stability at a lower military level.

In paragraph 45 of the Final Document of the tenth special session, the General Assembly establishes the "priorities in disarmament negotiations" and assigns highest priority to nuclear weapons. Further on, in paragraph 47, it rightly affirms that "nuclear weapons pose the greatest danger to mankind and to the survival of civilization".

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Without losing sight of these conclusions, which the General Assembly adopted by consensus, it is necessary in the Spanish Government's opinion, also to take account of the importance of the conventional arms race and, in particular, of the question of international transfers of non-nuclear weapons.

The Final Document of the tenth special session of the General Assembly, after establishing the priorities for the Programme of Action, states, in paragraph 46: "Nothing should preclude States from conducting negotiations on all priority items concurrently". These priority items, which are listed in paragraph 45 of the Final Document, include conventional weapons.

The question of conventional disarmament is specifically included among the subjects to be considered by the Disarmament Commission, in accordance with General Assembly resolution 34/83 H, which requested that, within the framework and in accordance with the priorities established at the tenth special session, the Disarmament Commission should elaborate a general approach to negotiations on nuclear and conventional disarmament.

The Government of Spain is extremely concerned about the problem of the production and transfer of conventional weapons, within the context of the arms race. It also considers that the illegal trade in these weapons is an important aspect of this area of disarmament. Accordingly, a number of points concerning these matters are put forward in this document.

II. PRINCIPLES

In order to prevent the continuation of the arms race, it would be very advisable for States to adopt unilateral measures designed to freeze their war potential; nevertheless, the main point to be borne in mind in any area of arms control is the security of countries. Any measures which might endanger that security, which is an inalienable right of States, are inadmissible. It is therefore very important that all States should have access to facilities that will enable them to safeguard that security. Thus legal provisions to curb the conventional arms trade should take into account the need to ensure that no country is placed in a position of inferiority with respect to another country which could constitute a threat to it.

A regional approach to this problem is another point to consider in this connexion. For this purpose, truly effective measures must be adopted within a particular geographical framework which should be characterized by a certain homogeneity in military capacity and should constitute a relatively independent geopolitical unit.

While closely linked with the question of security, another important point is the need to maintain balance between the armed forces in a particular area, within which there must be no significant differences in the military capacity of different countries if there is to be sufficient political stability to prevent confrontations.

III. IRREGULAR TRANSFERS

One aspect of the arms traffic which has not been given adequate attention is its irregularity. Transfers which take place without any official agreement between the parties concerned are designed solely to secure profits for the seller. It must be borne in mind that the arms trade is basically different from any other trade. National government authorities have a monopoly on the use of arms, since there is no reason why private organizations should have war matériel at their disposal. Accordingly, the consignee of any arms shipment must be an army or forces of law and order serving a legal entity having international legal personality. Therefore, if a transfer takes place and the final destination of the matériel in question is not clearly identifiable, the fact that this destination lies outside the structures of recognized armed forces represents a threat to peace, because the matériel could be used in a critical area of the world community by uncontrolled elements and could upset relations between countries when they are suffering from a degree of instability.

The irregular arms trade is also related to the production of war matériel. This traffic often derives from the existence of surpluses in producing countries whose arms exports are not channelled through contracts or agreements between the Governments of the countries concerned, either because the legislation of the source country allows free trade in such matériel or because some dealers manage to obtain consignments by illegal means and sell them on markets where they obtain better prices. This type of operation often consists in re-exporting matériel initially situated at a point to which it had been sent legally.

In the light of the above, it seems clear that in order to halt the irregular trade in conventional weapons, one must go to the source - namely, the countries where arms are manufactured - and thus address oneself to the problems posed by arms production. It must also be borne in mind that attention should not be focused exclusively on the major producers which virtually monopolize the more sophisticated matériel. The fact is that, for the most part, the irregular trade is in weapons produced with relatively simple technology although there have been cases of illegal transfers of heavy weaponry. The countries which must adopt measures in this area are therefore quite numerous, and their support will be needed if the aim of drafting a code of conduct governing the trade in conventional weapons is to be achieved.

It must be acknowledged that this problem has not been given enough in-depth consideration. There has probably been some lack of interest on the part of Governments which feel that the arms turnover does not warrant action at the international level. Secondly, there have always been major obstacles in the field of disarmament to the institution of measures to control conventional weapons, since both sellers and purchasers have, for political or economic reasons, been reluctant to limit their freedom of movement.

In the circumstances mentioned above, the regularization of the arms trade requires control both of production and of stocks of conventional weapons on the market. In this connexion, it may be useful to recall the idea put forward in the League of Nations regarding the establishment of an international arms register. The proposals in the United Nations General Assembly to publicize arms transfers and to have them registered by the Secretary-General are also worth bearing in mind.

IV. MEASURES

The adoption of measures to limit the trade in conventional weapons raises, in the first instance, a question of procedure. The question is, whether that would require the drafting of an international agreement or whether the General Assembly could adopt a resolution or declaration whose principles would eventually be embodied in the domestic legislation of Member States. Although a treaty would be more binding, a declaration, whose principles could subsequently be incorporated in the domestic legislation of States willing to endorse it, would seem to be more widely acceptable in this case. The text of this declaration should include a code of conduct embodying the most important points concerning the regularization of the trade in conventional weapons. These points might include:

Acceptance of the existence of a register, for the recording of transfers of conventional weapons, to be kept by the Secretary-General of the United Nations;

The commitment to notify the Secretary-General of all exports of conventional weapons by Member States;

The commitment that all sales of war matériel will be made to authorities recognized by entities having international legal personality;

In the event that private companies are allowed to trade in arms, States shall require from them, before authorizing exports, a certificate of final destination attesting that the consignee is an agency of a legally constituted Government;

States shall urge their customs services to exercise strict vigilance to prevent arms shipments from leaving territory by unlawful means. Every effort shall be made to prevent free ports and free zones from being used to store clandestine arms shipments;

To the extent possible, Governments shall limit the activities of private dealers in the matter of buying and selling arms by means of such controls as they deem appropriate;

Lastly, the code of conduct should contain guidelines for the definition of material to be considered as war matériel. Above all, it should draw a boundary line between weapons - that is, products whose characteristics make them conducive to military use, such as raw materials for the manufacture of explosives or machinery which can be used only to manufacture armaments - and other trade items intended primarily for peaceful purposes;

It would be useful if all or at least some of the measures proposed could be embodied in such international instruments as may be deemed appropriate. To that end, studies should be made with a view to ascertaining the prospects for the drafting of such instruments.

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The Government of Spain attaches great importance to the various aspects of the trade in conventional weapons and, in particular, to the adoption of regulations governing that trade. It believes that the success of efforts to establish a control mechanism would mark a further step in the direction of "general and complete disarmament", since such a mechanism would partly solve the problem of "effective international control" in the field of conventional weapons.
