

**OFFICIAL RECORDS**

OF THE

DIPLOMATIC CONFERENCE  
ON THE REAFFIRMATION AND DEVELOPMENT  
OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE  
IN ARMED CONFLICTS

GENEVA (1974-1977)

VOLUME XIII

## INTRODUCTORY NOTE

Volume I contains the Final Act, the resolutions adopted by the Conference, and the draft Additional Protocols prepared by the International Committee of the Red Cross. Volume II contains the rules of procedure, the list of participants, the *Désignation aux différents postes de la Conférence\**, the *Liste des documents\**, the report of the Drafting Committee and the reports of the Credentials Committee for the four sessions of the Conference. Volumes III and IV contain the table of amendments. Volumes V to VII contain the summary records of the plenary meetings of the Conference. Volumes VIII to X contain the summary records and reports of Committee I. Volumes XI to XIII contain the summary records and reports of Committee II. Volumes XIV and XV contain the summary records and reports of Committee III, and volume XVI contains the summary records and reports of the *Ad Hoc* Committee on Conventional Weapons. Volume XVII contains the table of contents of the sixteen volumes.

The Official Records of the Conference are published in all the official and working languages of the Conference. In the Russian edition, as Russian was an official and working language of the Conference only from the beginning of the second session, the documents of which no official translation was made in Russian are reproduced in English. The Arabic edition of the Official Records contains only the documents originally issued in Arabic and those translated officially into Arabic after Arabic became an official and working language at the end of the third session. The Final Act only has been translated into Chinese.

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\*Document circulated in French only.

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VOLUME XIII

Federal Political Department  
Bern, 1978

JX5136

A52

1977

Vol. 13

20.3.1 4/5-179

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OF THE

DIPLOMATIC CONFERENCE  
ON THE REAFFIRMATION AND DEVELOPMENT  
OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE  
IN ARMED CONFLICTS

CONVENED BY THE SWISS FEDERAL COUNCIL  
FOR THE PREPARATION OF TWO PROTOCOLS ADDITIONAL  
TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949  
PROTOCOL I RELATING TO THE PROTECTION OF VICTIMS  
OF INTERNATIONAL ARMED CONFLICTS  
PROTOCOL II RELATING TO THE PROTECTION OF VICTIMS  
OF NON-INTERNATIONAL ARMED CONFLICTS

HELD AT GENEVA ON THE FOLLOWING DATES:

- 20 FEBRUARY – 29 MARCH 1974 (FIRST SESSION)
- 3 FEBRUARY – 18 APRIL 1975 (SECOND SESSION)
- 21 APRIL – 11 JUNE 1976 (THIRD SESSION)
- 17 MARCH – 10 JUNE 1977 (FOURTH SESSION)

PREPARATION

OF THE TWO PROTOCOLS ADDITIONAL  
TO THE GENEVA CONVENTIONS OF 1949,  
PROTOCOL I RELATING TO THE PROTECTION OF VICTIMS  
OF INTERNATIONAL ARMED CONFLICTS  
PROTOCOL II RELATING TO THE PROTECTION OF VICTIMS  
OF NON-INTERNATIONAL ARMED CONFLICTS

REAFFIRMING AND DEVELOPING THE FOLLOWING FOUR GENEVA CONVENTIONS:

GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITONS OF THE WOUNDED  
AND SICK IN ARMED FORCES IN THE FIELD OF AUGUST 12, 1949

GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITION OF WOUNDED,  
SICK AND SHIPWRECKED MEMBERS OF ARMED FORCES AT SEA OF AUGUST 12, 1949

GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF  
AUGUST 12, 1949

GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME  
OF WAR OF AUGUST 12, 1949

VOLUME XIII

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FIRST SESSION

(Geneva, 20 February - 29 March 1974)

COMMITTEE II

REPORT

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COMMITTEE II

REPORT

I. INTRODUCTION

Election of members of the Drafting Committee and officers of the Committee, the Technical Sub-Committee and the Drafting Committee

Officers of the Committee

1. At its seventh plenary meeting, on 1 March 1974, the Conference elected the following officers of Committee II:

<u>Chairman:</u>	Mr. T. Mallik	(Poland)
<u>Vice-Chairmen:</u>	Mr. O. Salas	(Chile)
	Mr. N. Shah	(Pakistan)
<u>Rapporteur:</u>	Mr. D. Maiga	(Mali)

2. During the session Mr. Shah was replaced as Vice-Chairman by Mr. J. Khan (Pakistan).

3. Mr. G. Winteler acted as Secretary of Committee II.

Officers of the Technical Sub-Committee on Signs and Signals

4. The Committee decided to set up a Technical Sub-Committee to study problems relating to the identification and marking of medical personnel, units and means of transport and of civil defence personnel, equipment and means of transport.

5. It was decided that all delegations interested could take part in the work of the Sub-Committee. At the first meeting the following officers were elected:

<u>Chairman:</u>	Mr. H.A. Kieffer	(Switzerland)
<u>Vice-Chairmen:</u>	Mr. D. Stefferud	(United States of America)
	Mr. I. Krasnopeev	(Union of Soviet Socialist Republics)
<u>Rapporteur:</u>	Mr. F. Agudo Lopez	(Spain)

6. As the Chairman, Mr. Kieffer was obliged to be absent, he was replaced for the latter part of the session by Mr. I. Krasnopeev.

7. Mr. Eberlin, Technical Adviser, (International Committee of the Red Cross- ICRC), acted as Secretary of the Sub-Committee.

Members and Officers of the Drafting Committee

Members of the Drafting Committee

8. The Committee decided to appoint a Drafting Committee comprising three members of each of the geographical groups represented in Committee II.

9. The five geographical groups designated the following members:

African Group

Mr. O. El Shafei	(Arab Republic of Egypt)
Mr. P. Martins	(Nigeria)
Mr. D. Tamale Mugerwa	(Uganda)

Asian Group

Mr. S. Martosuhardjo	(Indonesia)
Mr. O. Watanabe	(Japan)
Mr. H. Al-Barzanchi	(Iraq)

Eastern Group

Mr. B. Jakovljević	(Yugoslavia)
Mr. G. Tinca	(Romania)
Mr. S. Nahlik	(Poland)

Latin American Group

Mr. S. Bravo	(Mexico)
Mr. C. Passalacqua	(Argentina)
Mr. L. Villarinho-Pedroso	(Brazil)

Western Group

Mr. J. Sanchez del Rio y Sierra	(Spain)
Mr. R. Coirier	(France)
Mr. W.A. Solf	(United States of America)

Officers of the Drafting Committee

10. At its first meeting the Drafting Committee elected the following officers:

<u>Chairman:</u>	Mr. B. Jakovljević	(Yugoslavia)
<u>Vice-Chairmen:</u>	Mr. W.A. Solf	(United States of America)
	Mr. S. Bravo	(Mexico)
<u>Rapporteur:</u>	Mr. S. Nahlik	(Poland)

II. BASIC PROPOSALS

11. In accordance with rule 28 of the rules of procedure of the Conference (CDDH/2/Rev.1), the basic proposals before Committee II were the draft additional Protocols to the Geneva Conventions of 12 August 1949, (CDDH/1), prepared by the International Committee of the Red Cross. Those proposals were accompanied by a Commentary (CDDH/3).

III. MEETINGS AND ORGANIZATION OF WORK

Meetings

12. Committee II held ten meetings from 6 to 21 March 1974.

Organization of work

13. With regard to draft Protocol I, the Committee decided to examine the subject-matter submitted to it in the order given on page 6 of document CDDH/4. It also decided to begin by examining articles 8 to 20 of draft Protocol I; once those articles had been examined, it would decide whether the corresponding articles of draft Protocol II, viz. articles 11 to 19 of that Protocol, should be studied immediately after article 20 of draft Protocol I. Since Committee II had examined only articles 8 to 11 of Protocol I, it had not yet taken any decision on that matter.

14. Some delegations suggested that a working group should be set up to study the problems relating to civil defence (articles 54 to 59 of draft Protocol I). In view of the close relationship between articles 8 to 20 of draft Protocol I and the articles relating to civil defence, the Committee decided to wait until those articles had been examined before setting up such a group.

15. The method followed by Committee II was mainly to examine article by article the draft articles submitted to it and the amendments relating to them. Each of the articles was introduced by the representative of the ICRC.

16. The Committee then held a general debate on each of the articles and on each amendment. It then asked the Drafting Committee to study the various amendments again and submit new draft articles to the Committee for its approval.

#### Discussion in the Drafting Committee

17. The Committee decided that all delegations could take part in the discussions in the Drafting Committee. They were thus able to participate in the discussions in the same way as in Committee II.

18. If any decision proved to be necessary, however, only the members of the Drafting Committee were entitled to vote.

#### IV. AMENDMENTS

##### Article 8 of draft Protocol I

19. Amendments to Article 8 of draft Protocol I were submitted by the following States:

Yugoslavia:	CDDH/II/3
Australia, Belgium, France, Italy, Japan, Netherlands, Norway, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland:	CDDH/II/13
Poland:	CDDH/II/17
Holy See:	CDDH/II/18
Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics:	CDDH/II/19 and Corr.1
France, Sweden and Denmark:	CDDH/II/30
Australia:	CDDH/II/42
United Kingdom of Great Britain and Northern Ireland:	CDDH/II/46
Austria, Denmark, Greece, Iran, Mexico, Switzerland:	CDDH/II/57/Rev.1

Holy See: CDDH/II/58  
Syrian Arab Republic: CDDH/II/73  
Mexico: CDDH/II/76

20. The Committee decided to consider article 8 and to provide a provisional definition of the terms referred to in its various paragraphs. That decision was taken because of the need to describe the subject to be discussed, and in view of the discussions which were to take place on the articles of part II, section I, of draft Protocol I.

Article 8, introductory sentence (CDDH/II/17)

21. One delegation pointed out that the introductory words "For the purposes of the present part" might well give rise to too restrictive an application of the definitions contained in article 8, which should be applicable also to the 1949 Geneva Conventions. He therefore suggested a new version of the introductory phrase (CDDH/II/17). Some delegations pointed out that that amendment raised a question of substance. Several delegations expressed doubt regarding the competence of the Conference to modify the 1949 Geneva Conventions. One delegation expressed the view that such a proposal was likely to create difficulties for States which, though Parties to the 1949 Geneva Conventions, would not ratify Protocol I.

22. The Committee decided to refer the proposed amendment (CDDH/II/17) to the Drafting Committee.

Article 8(a) (CDDH/II/19, CDDH/II/42, CDDH/II/46)

23. The Committee examined the definition of the expression "the wounded and the sick". Several different views were expressed. Some delegations said they were satisfied with the wording in the ICRC text. One delegation thought that "the wounded and the sick" should cover the infirm and the victims of trauma, but that expectant mothers and new-born babies should be excluded from the definition, since they were neither wounded nor sick, and were already accorded protection under articles 67, 68 and 69 of draft Protocol I (CDDH/II/19). The same delegation thought that the list in the second sentence of article 8 (a) was incomplete and should therefore be deleted. In that connexion, one delegation reminded the Committee that the purpose of the Protocol was to supplement the four 1949 Geneva Conventions.

24. One delegation proposed inserting in the definition of "the wounded and the sick" the words "due to physical or mental incapacity". Another delegation, referring to the work of the



Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, suggested that the only persons who should be considered to be "wounded or sick" within the meaning of the Protocol were those who were "in serious need of medical assistance and care"; persons who were only slightly incapacitated should not have the protection provided for in part II of draft Protocol I.

25. The Committee finally decided to refer to the Drafting Committee an amendment submitted by one delegation, which took into account amendments CDDH/II/19, CDDH/II/42 and CDDH/II/46. That amendment was: "the term 'the wounded and the sick' means persons, whether military or civilian, who because of trauma, disease or other physical or mental disability, are in serious need of medical assistance and care and who refrain from any act of hostility. The term shall also be construed to include other persons in serious need of medical assistance who refrain from any act of hostility, including the infirm, pregnant women, maternity cases and new-born babies".

26. Several delegations expressed reservations about the retention of the adjective "serious" to qualify "need of assistance". One delegation pointed out that it was important for the protection of military personnel to retain that adjective, because a person who was slightly incapacitated could not be regarded as being "wounded". Some delegations, on the other hand, considered that there was no need to qualify the words "need of assistance" and that the adjective "serious" should be deleted. Other delegations took the view that a person suffering from minor wounds would not be regarded as "wounded or sick" under the terms of draft Protocol I.

#### Article 8(b) (CDDH/II/57/Rev.1)

27. As the ICRC had suggested a new version of the definition of "shipwrecked persons", several delegations expressed their views on that proposal and a number asked to be co-sponsors (CDDH/II/57/Rev.1). Others expressed reservations: it was dangerous to draft definitions before examining all the articles in part II; article 39 of the Protocol already made provision for aircraft occupants in distress. The definition was superfluous, since provision was already made in The Hague Regulations.<sup>1/</sup> Before drafting such a definition the 1949 Geneva Conventions and

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<sup>1/</sup> Regulations concerning the Laws and Customs of War on Land, annexed to The Hague Convention No. IV of 1907.

the provisions of draft Protocol I should first be examined to determine whether they adequately protected persons in distress.

28. One delegation orally proposed the following amendment to the second sentence of the ICRC definition (CDDH/II/57): "If in peril in inland waters as a result of ... the above-mentioned persons shall be deemed to be shipwrecked persons".

29. Several delegations proposed changes of a purely drafting nature.

30. Some delegations considered that shipwrecked persons and persons assimilated to them should be covered by special provisions, as soon as a systematic and thorough study of the problem had been made.

31. The Committee finally decided to refer the various proposals relating to article 8(b) to the Drafting Committee.

Article 8 (c) (CDDH/II/3, CDDH/II/19/Corr.1, CDDH/II/46)

32. One delegation proposed (CDDH/II/3) that sub-paragraph (c) should stipulate that first-aid teams were entitled to the protection of part II of the Protocol. It was thereupon pointed out that first-aid teams were part of the civilian medical personnel covered by article 8(d) ii.

33. On the question of extending protection to establishments for the prevention of infectious diseases (CDDH/II/19/Corr.1), it was pointed out that such establishments were "installations of a medical nature". Nevertheless, some delegations considered it expedient to mention such establishments in the definition. The Committee directed the Drafting Committee to propose a definition on the basis of amendments CDDH/II/19/Corr.1 and CDDH/II/46.

Article 8(d) (CDDH/II/13, CDDH/II/19, CDDH/II/58)

34. The Committee considered whether it was necessary to specify that the military medical personnel provided for in article 24 of the First Geneva Convention of 1949 must be exclusively engaged not only in the administration of medical units but also in the operation of those units (CDDH/II/13). One delegation suggested that it should be specified in the definition that personnel responsible for diagnoses formed part of the medical personnel.

35. The question was also raised whether the definition of medical personnel should include not only those engaged in the operation and administration of medical units, but also the members of the medical services.

36. In that connexion, the question was also raised whether it was necessary to specify that personnel engaged in the prevention of disease should also be regarded as medical personnel (CDDH/II/19).

37. One delegation requested that the expression "chaplain" should be defined in article 8 (CDDH/II/58). Some delegations expressed the opinion that it would be better if that definition appeared in article 15 of draft Protocol I. One delegation pointed out in that connexion that the expression "chaplain" applied only to ministers of religion of certain faiths, and that it would therefore be preferable to choose a term that would cover all the philosophical and religious concepts of every country. One delegation said that the term "chaplain" was already used in the 1949 Geneva Conventions.

38. In addition, one delegation pointed out that, in view of the large number of sects and ideological and political movements existing in the world, it would be expedient to specify that only the members of internationally or locally recognized societies should be entitled to enjoy the benefits of special protection.

39. One delegation said that it was necessary to insert the words "duly recognized or authorized" in order to make it clear that the persons concerned must be duly qualified by their training.

40. Several delegations supported a proposal to confer protection also on medical personnel of "voluntary relief agencies" and not only on personnel belonging to the national Red Cross (Red Crescent, Red Lion and Sun) Societies.

41. Several delegations drew the Committee's attention to the need to limit the number of categories of persons entitled to special protection.

42. Article 8, sub-paragraph (d), was referred to the Drafting Committee.

#### Article 8(e)

43. One delegation requested that the emblem used by the medical services of the armed forces and by the national society existing in its country, namely the Red Shield of David, should be recognized as a "distinctive emblem" in the same way as the Red Cross, the Red Crescent and the Red Lion and Sun.

#### Article 8(f) (CDDH/II/42)

44. There was no discussion of this provision.

#### Article 9 of draft Protocol I

45. Article 9 was the subject of amendments submitted by the following States:

Austria:	CDDH/II/4
Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics:	CDDH/II/19
Austria, Belgium, Denmark, Federal Republic of Germany, France, Norway:	CDDH/II/20
United Kingdom of Great Britain and Northern Ireland:	CDDH/II/28
Australia:	CDDH/II/41
Canada, Netherlands, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America:	CDDH/II/49
Austria, Finland, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland:	CDDH/45

Paragraph 1 (CDDH/II/41, CDDH/II/49)

46. It was pointed out that the field of application of the existing paragraph was too restricted, and that it should be extended to cover the territories of States not parties to the conflict, the high seas, the Antarctic regions and outer space; in other words it should cover all parts of the world where no State exercised sovereignty. One delegation had therefore proposed (CDDH/II/41) that the expression "territory of the parties to the conflict" should be replaced by the expression "area under the control of the parties to the conflict", since the term "area" could be applied to both the high seas and to regions in dispute. The field of application was also too restricted "rationae personae", since no provision was made for religious personnel and nationals of countries not parties to the conflict (those, for instance, who came to the help of shipwrecked persons at sea). Moreover, the paragraph as it stood did not take into account the field of application provided for in article 11, which was far more extensive, since it included all the persons protected by the Conventions or by draft Protocol I pursuant to article 2(c).

47. Furthermore, it appeared dangerous to say that part II of draft Protocol I applied without distinction on grounds of nationality, since such a statement might give the impression that other distinctions existed such as race, religion and the like. Consequently, one delegation said that it would be preferable to use the expression "without any discrimination".

48. One delegation pointed out, furthermore, that the paragraph was incompatible with the provisions of articles 19 and 32, and accordingly proposed that it should be deleted (CDDH/II/49). The proposal was supported by some delegations, one of which was of the opinion that the field of application of draft Protocol I was established by article 1 and that there should not be a different one for part II. It was then pointed out that, in the interest of clarity, the articles relating to fields of application appeared in each part of the Protocol.

49. A number of delegations, on the other hand, expressed their approval of the ICRC text.

50. Some delegations, while in favour of paragraph 1, nevertheless considered that it needed redrafting.

#### Paragraphs 2 and 3 (CDDH/II/28)

51. One delegation pointed out that hospital ships belonging to "neutral countries" or relief societies were already covered by the Second Geneva Convention of 1949. He accordingly proposed that hospital ships should be excluded from the field of application specified in those two paragraphs (CDDH/II/28). One delegation suggested that the term "States not parties to the Conflict" should be replaced in those paragraphs by a term more appropriate to the law of neutrality and to article 27 of the First Geneva Convention of 1949.

#### Paragraph 2

52. In reply to one delegation, which had expressed surprise that only permanent medical units and means of transport had been provided for in that paragraph, it was stated that there was in fact no good reason why temporary medical units and means of transport should be excluded.

#### Paragraph 3 (CDDH/II/19, CDDH/II/20)

53. Several delegations supported the proposals that the International Committee of the Red Cross and the League of Red Cross Societies (Red Crescent and Red Lion and Sun) should be cited as examples of "organizations of an international character" (CDDH/II/19 and CDDH/II/20). One delegation, however, was of the opinion that such a reference was not only pointless but even dangerous since it might be interpreted in a limiting sense. Other delegations felt that such a fear was unfounded, as the door was not closed to other organizations. It was also pointed out that reference to those two bodies could be prejudicial to their policy of neutrality.

54. One delegation nevertheless deplored the fact that the term "organization of an international character" did not make it sufficiently clear that that could refer to both non-governmental and intergovernmental organizations. In that connexion, a delegation proposed that the term should be defined in part I of Protocol I. It was also pointed out that the term could be applied to such bodies as international airlines.

55. Some delegations supported a proposal that when reference was made to the ICRC and the League of Red Cross Societies the word "including" should be substituted for "such as".

56. It was furthermore proposed that, as far as the relief societies of a State not party to the conflict were concerned, the text of article 27 of the First Geneva Convention of 1949 should be reproduced. It was pointed out, however, that the activities of the United Nations under its Charter could not be impeded by that provision.

57. One delegation thought that it was doubtful whether strict neutrality would be compatible with lending medical personnel to one or other of the parties to a conflict. He added that paragraph 3 was incomplete since it failed to mention the possibility of medical personnel lent by a State not party to the conflict falling into the hands of a party to the conflict.

58. One delegation, on the other hand, said that in its view no medical services rendered by an organization of an international character, whether regional, intergovernmental, non-governmental or any other, constituted intervention or a non-neutral act, provided that the assistance was rendered for humanitarian purposes.

Article 10 of draft Protocol I

59. Article 10 was the subject of the following amendments:

Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics:	CDDH/II/19
United Kingdom of Great Britain and Northern Ireland:	CDDH/II/26
Australia:	CDDH/II/40

Canada, Netherlands, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America:

CDDH/II/50

Arab Republic of Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Saudi Arabia, Sultanate of Oman, Syrian Arab Republic, Tunisia, United Arab Emirates, Palestine Liberation Organization

CDDH/II/70

60. The ICRC also submitted a suggestion, which appears in document CDDH/II/75.

Paragraph 1 (CDDH/II/19)

61. An amendment (CDDH/II/19) was submitted to this paragraph, suggesting the addition to the ICRC text of a sentence concerning respect and protection for the shipwrecked. This amendment was supported by a number of delegations. Some delegations, however, were of the opinion that reference should be made to the four Geneva Conventions of 1949 and not solely to the First Geneva Convention of 1949.

Paragraph 2 (CDDH/II/19, CDDH/II/50, CDDH/II/70)

62. Several delegations submitted an amendment whereby the term "without any adverse distinction" would be replaced by the words "without any discrimination", in order to bring the text into line with that of article 9 should the text of that article be amended in that way (CDDH/II/19). Several delegations expressed the opinion that cases of "discrimination" (race, sex, etc.) should not be cited as examples. Indeed; it was the increasing practice for modern methods of legislation to provide general rules; it was impossible to foresee all possible cases of discrimination and to cite examples which might give rise to a restrictive interpretation. The term was already used by the United Nations and it was better to keep international legal language uniform. On the other hand, some delegations (CDDH/II/50) supported the enumeration of some typical criteria of "discrimination" in order to help those who would have to interpret the text. One delegation maintained that, if it was decided not to retain the list of examples of those criteria, it would be necessary to revert to the terms of article 12 of the First Geneva Convention of 1949 and to state that "only urgent medical reasons will authorize priority in the order of treatment to be administered". One delegation pointed out in that connexion that it was natural that there should be some classification of the many wounded on the battlefield and that some "discrimination" was inevitable.

63. Another delegation expressed its concern at the practical difficulties that might be caused to underdeveloped countries by the strict application of the obligations laid down in paragraph 2 of the article in connexion with the provision to the wounded and the sick, especially those belonging to the other party to the conflict, of the care "necessitated by their condition". In that delegation's view, the relationship between that rule and articles 74 and 85 of draft Protocol I must be taken into account. A large number of situations might arise in which those countries in whose territories all the armed conflicts since the Second World War had taken place, would be unable to provide that assistance, either because they did not have the necessary scientific knowledge, or because they did not possess the installations or transport needed for the purpose. The delegation suggested the inclusion, immediately before the words "without any adverse distinction" of the words "circumstances permitting", so as to bring the present wording closer to reality.

64. One delegation observed that the care needed by the wounded did not merely mean medical care or the supply of food and clothing; it also implied spiritual help.

65. Some delegations proposed the addition to article 10 of a new paragraph whereby doctors who considered that surgical intervention was necessary would be obliged to obtain the written consent of the patient before performing the operation (CDDH/II/70). That was an essential precaution lest the sick person, his relatives or his friends should subsequently claim that the operation was not necessary. A delegation suggested certain changes to the text which were accepted by the sponsors of document CDDH/II/70. A number of delegations expressed the view that the proposal was not practicable. What would be the form of the document in which the consent of the patient would be recorded? What would happen if the patient and the doctor did not speak the same language?

66. A number of delegations, although they accepted the objective of the amendment, in principle, proposed that there should be an international document for the purpose of such consent. Furthermore, it should be made clear in the text that, if the patient was not fully conscious, written consent would be obtained in accordance with the practice established by the authority who would be responsible for the operation. One delegation pointed out that if the text of article 85, as proposed by the ICRC, was to come into force, there could be no reservations to article 10; it would therefore be better for provisions concerning consent to be included in another article.

67. Some delegations expressed the view that that rule would be more appropriately placed in article 11 of draft Protocol I.



68. The amendment suggested by the ICRC (CDDH/II/75) in order to strengthen the provisions concerning the protection of the shipwrecked gave rise to a number of comments. Several delegations expressed the view that the new paragraphs 3 and 4 suggested were unnecessary since they were already covered by the Geneva Conventions of 1949.

69. With regard to paragraph 5 (CDDH/II/75) some delegations wondered whether that proposal was sufficiently precise. It should be made clear that persons on land who were assimilated to the shipwrecked were those who found themselves in a hostile environment, such as the jungle or the desert.

70. Moreover, as far as combatants were concerned, it should be made clear that only those who were hors de combat should be eligible for protection. On the other hand, in the case of civilians or medical personnel, it would be sufficient for them to "refrain from any act of hostility" in order to be eligible.

71. Some delegations thought that the suggested paragraph 5 was unnecessary and that it would be enough to add the following words to the new paragraph 3 suggested by the ICRC: "and those in peril on land".

72. One delegation raised the problem of the exchange of the shipwrecked, mentioned in paragraph 4 of the ICRC suggestion.

73. Some delegations expressed the view that there should be special provisions for the shipwrecked.

74. The Committee decided to submit the study of article 10, together with the amendments proposed to it, to the Drafting Committee.

#### Article 11 of draft Protocol I

75. Article 11 was the subject of the following amendments:

Uruguay:

CDDH/II/29

Australia, Austria, Hungary, Netherlands,  
Poland, Sweden, Switzerland, Union of  
Soviet Socialist Republics, United  
Kingdom of Great Britain and Northern  
Ireland, United States of America:

CDDH/II/43

Arab Republic of Egypt, Iraq, Jordan, Kuwait,  
Lebanon, Libyan Arab Republic, Mauritania,  
Saudi Arabia, Sultanate of Oman, Syrian  
Arab Republic, Tunisia, United Arab  
Emirates, Palestine Liberation Organiza-  
tion:

CDDH/II/70

76. One delegation expressed the view that it would be preferable to omit the word "unjustified" from paragraph 1, since its retention might lead to abuses which would be difficult to check (CDDH/II/70). All acts or omissions referred to in the paragraph should be prohibited, whether justified or not.

77. Another delegation, introducing document CDDH/II/43, pointed out that the English version of the ICRC text was inconsistent with the French version. The French word "intégrité" had been translated as "well-being", which did not mean the same thing. It would be better to use the word "integrity" in the English version.

78. Under the new version proposed it would be prohibited to subject the persons protected under the article to any unnecessary medical procedure which would not be applied to the nationals of the party into whose hands they had fallen. That point was inserted in order to eliminate any kind of discrimination.

79. Paragraph 3 in document CDDH/II/43 was a new one. If the waiver mentioned in that paragraph were not made, voluntary blood donors would be prevented from donating blood, even in order to save the life of a friend or of a child. That would be contrary to the spirit of international humanitarian law. A waiver might also have been inserted with regard to the transplant of certain organs being undertaken voluntarily but the necessary safeguards for both donor and recipient only existed at present in relation to blood transfusions. Consequently that idea was abandoned by the sponsors of document CDDH/II/43.

80. Some delegations raised the question whether the provisions of article 11 should be included in part II of Protocol I and whether they might not be more appropriately placed in part IV, section III, chapter I.

81. The Committee did not conclude the discussion of article 11 of draft Protocol I.



ANNEXES

Annex I

Report of the Drafting Committee

1. The Drafting Committee, composed of 15 members, was set up by Committee II at its second meeting, held on 11 March 1974. At the invitation of the Chairman of Committee II, who opened the meeting, the Committee unanimously elected the following:

<u>Chairman:</u>	Mr. B. Jakovljević	(Yugoslavia)
<u>Vice-Chairmen:</u>	Mr. W.A. Solf	(United States of America)
	Mr. S. Bravo	(Mexico)
<u>Rapporteur:</u>	Mr. S.F. Nahlik	(Poland)

2. At its three meetings, held on Wednesday, 20 March, and on Thursday, 21 March, the Bureau agreed on the wording of articles 8 and 9, taking into consideration as far as possible all the amendments that had been referred to it.

3. It took no decision on the amendment by the Holy See (CDDH/II/58) because it felt that the problem of chaplains and other persons performing similar functions could be more usefully dealt with in a special article 15 bis to be placed after article 15 and replacing paragraph 6. Similarly, it did not take a decision on the amendment by Austria and some other delegations (CDDH/45), since the question dealt with therein concerned several articles, not all of which fell within the competence of Committee II.

4. The Bureau of the Drafting Committee was assisted by Mr. J. Pictet, Vice-President of the International Committee of the Red Cross (ICRC), and by Mr. J. Sanchez del Rio y Sierra (Spain), as well as by the sponsors of certain amendments.

5. The report of the Bureau on articles 8 and 9 of draft Protocol I, accompanied by the fresh draft of those two articles (see below), was submitted to the Drafting Committee at its second, third, fourth and fifth meetings, held on Friday, 22 March, Saturday, 23 March, and on Monday, 25 March, respectively. At the close of those meetings, the Drafting Committee adopted the wording of article 8 and article 9, paragraph 1. The text of the latter was presented in square brackets because some of the members of the Drafting Committee were of the opinion that

the field of application of the Protocol would be less controversial if the paragraph in question was omitted. The Drafting Committee had no further opportunity of discussing article 9, paragraphs 2 and 3, and therefore submits a version of the paragraphs prepared by its Bureau in which the two paragraphs are combined in a single paragraph 2. All the texts were submitted to Committee II at its twelfth meeting held on Tuesday, 26 March. It is understood that the text of article 8 was adopted only provisionally, since it will have to be reviewed again after the wording of all the substantive articles has been considered and adopted.

"PART II - The wounded, sick and shipwrecked"

Section I. General Protection

"Article 8 - Definitions"

For the purposes of the present Protocol:

(a) 'the wounded and sick' means persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. The term shall also be construed to cover other persons in need of medical assistance and care and who refrain from any act of hostility, including the infirm, pregnant women and maternity cases, as well as new-born babies;

(b) 'the shipwrecked' means persons, whether military or civilian, who are in peril at sea or on other waters as a result of the destruction, loss or disablement of the vessel or aircraft in which they were travelling and who refrain from any act of hostility.

(c) 'medical units' means establishments and /other/ units, whether military or civilian, organized for medical purposes, such as the search for, removal, transportation, diagnosis or treatment of the wounded and sick /and shipwrecked/, as well as the prevention of disease. The term includes, for example, hospitals, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such medical units. Medical units may be fixed or mobile, permanent or temporary. Permanent medical units are those assigned exclusively and for an indeterminate period to medical purposes, temporary medical units are those devoted exclusively to medical purposes for limited periods.

(d) 'medical personnel' means:

- i. military medical personnel, as described in the First and Second Conventions, whether permanent or temporary, including medical transport crews, as well as personnel engaged exclusively in the operation or administration of medical units;
- ii. civilian medical personnel, whether permanent or temporary, duly recognized and authorized by the competent authority, including medical transport crews, as well as personnel engaged exclusively in the operation or administration of medical units or transports;
- iii. medical personnel (as defined in the preceding two sub-paragraphs) of civil defence, assigned to the discharge of the relevant tasks mentioned in article 5<sup>4</sup> /of the present Protocol/, and medical personnel /likewise, as defined in the preceding two sub-paragraphs/ of the national Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid Societies duly recognized and authorized by the competent authority;

(e) 'distinctive emblem' means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground;

(f) 'distinctive signal' means any signalling or identification system specified for the exclusive use of medical units and transports in chapter III of the annex /of the present Protocol/."

(25 March 1974)

"Article 9 - Field of application

/i/. The present part shall apply, without any discrimination, to all combatant and non-combatant military personnel of the parties to a conflict and to the whole of the civilian population of the parties to a conflict, particularly to the wounded, sick and shipwrecked, as well as to medical units and medical transport under control of any of such parties."/

Proposal by the Bureau of the Drafting Committee:

"2. Articles 27 and 32 of the First Convention shall apply, mutatis mutandis /by analogy/ /by extension/ to permanent medical units and transport (other than hospital ships to which article 25 of the Second Convention applies) and their personnel lent for humanitarian purposes to a Party to a conflict:

- (a) by a State which is not a Party to that conflict;
- (b) by a recognized /and authorized/ aid society of such a State; or
- (c) by an organization of an international character, whether governmental or non-governmental, including international organizations of the Red Cross /the International Committee of the Red Cross and the League of Red Cross Societies/."

(25 March 1974)

ANNEX II

Report of the Technical Sub-Committee on Signs and Signals

1. The Technical Sub-Committee on Signs and Signals held its first meeting on 8 March 1974. The meeting was presided over by the Chairman of Committee II, assisted by the Committee's legal adviser. The Chairman submitted the provisional agenda, which was adopted, and the meeting proceeded to deal with the first item - election of the officers of the Sub-Committee.

2. After a short discussion, the following officers were elected by consensus:

<u>Chairman:</u>	Mr. H.A. Kieffer	(Switzerland)
<u>Vice-Chairman:</u>	Mr. D. Stefferud	(United States of America)
<u>Rapporteur:</u>	Mr. F. Aguda Lopez	(Spain)

3. In accordance with the agenda, the order in which the annex to draft Protocol I was to be studied was discussed. The following order was adopted: chapter I, except article 4; chapter II; chapter IV; chapter V; chapter III and article 4 of chapter I.

4. It was decided that representatives of interested international organizations not present at the meeting would be asked to attend on 18 March 1974 to advise on the discussion of chapter III.

5. It was decided to begin work at the earliest possible date with a short general discussion.

6. The second meeting of the Technical Sub-Committee took place on 12 March in accordance with the agenda.

7. After the adoption of the agenda, the Chairman announced that a second Vice-Chairman must be elected since it was impossible for either himself or the Vice-Chairman to be present during the whole of the Conference. He requested proposals and, in the absence of any response, said that the election would take place at the following meeting.

8. It was announced that all the necessary reference material was available to the Sub-Committee. The general discussion then began on technical matters contained in the Commentary by the International Committee of the Red Cross on the Draft Additional Protocols to the Geneva Convention of August 12, 1949 (CDDH/3).



9. The representatives of Belgium, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and the ICRC took part in the discussions. Various points were discussed, including, in particular, the increasing use of hovercraft; the wrong order of chapters in the annex; the possible deletion of certain articles; the political aspects of some articles; the distinctive emblem; the improvement of signs and signals; signs and signals outside the scope of the ICRC, particularly frequencies, and the presentation of future amendments to the annex.

10. The Chairman said that in order to save time, the discussion of the annex to draft Protocol I could begin at once without awaiting the receipt of amendments in writing. The United States representative asked whether amendments would have to be submitted in the three working languages and whether, in view of the time required to do so, the Chairman would agree to their submission in a single language. The Chairman said he agreed to that procedure.

11. The Chairman said that the ICRC Commentary (CDDH/3) would be used for the discussion of the wording of the annex.

12. The Sub-Committee began consideration of article 1. Various oral amendments were submitted concerning the second language of the identity card, its international standardized format, the material of which it should be made, and a new wording of the article. In view of those proposals, the Chairman invited a small working group, composed of the representatives of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland the ICRC, to draft a new article 1. That having been done, the new article was discussed and approved. The new wording appears in appendix 1 to this report.

13. The Chairman settled a point of order raised by the German Democratic Republic concerning the French version of that country's name in the provisional list of members of the Sub-Committee.

14. The Sub-Committee then began consideration of article 2. The reference to optional information on medical training was inserted in the identity card and it was decided that the card should be white and have the format indicated in appendix 1 to this report.

15. In the absence of amendments, article 2 was approved in the form shown in appendix 1 to this report.

16. The third meeting took place on 13 March and was presided over by the Vice-Chairman of the Sub-Committee, in the absence of the Chairman.

17. Article 3 was discussed. In view of the numerous views expressed and the diversity of opinions, it was decided to refer the article to the plenary meeting of Committee II with a recommendation that it be deleted. The various views were summarized in the two proposals indicated in the annex and involved, briefly, either the introduction of a sentence, as indicated, based on article 20 of the Fourth Geneva Convention of 1949, or the deletion of the article.

18. There was a brief discussion of article 4 and its position in the draft annex, and it was decided to defer any decision until chapter III of the annex was studied.

19. The Sub-Committee then discussed article 5 of chapter II. The United States delegation submitted an amendment to paragraph 1 in document CDDH/II/67. After a discussion, the wording given in article 4 in appendix I to this report was approved. There were no objections to paragraph 2 of article 5 and the meeting passed on to article 6.

20. The United States delegation presented two amendments to article 6. The amendments were contained in document CDDH/II/66 and concerned paragraph 1 and paragraph 2, respectively. After a brief discussion, the amendments, being only slight corrections of translation, the proposed wording was approved (see article 5 in appendix I to this report).

21. The fourth meeting took place on 14 March. All the officers were present including the Secretary of the Sub-Committee, Mr. Eberlin. The Rapporteur read out some corrections to be made to the Spanish versions of documents CDDH/II/60 and CDDH/II/61, involving the replacement of the word "pulsiones" by "impulsos". The Chairman then confirmed that the discussion of chapter III and article 4 would take place on 18 March, with the assistance of experts from the international organizations.

22. Examination of chapter IV began with the approval of its title. Article 14 was then considered. In view of the various opinions expressed it was decided to study first the "Model identity card for permanent civil defence personnel". It was agreed that the card should be white and take the form proposed, except as regards the distinctive sign, which would be studied at a later stage. The approved model was as proposed. The discussion then returned to article 14. Finally, after a lengthy discussion, the text reproduced in appendix 1 to this report, comprising a corrected paragraph 1 and an unaltered paragraph 2, was approved.

23. Article 15 was then discussed. At the Chairman's suggestion and in the absence of any opposition, setting aside the question of colours, the discussion centred on proposal 1. The word "sign" in the English version was changed to "emblem", and a suggestion to use the word "emblema" in the Spanish version was considered. Sub-paragraphs (a), (b), (c), and (d) were dealt with. Failing agreement on sub-paragraph (e), the ICRC representative was requested to draw up two models of both proposals for the civil defence distinctive emblem.

24. The fifth meeting was held on 18 March, and was attended by representatives of the international organizations convened to advise on the study of chapter III.

25. Before the articles were discussed, the Chairman asked whether there were any nominations for the office of Second Vice-Chairman of the Sub-Committee: when none was forthcoming, he proposed Mr. Krasnopeev, the USSR representative, who had volunteered. The proposal was approved by consensus and Mr. Krasnopeev took his seat on the rostrum.

26. Models were displayed of proposals I and II for a distinctive civil defence emblem: as Mr. Eberlin, the ICRC representative, explained, both had been specially made for the occasion by a person to whom he had simply read the appropriate description. After a short discussion of the models in which comments on them were made by the representative of the International Association of Light-house Authorities, who said that in an emblem contrast was more important than colour and that neither model was strikingly conspicuous, the model corresponding to proposal I was approved, subject to the deletion of the adjective "light" before the words "orange" and "blue", and of the whole of sub-paragraph (e). Subject to those changes and an amendment specifying that the provisions in article 5, paragraph 2, and article 6 shall apply, mutatis mutandis, to the civil defence emblem, the remainder of article 15 was left as drafted in the annex to draft Protocol I.

27. When the article had been approved, the Danish representative requested that a paragraph recommending the use of the emblem in peacetime be inserted. The Chairman said that the matter might be mentioned in the commentaries, but the ICRC representative said that the proper place would be in article 59 of draft Protocol I: the Chairman therefore requested the Danish representative to draw up and propose such a paragraph for inclusion in article 59.

28. The United States representative then introduced the amendment to article 7, in document CDDH/II/65, but after a short discussion it was agreed, at the proposal of the representative of the International Civil Aviation Organization (ICAO) to postpone its consideration until the amendment to article 8 had been studied.

29. The meeting then considered the amendment to article 8 (light signals), submitted by the United States of America in document CDDH/II/64.

30. The discussion opened with an oral report by the ICAO representative, who said he understood that experiments were being conducted with blue light as a means for scaring birds away from airports. The representative of the International Commission on Illumination (ICI) replied that a bluish white light and not an exactly blue light was being used, and that the lights were of the flashing variety. The representative of the International Association of Light-house Authorities said he had formulated reservations with regard to blue light; in the distribution of colours for international use, blue was free because the difficulty of distinguishing it rendered it useless; nor could there be any certainty of seeing it at a distance. Mr. Eberlin, the ICRC representative, said that the proposals had been co-ordinated with the international agencies precisely to avoid reservations; blue had been chosen as the only colour available, and had first been thought of for identifying helicopters. Field experiments had proved it to be visible from 500-1000 metres which was sufficient. Moreover, an additional fixed blue light was used for tugs towing submerged tanks. The ICAO representative said that at the present interim stage in the debate, he did not raise any objections to provisions that would be limited to the area of conflict, but that should not be regarded as inhibiting the freedom of ICAO to recommend the use of that type of colour of light for other purposes in the interest of safety in civil aviation operations.

31. The Chairman suggested that paragraph 1 might be made less restrictive, but the United States representative requested that it be left in its present form.

32. The discussion of article 8, paragraph 3 opened on the basis of document CDDH/II/64. With regard to signalling, the Belgian representative considered that the annex to draft Protocol I should be divided to refer separately to land, sea and air transport. He added that emergency pyrotechnical signalling in the form of Bengal and other rockets could also be considered, and that he would present a proposal at the second session of the Conference. Various delegations raised a series of objections to paragraph 3. The representative of the International Association of Light-house Authorities said that only

five colours could be distinguished in a signalling system: white, yellow, red, green and blue, and only three in a system used over a distance: white, green and red. Violet preserved its colour over distances and did not change like blue; a two-colour system, such as white-red or white-green, could be used, but it was not recommendable since it might lead to confusion. Two fixed lights or luminous panels could also be used, though they would have to be well-spaced. When asked for specific advice, he said the Sub-Committee might consider a flashing light, but the Danish representative did not regard that as a specific proposal. The ICRC representative inquired about the possibility of adopting violet instead of blue, but was told by the expert mentioned that violet raised serious difficulties; the human eye was not sensitive to it, there were no lamps capable of producing it and it was not possible to manufacture glass which would produce it with any certainty. The ICI representative said he considered 400 candle-power to be a desirable figure but not a practicable one.

33. No agreement was reached and the proposal was considered to be insufficiently ripe for discussion. The Chairman said he would regard paragraphs 1 and 2 of CDDH/II/64 as approved and that the Sub-Committee would reconsider paragraphs 3 and 4 after studying articles 9, 10 and 11.

34. The sixth meeting was held on 19 March. Several representatives expressed the view that the annex to draft Protocol I should be examined solely from the standpoint of aircraft, leaving sea and land transport until the second session of the Conference. The Chairman said that if there was no objection, the study would proceed on that basis. The discussion on article 9 then opened on the basis of the only two written amendments presented, namely, CDDH/II/63 and CDDH/II/69, the former co-sponsored by Spain and the United States of America and the latter submitted by the United States of America alone.

35. The Chairman asked whether the terms "unilateral" and "bilateral" in the English text of articles 9 and 10 of the annex to draft Protocol I were correct or whether it would be more accurate to use the expressions "one-way" and "two-way". The ICRC representative explained that those terms had been used to cover the legal and military-tactical aspects. The representative of the International Telecommunication Union confirmed that they were correct, and they were therefore accepted.

36. The United States representative presented the amendments in document CDDH/II/63 on behalf of both co-sponsors, since the Spanish representative was serving as Rapporteur. He said that the amendment in document CDDH/II/63 had a three-fold purpose:

- (1) It brought the annex to draft Protocol I into line with changes to be made in draft Protocol I;
- (2) It applied only to the English text;
- (3) It introduced the initials IFF/SIF at the end of the paragraph, for the sake of clarity.<sup>1/</sup>

Consideration of amendment CDDH/II/69 was deferred.

37. The ITU representative was asked whether the word "call" could stand alone in the English text; he said it could, and the text was corrected accordingly.

38. With regard to the inclusion of the initials IFF/SIF, the ICAO representative pointed out that they were purely military and could not be applied to civil aviation. The Chairman suggested that it would suffice if the words "such as", "tels que" and "tales como" were introduced in the respective versions of article 9. His suggestion was approved and the annex was amended accordingly (see article 8 in appendix I to this report).

39. The discussion then centred on whether paragraph 1 of article 9 should be redrafted to mention only the call and the situation report. When no agreement was reached it was decided to leave paragraph 1 in its present form and to introduce the word "modes" in the French version, where it was missing, because, according to the ICAO representative, "codes" were for identification purposes whereas "modes" related to the capacity to answer.

40. It was decided that, if necessary, paragraph 1 would be brought into line with the form decided by the Drafting Committee of Committee II.

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<sup>1/</sup> IFF = Identification Friend or Foe  
SIF = Selective Identification Features

41. The Secretary of the Sub-Committee stated that the international series of call signs were allocated to countries by the ITU and that it would be useful to have the call "MEDICAL" adopted by ITU. The ITU representative said that the question of designation of international frequencies was also important and that Governments should consider those matters within the framework of the ITU World Conference.

42. The Chairman pointed out that the ITU would be unable to designate frequencies before its 1978-1979 Conference. Proposals should be made by Governments one year in advance. He requested that that information be included in the Sub-Committee's final report.

43. The ICAO representative said that the same procedure operated in his organization, and if Governments wished the call "MEDICAL" to be valid they should apply for it. He added that States would not have to wait too long before receiving a reply to their applications.

44. The Philippines representative asked whether Switzerland, on behalf of the signatories to the Geneva Conventions of 1949 and as the depositary of the Conventions would be prepared to make the applications. The Chairman, speaking as representative of Switzerland, said that the matter would be studied and the application made by Switzerland, though not as the depositary but in its own name: the more countries that supported the application, the better.

45. The United States representative then introduced document CDDH/II/69, sponsored by his delegation. Its purpose was to permit countries to use national frequencies, if they possessed them, as well as international ones. He in no way wished to raise any difficulties between the Conference and the ITU. It was agreed to insert the following in article 9, paragraph 3 of the annex to draft Protocol I: "Where no international frequencies have been allocated to facilitate ... Parties may designate and publish ... . These frequencies may be notified ... Union."

46. Turning to article 9, paragraph 4, the Secretary said he would like to see it include all frequencies, such as coastal radio frequencies, etc. The Chairman pointed out that the meeting was dealing solely with air transport. After a short discussion it was decided to delete paragraph 4 of article 9.

47. The meeting then discussed the purely drafting amendment to article 10, contained in document CDDH/II/62. A lengthy discussion took place on whether article 10 was really needed or whether it, or only paragraph 2, should be deleted. Since no

agreement was reached, the Chairman decided that a working group should be set up, presided over by the United States representative, to draft a proposed article 10 for submission to the Sub-Committee at its next meeting.

48. The seventh meeting was held on 20 March, and was the last to be chaired by Mr. Kieffer who said that he hoped to complete chapter III so that a start could be made on chapter V the next day. He would eventually require advice with regard to article 8.

49. The First Vice-Chairman reported on the achievements of the Working Group which comprised the representatives of Belgium, the United Kingdom of Great Britain and Northern Ireland, the ICRC and ICAO. As the report of the Working Group was not yet available, the Chairman suggested that the Sub-Committee should begin consideration of article 11.

50. The ICAO representative said that the amendment to article 11 had been under consideration for months and would be circulated as soon as it had been typed and duplicated. With a view to saving time, the Chairman decided to turn to article 12 of the annex to draft Protocol I.

51. Since the annexes to the Conventions were subject to periodical review, the Sub-Committee decided that that fact should be mentioned in article 12. It was also decided that the provision should not be made compulsory. Both amendments to article 12 were approved and included in the new wording (see article 11 in appendix I to this report).

52. At the suggestion of the Belgian representative, the discussion turned to the possible value of including in article 12 some reference to the interception code. A report was given concerning contacts with ICAO to learn details of the code proposed by the International Federation of Air Line Pilots' Associations, and it was stated that the Conference would be informed as soon as anything more was learned about it. The Chairman said that that would probably be a matter for the second session of the Conference.

53. The representative of the Federal Republic of Germany asked whether, in the light of the discussion, the title of chapter IV could not be changed. The Chairman replied that the Sub-Committee would revert to that point when discussion of the chapter had been concluded.

54. The Sub-Committee then took up article 13. The representative of Denmark asked whether an international system existed to be used in the cases mentioned in article 31, paragraph 1,



of draft Protocol I. The ICAO representative said that such a system had been in existence since 1966, that it was being revised, that it had been circulated to Governments, and that ICAO had no authority over armed forces. That information, the reference number of which, subject to correction, was AN 13/16-73/118 of 29 June 1973, had been transmitted together with a letter and covered all procedures.

55. The Sub-Committee again discussed the possibility of inserting a chapter III bis on communications in the annex, of making some reference to communications in article 18, paragraph 5 of draft Protocol I, or of recommending a text to Committee II. The United States representative said that he was withdrawing the amendments referring to means of transport in documents CDDH/II/60 and CDDH/II/62, since they would be introduced during the discussion of article 18 of draft Protocol I in the plenary meeting of Committee II.

56. The Chairman then announced that there were three distinct proposals before the Sub-Committee: the proposal by the Working Group to redraft and combine articles 10, 11 and 12, the proposal by ICAO to amend article 11, and an oral proposal by the Belgian representative. They would be examined in that order, and the United States representative would begin by submitting the Working Group's proposal.

57. The Working Group's proposal was submitted in English only. Initially, two modus operandi were submitted, viz. to deal only with medical transport, or to submit a proposal on communications to Committee II. In order to co-ordinate the two, the proposal could be included in the report of the Sub-Committee, since there was not enough time to prepare any standards. The proposal met with opposition. The representative of the Federal Republic of Germany said that there were four possible approaches to the problem of communications: to omit any regulation concerning communications; to include something immediately; to take a decision to include it, but not to make a definite proposal for the time being; to prepare a report summarizing the three points and submit it to Committee II for decision. Since that Committee was behind with its work, it would be advisable to discard the latter possibility. In view of the difficulties involved in the communications problem, the Sub-Committee should produce some sort of statement, for there were regulations to which reference could be made. A couple of articles should therefore be drafted, mentioning the codes, or else the Sub-Committee should leave the matter and drop articles 10, 12 and 13.

58. There being no agreement, the Chairman gave permission to the Belgian representative to submit his proposal regarding article 10, which, if accepted, would entail the retention of articles 12 and 13.

59. Since there was no consensus on the matter and an impasse had been reached, the Chairman suggested two possible solutions: to amend articles 10, 12 and 13, or to merge all three into a new article 10. The Danish representative said he was in favour of inserting the alternatives in the annex, rather than in Protocol I; he also supported the Working Group's article. In order to pass on to article 11, the Chairman proposed the establishment of a Working Group, to be presided over by the Second Vice-Chairman and comprising the representatives of Belgium, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Secretary of the Sub-Committee, to study the problem of articles 10, 12 and 13 and submit a proposal to the Sub-Committee on the following day.

60. The United States representative withdrew the amendments in documents CDDH/II/60 and CDDH/II/61.

61. Article 11 was adopted with a few minor drafting changes; the text appears in the annex (see article 9 in appendix I), the amendments having been submitted by the ICAO representative.

62. The Belgian representative said that he would submit an amendment to article 7, which would entail the deletion of paragraph 2 of article 11.

63. The eighth and last meeting was held on 21 March, the officers present being the Second Vice-Chairman, the Rapporteur and the Secretary of the Sub-Committee. The Acting Chairman, in a brief introductory statement, introduced the agenda, which included discussion of articles 4, 8, 11 and 16, the distribution of the new prepared text, and the adoption of that text.

64. Article 4 was considered not to be in the proper place; it was a routine document, although an important one. There were no corrections and it was transferred to chapter IV (see article 13 in appendix I).

65. In article 11, adopted at the seventh meeting, the following passage was inserted: "by the use of codes reserved for the exclusive use of medical aircraft" (see article 9 in appendix I).

66. Concerning the codes, the Secretary stated that an attempt had been made to secure the reservation of one by ICAO, which in view of the limited number of codes existing had not been able to grant that request. However, he thought that if requests were put forward by States, the question would be examined by ICAO. In a letter to ICRC dated 1 November 1972, which had been mentioned in the discussion, ICAO had expressed some doubts whether it was advisable and possible in practice to use a secondary radar code for the exclusive use of medical aircraft, and considered that it should be possible to identify satisfactorily any medical aircraft by the procedures normally adopted by ICAO for the regional allocation of frequencies and the use of secondary radar codes.

67. Referring to article 8, (see article 7 in appendix I), the Secretary read out a proposal submitted in French only by Mrs. Heynemann, representative of the International Commission on Illumination (ICI). In brief, it advised the retention of the flashing blue light, but without marking its three-colour co-ordinates, which in practice entails replacing the glass of the present anti-collision lights of medical aircraft with blue glass. It was suggested that a study should also be made of the possibility of equipping medical aircraft with a rhythmically flashing light of definite cadence, together with a white light, using a stroboscopic light giving the letter H in Morse. There was no agreement on extending the reference to lights to land or sea transport.

68. The Belgian representative submitted a working paper on a possible way of drafting article 7, but this also proved unacceptable. A further attempt was made to adopt paragraphs 3 and 4 of amendment CDDH/II/64, but it was also unsuccessful. The Acting Chairman confirmed the adoption of paragraphs 1 and 2, and said that Committee II would be informed that no consensus could be reached on paragraphs 3 and 4, since major problems were involved in using blue lights elsewhere than in the air; it would be recommended that the ICRC continue its studies with a view to the submission of a fresh proposal at the second session of the Conference.

69. The Sub-Committee then took up document CDDH/II/68, containing an amendment by the Canadian and United States delegations to article 16, with a view to speeding up its revision. A representative of the German Democratic Republic said that that was a legal problem and thus outside the sphere of the Sub-Committee: it should be studied by Committee II, to which document CDDH/II/68 should be referred. Moreover, the words "and of methods of warfare", in paragraph 1 of the amendment, should be deleted. The delegations of the United States of America and Canada agreed, and the amendment was approved in that form.

70. It was recommended that the resultant text of amendment CDDH/II/68 should be referred to Committee II for study during its examination of article 86 of draft Protocol I.

71. The English version of the texts were corrected, and note taken of certain minor drafting amendments. Owing to lack of time the French delegation's proposal for treating separately land, sea and air transport was not adopted.

72. The study of the annex to draft Protocol I was thus completed. However, amendments can still be submitted for, in accordance with the wish expressed by the Mongolian delegation, they will be studied at the second session of the Conference.

73. Attached to this report is appendix I containing all the amendments to the group of articles in the form of a new annex to draft Protocol I.

APPENDICES

Appendix I

DRAFT PROTOCOL I

ANNEX

REGULATIONS CONCERNING THE IDENTIFICATION AND MARKING  
OF MEDICAL PERSONNEL, UNITS AND MEANS OF TRANSPORT, AND  
CIVIL DEFENCE PERSONNEL, EQUIPMENT AND MEANS OF TRANSPORT

Chapter I

Documents

Article 1. - Identity card for permanent civilian medical personnel

1. The identity document for permanent civilian medical personnel referred to in Article 18 (2) of the present Protocol shall be in the following form. It shall bear the distinctive emblem and be of such size that it can be carried in the pocket. It shall be as durable as practicable. It shall be worded in the national or official language and may also be worded in other languages, and shall mention the surname, if normally used, and first names, the date of birth, function and the service number, if any, of the holder. It shall state in what capacity the holder is entitled to the protection of the Conventions and the present Protocol. The card shall bear the photograph of the holder as well as his signature or his fingerprints, or both. It shall bear the embossed stamp of the competent authorities.

2. The identity card shall be uniform throughout the territory of each High Contracting Party and, as far as possible, of the same type for all the High Contracting Parties. The High Contracting Parties may be guided by the model shown below. At the outbreak of hostilities, they shall transmit to each other a specimen of the model they are using, if such model differs from the one shown below. Identity cards shall be made out, if possible, at least in duplicate, one copy being kept by the issuing authorities.

3. In no circumstances may the said personnel be deprived of their identity cards. In the event of loss, they shall be entitled to obtain a duplicate copy.


Article 2. - Identity card for temporary civilian medical personnel

The special identity card for temporary civilian medical personnel shall be similar to that provided for in Article 1 above. The High Contracting Parties may be guided by the model shown below.


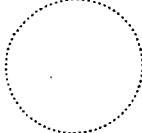


Model of identity card for permanent civilian medical personnel (Article 1)  
(one-quarter of A4 format—fold along dotted line)

Outside of card

Taille Height	Yeux Eyes	Cheveux Hair	Pays/Country: No. matricule/Registration No.:
Autres éléments éventuels d'identification: Other distinguishing features:			<p align="center"><b>CARTE D'IDENTITÉ</b> <b>IDENTITY CARD</b></p>  <p align="center"><b>PERSONNEL SANITAIRE CIVIL</b> <b>CIVILIAN MEDICAL PERSONNEL</b></p> <p align="center">PERMANENT</p>
Instruction sanitaire: (facultatif) Medical training: (optional)			
Fonction du titulaire: Function:			

Inside of card

NOM/NAME: PRENOM/FIRST NAME: Date de naissance/Date of birth:	Le titulaire de la présente carte est protégé par le Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux en qualité de:
 <p align="center"><i>Photo</i></p>	The holder of this card is protected by the Additional Protocol to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts, as:
Signature: Empreintes digitales/Fingerprints:	Date de l'établissement de la carte/Date of issue:  Timbre sec de l'autorité délivrant la carte: Embossed stamp of issuing authority:
	


Couleur de la carte d'identité : blanc

Colour of identity card : white



*Model of identity card for temporary civilian medical personnel (Article 2)*  
(one-quarter of A4 format—fold along dotted line)

*Outside of card*

Taille Height	Yeux Eyes	Cheveux Hair	Pays/Country: No. matricule/Registration No.:  <b>CARTE D'IDENTITÉ</b> <b>IDENTITY CARD</b>    <b>PERSONNEL SANITAIRE CIVIL</b> <b>CIVILIAN MEDICAL PERSONNEL</b>  <b>TEMPORAIRE/TEMPORARY</b>  Valable du . . . . . au . . . . . Validity from . . . . . to . . . . .
Autres éléments éventuels d'identification: Other distinguishing features:			
Instruction sanitaire: (facultatif) Medical training: (optional)			
Fonction du titulaire: Function:			

*Inside of card*

NOM/NAME: PRENOM/FIRST NAME: Date de naissance/Date of birth:  <div style="border: 1px solid black; width: 100px; height: 100px; margin: 20px auto; text-align: center;"> <i>Photo</i> </div>  Signature:  Empreintes digitales/Fingerprints:	Le titulaire de la présente carte est protégé par le Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux en qualité de:  The holder of this card is protected by the Additional Protocol to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts, as:  Date de l'établissement de la carte/Date of issue:  Timbre sec de l'autorité délivrant la carte: Embossed stamp of issuing authority: <div style="border: 1px dashed black; width: 60px; height: 60px; margin: 20px auto; border-radius: 50%;"></div>
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Couleur de la carte d'identité : blanc

Colour of identity card : white





Article 3. - Lists of personnel

PROPOSAL 1: (so as to bring Article 3 into line with Article 20 of the Fourth Convention)

In occupied territory and in zones of military operations the management of each civilian medical unit shall at all times keep an up-to-date list of the names of its personnel at the disposal of the competent authorities.

PROPOSAL 2: To delete the article since it called for an administrative responsibility that did not increase protection for the persons concerned.

Chapter II

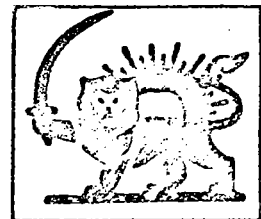
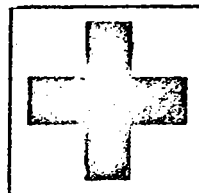
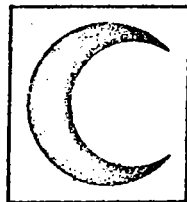
Distinctive emblem

Article 4. - Shape and nature

1. The distinctive emblem shall be as large as appropriate under the circumstances. The red and white surfaces shall be, as far as possible, of equal area. For the shapes of the cross, the crescent or the lion and sun, the High Contracting Parties may be guided by the models shown below.

2. At night or when visibility is reduced, the distinctive emblem may be lighted or illuminated, it may also be made of materials rendering it recognizable by technical means of detection.

Emblem in red on a white ground



Article 5.- Use

1. The distinctive emblem shall, whenever possible, be marked on a flat surface or on flags visible from all directions and from as far as possible.

2. Subject to the direction of competent authority, medical personnel removing casualties from the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

Chapter IIIDistinctive signalsArticle 6. - Optional use

Subject to the provisions of Article 7, the signals designated in the present Chapter for exclusive use by medical units and transports shall not be used for any other purpose. The use of all signals referred to in this Chapter is optional.

Article 7. - Light signals

1. Subject to the provisions of paragraph 3 of the present Article, the light signals, consisting of a blue light\* flashing at a frequency of between 40 and 100 flashes per minute, is established for the use of medical aircraft to signal their identity. No other aircraft shall use this signal.

2. Medical aircraft may be equipped with the necessary lights to make the light signal visible in as many directions as possible.

PROPOSAL 1: delete the following paragraphs 3 and 4.

PROPOSAL 2: leave in.

3. By special agreement, Parties to the conflict may, in their mutual relations, use the same light signal for medical vehicles or ships.

4. In the absence of a special agreement under paragraph 3, the use of flashing blue lights by non-medical vehicles or ships and aircraft is not forbidden.

Article 8 - Radio identification signal

1. The radio identification signal consists of a radio telephonic or radiotelegraphic message preceded by the signal "MEDICAL" emitted three times and followed by the call sign of the medical transports. This message is transmitted in English

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\* For information: blue could be determined by the following trichromatic co-ordinates:

green boundary	$y = 0.065 + 0.805x$
white boundary	$y = 0.400 - x$
purple boundary	$x = 0.133 + 0.600y$

at frequent intervals on an agreed or specified frequency. The use of the signal "MEDICAL" shall be restricted exclusively to the medical services.

2. The radio message shall convey the following data:

- (a) "MEDICAL" followed by the call sign of the transport;
- (b) position of the transport;
- (c) number and type of medical transport;
- (d) itinerary;
- (e) timetable;
- (f) any other information, such as flight altitudes, radio frequencies, languages, secondary radar modes and codes such as IFF/SIF.

3. Where no international frequencies have been allocated, the High Contracting Parties may, to facilitate the communication of the information referred to in paragraphs 1 and 2 of the present Article, designate and publish the national frequencies to be used by them. These frequencies may be notified by the High Contracting Parties to the International Telecommunication Union.

Article 9. - Secondary radar identification such as IFF/SIF

1. Identification by secondary surveillance radar system (SSR) as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used to identify and to follow the course of medical aircraft by the use of codes reserved for the exclusive use of medical aircraft.

2. The High Contracting Parties may establish the use of a similar system for other means of medical transport.

PROPOSAL (Article 9, item 1)

1. Identification by secondary surveillance radar system (SSR) (as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time) may be used to identify and to follow the course of medical aircraft using codes reserved exclusively for medical aircraft.

Chapter IVCommunicationsArticle 10. - Radio communications

Medical transport and units will use their call signs, preceded by the signal "MEDICAL", for two-way radio communications.

Article 11. - Other means of communication

When two-way radio communications are not possible, the signals provided for in the International Code of Signals adopted by the Inter-Governmental Maritime Consultative Organization or in the appropriate Annex of the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used.

Article 12. - Use of international codes

Medical communications may also use the International Code of Signals, the Q code and the miscellaneous abbreviations and signals for radiotelegraphy and radiotelephony of the International Telecommunication Union and the abbreviations and codes of the International Civil Aviation Organization. The use of the codes and signals shall be in accordance with international standards, practices and procedures laid down by IMCO, ITU and ICAO.

Article 13. - Flight plan

The agreements and notifications relating to flight plans provided for in Article 30 of the present Protocol shall be established as far as possible in accordance with procedures laid down by the International Civil Aviation Organization.

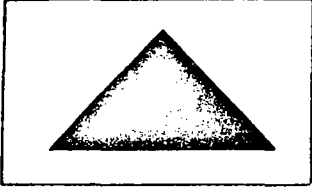
Chapter VCivil defenceArticle 14. - Documents

1. Article 1 of Chapter I of these regulations shall apply mutatis mutandis to the identity card for permanent civil defence personnel, a model of which is shown below.

2. Documents for transport permanently assigned to the Civil Defence Services shall certify that the transport is so assigned and shall carry a description thereof.

*Model of identity card for civil defence personnel (Article 14)*  
(one-quarter of A4 format—fold along dotted line)

*Outside of card*

<b>Taille</b> Height	<b>Yeux</b> Eyes	<b>Cheveux</b> Hair	<b>Pays/Country:</b>  <b>No. matricule/Registration No.:</b>
<b>Autres éléments éventuels d'identification:</b>   <b>Other distinguishing features:</b>			<b>CARTE D'IDENTITÉ</b> <b>IDENTITY CARD</b>    <b>PERSONNEL DE PROTECTION CIVILE</b>  <b>CIVIL DEFENCE PERSONNEL</b>

*Inside of card*

<b>NOM/NAME:</b> <b>PRENOM/FIRST NAME:</b> <b>Date de naissance/Date of birth:</b>  <div style="border: 1px solid black; width: 100px; height: 100px; margin: 10px auto; text-align: center;"> <i>Photo</i> </div> <b>Signature:</b> <b>Empreintes digitales/Fingerprints:</b>	<p><b>Le titulaire de la présente carte est protégé par le Protocole additionnel aux Conventions de Genève* du 12 août 1949 relatif à la protection des victimes des conflits armés internationaux en qualité de:</b></p> <p><b>The holder of this card is protected by the Additional Protocol to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts, as:</b></p> <b>Date de l'établissement de la carte/Date of issue:</b>   <b>Timbre sec de l'autorité délivrant la carte:</b> <b>Embossed stamp of issuing authority:</b> <div style="border: 1px dashed black; width: 50px; height: 50px; float: right; margin-top: 20px;"></div>
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Couleur de la carte d'identité : blanc

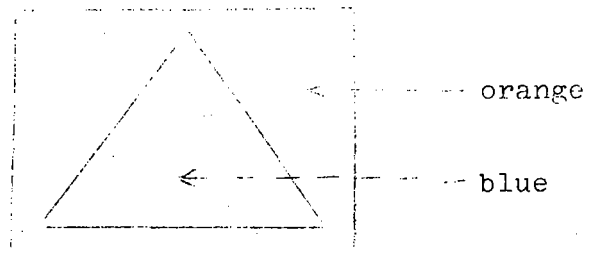
Colour of identity card : white



Article 15. - International distinctive emblem for civil defence services

1. The international distinctive emblem for civil defence services as provided for in Article 59, paragraph 4, of the present Protocol shall be in accordance with the model below.

PROPOSAL



- (a) the background to the emblem may be in the form of different geometrical shapes (circle, square, rectangle);
- (b) if the triangle is on a flag or armlet or tabard, the background to the triangle shall be the flag or armlet or tabard;
- (c) one of the angles of the triangle shall be pointed vertically upwards; if the background is a square or rectangle, the side of the triangle opposite the aforementioned angle shall be parallel to one of the sides of the background;
- (d) no angle of the triangle shall touch the edge of the background.

2. The distinctive emblem shall be as large as appropriate under the circumstances. The provision in Article 4, paragraph 2, and Article 5 of these regulations shall apply mutatis mutandis to the international distinctive emblem for civil defence.

Chapter VI

Periodical revision

Article 16. - Procedure

Every five years, after the entry into force of the present Protocol, the International Committee of the Red Cross, after prior



consultation with experts, shall submit to the High Contracting Parties a report of any possible amendments to be made, arising from technical developments, to the present Annex.

PROPOSAL see amendment submitted by the delegations of Canada and United States of America (CDDH/II/68) below. Delete in the last line of paragraph 1 the words "and of methods of warfare".

Article 16

Procedure

Delete and substitute the following:

"1. Four years after the coming into force of the present Protocol and thereafter at four-year intervals or at the request of one-third of the Parties to the present Protocol, the International Committee of the Red Cross shall convene a meeting of technical experts to review this Annex and to propose such amendments to it as may appear to be desirable in the light of the development of technology and of methods of warfare.

2. The depositary shall convene a conference of the High Contracting Parties to consider amendments proposed by the meeting of technical experts, if, following that meeting, the International Committee of the Red Cross or one-third of the High Contracting Parties so requests.

3. Amendments to this Annex may be adopted at the Conference by a two-thirds vote of the Parties present at the Conference.

4. The depositary shall communicate all amendments so adopted to the Parties to the present Protocol for acceptance or rejection. A Party which has not, within twelve months after the amendment has been submitted to the Parties, notified the depositary that it rejects the amendment shall be considered to have accepted it. A Party which notifies the depositary within twelve months after the amendment has been submitted to the Parties that it does not accept the amendment shall not be bound by it.

5. The depositary shall inform the Parties to the present Protocol of any amendments which shall enter into force, as well as of the Parties bound by them and of the date of entry into force of the amendments as to each Party bound by them."

Appendix II

Statement by the International Civil Aviation Organization

The International Civil Aviation Organization is concerned, under the terms of the Convention on International Civil Aviation 1944, with the safe and orderly development of international civil aviation. In particular, under the provisions of Article 44 of the Convention, ICAO is charged with the promotion of safety in flight in international air navigation and with meeting the needs of the peoples of the world for safe, regular, efficient and economical air transport.

In the discharge of its assigned functions ICAO is constantly willing to co-operate, within the limit of its available resources, with all international bodies who share any degree of common interest.

Proposal by an expert concerning Article 8

Article 8. - Light signals

The light signal, consisting of a blue light flashing at a frequency of between 40 and 100 flashes per minute, is established as a signal of identification for use only in activities concerned with the safeguarding of life.

Medical ships, vehicles and aircraft may be equipped with the necessary lights to make the light signal visible in as many directions as possible.

The light signal may also be used to identify other ships, vehicles and aircraft whose purpose is directed at the safeguarding of life.

In all other cases the light signal may be used only when its use is determined to be necessary, in the interest of safety of life, by the appropriate international body charged with the advancement of safety in the field of activity concerned.



Appendix III

Statement by Mr. A.A. Matthey (Observer, International  
Telecommunication Union) at the twelfth meeting of  
Committee II on 26 March 1974

The Chairman agreed that the following statement by the observer for the International Telecommunication Union (Mr. A.A. Matthey) should be included in the report of Committee II, and called upon all delegations to take particular note of the intervention of the ITU observer.

"As the discussion on the draft report of the Technical Sub-Committee is brought to a close, it is my duty to recall references previously made relating to the adoption of a 'MEDICAL' call and the possible designation of a frequency for international use in this connexion.

The use of the radio spectrum is governed by an existing international treaty entitled 'International Telecommunication Convention' and the 'Radio Regulations' annexed thereto which form part of the international treaty.

The appropriate means for adopting provisions such as those foreseen in the annex to draft Protocol I concerning a 'MEDICAL' call and international designation of frequencies, is by decision of an ITU World Administrative Radio Conference competent to deal with the radio services concerned.

To this end, Governments should consider initiating co-ordination at the national level and, as the case may be, make proposals to an appropriate ITU Conference for the revision of the Radio Regulations."



SECOND SESSION

(Geneva, 3 February - 18 April 1975)

COMMITTEE II

REPORT



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COMMITTEE II

REPORT

PART ONE

INTRODUCTION

A. OFFICERS OF THE COMMITTEE AND MEMBERS OF THE DRAFTING COMMITTEE

Officers of the Committee

1. At its twenty-third meeting, on 3 February 1975, the Conference elected Mr. S-E. Nahlik (Poland) Chairman of Committee II, by acclamation, to replace Mr. T. Mallik (Poland), who was unable to attend all the meetings of the second session.

2. At its thirteenth meeting, on 5 February, the Chairman informed the Committee that Mr. J. Khan (Pakistan), Vice-Chairman, who was unable to leave his country, would be replaced by Mr. K. Saleem (Pakistan).

The officers of the Committee were thus as follows:

Chairman: Mr. S-E. Nahlik (Poland)

Vice-Chairmen: Mr. O. Salas (Chile)  
Mr. K. Saleem (Pakistan)

Rapporteur: Mr. D. Maiga (Mali)

The secretariat of the Committee consisted of Mrs. A. Meylan and Mr. B. Dumas, jurists, and Mrs. J. Maritz and Miss B.K. Patten.

3. The International Committee of the Red Cross (ICRC) was represented by the following experts: Mr. J. Pictet (Vice-President of the International Committee of the Red Cross), Mr. F. de Mulinen, Mrs. D.L. Bujard, Miss M. Katz and Mr. P. Eberlin.

Officers of the Drafting Committee

4. At its fourteenth meeting, on 6 February 1975, the Chairman informed the Committee that, having been elected Chairman of Committee II, he had been replaced on the Drafting Committee by Mr. I. Krasnopeeov (Union of Soviet Socialist Republics). Some members of the Drafting Committee elected at the first session of the Conference and not participating in the work of the second session had to be replaced by other members of the same delegations.

At its sixteenth meeting on 10 February 1975, the Chairman proposed that two members should be appointed to the Drafting Committee and the following were accordingly elected:

Mr. M. Bothe (Federal Republic of Germany)

Mr. L. Czank (Hungary)

At its third meeting the Drafting Committee elected by acclamation Mr. M. Bothe (Federal Republic of Germany), Rapporteur of the Drafting Committee, to replace Mr. S-E. Nahlik, who had been elected Chairman of Committee II. Since Mr. B. Jakovljević (Yugoslavia), Chairman of the Drafting Committee, was unable for a long period to attend the meetings of the Conference, the chairmanship was assumed by the Vice-Chairman, Mr. W.A. Solf (United States of America), for most of the second session. The officers and members of the Drafting Committee were therefore the following:

Chairman: Mr. B. Jakovljević (Yugoslavia)

Vice-Chairman:

(Acting Chairman): Mr. W.A. Solf (United States of America)

Vice-Chairman: Mr. S. Bravo (Mexico)

Rapporteur: Mr. M. Bothe (Federal Republic of Germany)

Members:

Mr. A.E. Khairat	(Arab Republic of Egypt)
Mr. G.A. Pozzo	(Argentina)
Mr. R. Novaes de Oliveira	(Brazil)
Mr. J.L. Bogliolo	(France)
Mr. L. Czank	(Hungary)
Mr. E. Harsono	(Indonesia)
Mr. I. Al-Fallouji	(Iraq)
Mr. T. Onishi	(Japan)
Mr. P. Martins	(Nigeria)
Mr. C. Tinca	(Romania)
Mr. J. Sanchez del Rio	(Spain)
Mr. B.S. Kibos	(Uganda)
Mr. I. Krasnoveev	(Union of Soviet Socialist Republics)

B. MEETINGS, ORGANIZATION OF WORK, REPORTS OF THE DRAFTING COMMITTEE, PLAN OF THE REPORT OF COMMITTEE II, SUMMARY RECORDS.

(i) Meetings

5. During the second session of the Conference, Committee II held forty-three meetings, between 5 February and 16 April 1975. The Drafting Committee held thirty-six meetings between 6 February and 11 April 1975.

(ii) Organization of work

6. At its second session the Committee resumed its consideration of articles at the point where they had been left at the first session (see CDDH/49/Rev.1 and CDDH/II/SR.13).

7. At its thirteenth meeting, on 5 February 1975, the Committee decided to consider the groups of articles of draft Protocol II immediately after the corresponding articles of draft Protocol I had been discussed (see CDDH/II/SR.13).

8. In view of the slow progress of the work of the Committee, the Chairman proposed, at the twenty-fifth meeting of the Committee, on 26 February 1975, that consideration of the technical annex to draft Protocol I should be deferred to the third session of the Conference (see CDDH/II/SR.25 and CDDH/II/SR.27). There was no objection to that proposal.

9. The method adopted by Committee II consisted mainly in discussing, one at a time, the draft articles assigned to it and the amendments to those articles. The discussion was preceded by a general debate on the Section or the group of articles in question. As each article was taken up, it was introduced by an ICRC expert, after which the amendments were introduced by their sponsors. At its nineteenth meeting, on 13 February 1975, the Committee decided to treat as void any amendment whose sponsor was not present during the discussion on the article in question. The submission of amendments was followed by a general debate on the substance of the article concerned and on the amendments submitted. After taking decisions on the substance of the articles and on the amendments, either by vote or by consensus, the Committee referred each article to the Drafting Committee (see CDDH/II/SR.16). In some cases, on account of the difficulty of the subject under discussion, the Committee set up Ad Hoc Working Groups, composed of delegations from different regions, whose task it was to consider the substance of the amendments proposed and any comments made on them, and to submit the new draft article to the Committee. All the delegations concerned had the opportunity of participating in the discussions of these Groups.

10. After a preliminary discussion of each article, the Committee considered the report of the Drafting Committee on the article and reached a decision on the text recommended. In most cases, when it was evident that the text was widely supported, the Committee's decision was taken by consensus, on the understanding that the summary records would state the points of view expressed during the discussion. In other cases a vote was taken on the text.

11. During the second session of the Conference, Committee II adopted the articles of Sections I and II of Part II of draft Protocol I and the articles of Part III of draft Protocol II referred to in Part Two of this report.

(iii) Reports of the Drafting Committee

12. The reports of the Drafting Committee were submitted in the form of adopted texts. The Drafting Committee considered the articles in the following languages: English, French and Spanish (see CDDH/II/SR.23). The Russian text of the articles is a translation. Each article recommended by the Drafting Committee was introduced to the Committee by the Rapporteur of the Drafting Committee, who outlined the main considerations that had prompted the recommendations. The statements by the Rapporteur of the Drafting Committee appear in the summary records of Committee II.

(iv) Plan of the report of Committee II

13. In the interests of simplification, the draft Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of international armed conflicts has been called draft Protocol I. The draft Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the protection of victims of non-international armed conflicts has been called draft Protocol II.

14. Part Two of this report is entitled "Consideration by Committee II of the articles of the draft Additional Protocols referred to it". This Part describes the proceedings of the Committee, article by article. Except in a few cases where amendments sought to combine certain articles and where those articles were considered together, each article is treated separately. As far as possible the form of the basic proposals before the Committee, namely the draft Additional Protocols prepared by the ICRC, has been followed. As a general rule the original numbering of the articles has been retained, new articles being provisionally given numbers such as 12 bis, 18 bis, etc.

15. In Part Two the articles are presented in most cases as follows:

- (a) First, the title of the article as it appears in the ICRC draft Additional Protocols is given.<sup>1/</sup>
- (b) Next comes the text of the amendments submitted, with a statement of the decision taken in respect of them.
- (c) The proceedings of the Committee are then described. The numbers of the meetings at which each article was examined are first given. Under the heading "Initial consideration" the amendments are listed, including those withdrawn as well as those voted upon. In the latter case the results of the voting on the amendments are given and the amendments which were referred to the Drafting Committee are indicated. Under the heading "Consideration of the report of the Working Group", which does not appear for each article, as explained in paragraph 9 above, the number of the meeting at which Committee II decided to refer a particular article, together with its amendments, to an ad hoc group is given, followed by the name of the Chairman of that Working Group and the number of the meeting at which the Chairman or the Rapporteur of the Working Group submitted the proposed text. Finally, the decision taken by the Committee is given. Under the heading "Consideration of the report of the Drafting Committee", the number of the meeting at which the Rapporteur of the Drafting Committee submitted the text proposed by that Committee is given, followed by the decision taken by Committee II and, if necessary, the results of the voting. Lastly, the text adopted by Committee II is reproduced in annex II. The only cases in which this arrangement has not been followed are those in which an article has been deleted or the final decision has been deferred to the third session of the Conference.

(v) Summary records

16. Part Two of this report should be read in conjunction with the summary records of the meetings of the Committee (CDDH/II/SR.13 - SR.55). In particular, for the reasons given in paragraph 15 above, attention is drawn to the statements made by the Chairmen or the Rapporteurs of the Working Groups and by the Rapporteur of the Drafting Committee in introducing the proposed texts.

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<sup>1/</sup> For purely technical reasons the text of the draft Additional Protocols, published under the symbol CDDH/1, is not reproduced in this report. It is nevertheless understood that that text constitutes the basic element.



## C. GENERAL EVALUATION OF THE WORK OF COMMITTEE II

17. The Committee's meetings, as well as those of the Drafting Committee and the Working Groups, were characterized by an atmosphere of business-like collaboration, mutual understanding and - on controversial issues - searches for compromises acceptable to all parties. Especial account was taken of the interests and possibilities of the developing countries in respect of compliance with the requirements of the Additional Protocols. Many articles in these Protocols, especially those pertaining to medical aircraft, constitute a development of, and a considerable improvement on, the Geneva Conventions.

18. In its examination of the articles of draft Protocol II, the Committee strove for full extension, in as consistent a manner as possible, of the humanitarian principles of the Geneva Conventions and draft Protocol I to the articles of draft Protocol II. However, in view of the great differences in conditions and opportunities for rendering assistance to victims of international and non-international armed conflicts, and also the likelihood that a Party to a non-international armed conflict might not have the power or resources for practical implementation of these humanitarian standards, the Committee adopted for certain articles of draft Protocol II texts differing considerably from those of the corresponding articles of draft Protocol I.

PART TWO

CONSIDERATION BY COMMITTEE II OF THE ARTICLES  
OF THE DRAFT ADDITIONAL PROTOCOLS REFERRED TO IT

DRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12,  
1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL  
ARMED CONFLICTS

PART II

WOUNDED, SICK AND SHIPWRECKED PERSONS

SECTION I

GENERAL PROTECTION

Article 8 - Definitions

19. Article 8 and the amendments relating thereto were referred to the Drafting Committee during the first session of the Conference (see the report of Committee II (CDDH/49/Rev.1)).

I. Amendment

20. Article 8 was the subject of the following amendment submitted by the United States of America and the United Kingdom of Great Britain and Northern Ireland (CDDH/II/239) and mentioned in the report of the Drafting Committee (see CDDH/II/240/Add.1):

"Amend provisional article 8 as reported in document CDDH/49/Rev.1 pages 21 and 22, as follows:

1. Delete the last sentence of article 8, paragraph (c).

2. Add a new paragraph (g) as follows:

(g) 'Permanent medical units' and 'permanent medical personnel' are those assigned exclusively and for an indeterminate period to medical purposes. 'Temporary medical units' and 'temporary medical personnel' are those units and personnel who are exclusively devoted to medical purposes for limited periods during the whole of such periods. The expression 'medical units' and 'medical personnel' shall be construed accordingly."

## II. Proceedings of the Committee

21. At its twenty-ninth meeting, on 4 March 1975, the Committee took cognizance of the new wording of article 8 and decided to postpone consideration thereof pending the adoption of the other provisions of Part II of draft Protocol I.

22. In addition, the Working Group considering articles 22 to 25 of draft Protocol I (see paragraph 210 below) suggested in its report (CDDH/II/296) a new definition of shipwrecked persons, for insertion in article 8 (b).

23. At its forty-ninth meeting, on 8 April 1975, the Committee took note of this new formulation of article 8 (b) and decided to postpone consideration thereof until after the adoption of the other provisions of Part II of draft Protocol I. The new formulation of article 8 (b) was as follows:

"(b) 'the shipwrecked' means persons, whether military or civilian, who are in peril at sea or on other waters as a result of the destruction, loss or disablement of the vessel or aircraft in which they were travelling and who refrain from any act of hostility. The term shall also be construed to cover those who have been rescued until they are established ashore or on another vessel, or otherwise acquire another status under the Conventions, provided they continue to refrain from any act of hostility."

### Article 9 - Field of application

#### I. Proceedings of the Committee

24. Article 9 and the amendments relating thereto were referred to the Drafting Committee at the first session of the Conference (see CDDH/49/Rev.1).

##### (i) Consideration of the report of the Drafting Committee

25. At the twenty-third meeting of the Committee, on 24 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of article 9 as adopted by that Committee. Paragraph 1 was adopted by 39 votes to 1, with 14 abstentions. Paragraph 2 was adopted by consensus.

##### (ii) Text adopted by the Committee

26. In view of the foregoing, the Committee recommends that the Conference adopt as article 9, the text given in annex II to the present report.

Article 10 - Protection and care

I. Proceedings of the Committee

27. Article 10 and the amendments relating thereto were referred to the Drafting Committee during the first session of the Conference (see CDDH/49/Rev.1).

(i) Consideration of the report of the Drafting Committee

28. At the twenty-third meeting of the Committee, on 24 February 1975, the Rapporteur of the Drafting Committee presented a report (CDDH/II/240) containing the text of article 10 as adopted by that Committee. The Committee adopted this text by consensus.

(ii) Text adopted by the Committee

29. In view of the foregoing, the Committee recommends that the Conference adopt, as article 10, the text given in annex II to the present report.

Article 11 - Protection of persons

I. Amendments

30. Article 11 was the subject of amendments submitted by the following delegations: Uruguay (CDDH/II/29); Australia, Austria, Hungary, Netherlands, Poland, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/43); Arab Republic of Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Qatar, Saudi Arabia, Sultanate of Oman, Syrian Arab Republic, Tunisia, United Arab Emirates, Palestine Liberation Organization (CDDH/II/70).

31. The substance of these amendments, set out below under headings relating to the article as a whole, to paragraph 1 and to paragraph 2, was as follows:

(i) Article 11 as a whole

Amendment CDDH/II/43:

Replace the whole of the article by the following:

"1. The physical or mental health and integrity of a person who has fallen into the hands of the adverse Party, or who is interned, detained or deprived of liberty as a result of hostilities, shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the

persons described in this article to any medical procedure which is not indicated by the medical or dental needs of the person concerned and is not consistent with accepted medical standards which would be applied to other nationals of the Party under similar medical circumstances.

2. In particular the following acts are prohibited unless indicated by the medical or dental needs of the persons described in paragraph 1:

- (a) physical mutilation;
- (b) medical or other scientific experiments of any kind; or
- (c) the removal or transplant of organs or tissues including blood.

3. The provisions of this article cannot be waived by the individual concerned except that an individual may, voluntarily and without any coercion or inducement, donate blood for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls for the benefit of both the donor and the recipient."

(Referred to the Drafting Committee. See paragraph 33 below.)

(ii) Paragraph 1

Amendment CDDH/II/70:

Omit the word "unjustified".

(Referred to the Drafting Committee. See paragraph 33 below.)

(iii) Paragraph 2

Amendment CDDH/II/29:

Redraft paragraph 2 as follows:

"2. It accordingly is prohibited to carry out on such persons, even with their consent, physical mutilations or medical or scientific experiments, including grafts and organ transplants, which are not justified by the medical, dental or hospital treatment of the persons concerned and are not in their interest."

(Referred to the Drafting Committee. See paragraph 33 below.)

## II. Proceedings of the Committee

### (i) Meetings

32. The Committee initially considered article 11 and the amendments relating thereto at its fourteenth meeting, on 6 February 1975. At its twenty-third and twenty-ninth meetings, on 24 February and 4 March 1975 respectively, it examined the report of the Drafting Committee; at its thirtieth and thirty-second meetings, on 5 and 7 March 1975, the report of the Working Group; and at its thirty-ninth meeting, on 20 March 1975, the report of the Drafting Committee.

### (ii) Initial consideration

33. At its fourteenth meeting, the Committee decided without opposition to refer article 11 to the Drafting Committee, together with amendments CDDH/II/43, CDDH/II/29 and CDDH/II/70.

### (iii) Consideration of the report of the Drafting Committee

34. At the twenty-third meeting of the Committee, on 24 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of article 11 as adopted by that Committee. Paragraph 4 of this text was drafted on the basis of the amendment in document CDDH/II/70, submitted at the first session as an amendment to article 10. Paragraphs 1 and 2 were adopted by consensus. Paragraphs 3 and 4 were referred back to the Drafting Committee. At the Committee's twenty-ninth meeting, the Rapporteur of the Drafting Committee submitted a report (CDDH/II/240/Add.1) containing a new paragraph 4 of article 11, as adopted by that Committee. Since Committee II was unable to accept the new wording, it referred paragraphs 3 and 4 of article 11 to a Working Group (see paragraph 35 below).

### (iv) Consideration of the report of the Working Group

35. At the thirtieth and thirty-second meetings of the Committee, Miss Minogue (Australia), Chairman of the Working Group, introduced a report (CDDH/II/250 and Rev.1). At the thirty-second meeting, the Committee decided to refer the Working Group's report to the Drafting Committee (see paragraph 36 below).

### (v) Consideration of the report of the Drafting Committee

36. At the thirty-ninth meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/272) containing the text of article 11 as adopted by that Committee. Committee II adopted this text by consensus, but decided that paragraph 4, relating to serious violations, should be reviewed in the light of any decisions taken by Committee I concerning articles 74 et seq.

(vi) Text adopted by the Committee

37. Subject to the foregoing, the Committee recommends, that the Conference adopt, as article 11, the text given in annex II to the present report.

Article 12 - Medical UnitsI. Amendments

38. Amendments to article 12 were submitted by the following countries: Australia, Belgium, France, Italy, Japan, Netherlands, Norway, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland (CDDH/II/13); Romania (CDDH/II/16); Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (CDDH/II/19); United Kingdom of Great Britain and Northern Ireland (CDDH/II/22); Cuba (CDDH/II/25); Australia (CDDH/II/39).

39. The substance of these amendments, which are reproduced below in sections corresponding to the title or to paragraphs 1, 2, 3 or 4, was as follows:

(i) TitleAmendment CDDH/II/13:

Change the title of this article to read:

"Protection of Medical Units"

(Referred to the Drafting Committee. See paragraph 41 below.)

Amendment CDDH/II/19:

Replace the present title by:

"Protection of Medical Units"

(Referred to the Drafting Committee. See paragraph 41 below.)

(ii) Paragraph 1Amendment CDDH/II/19:

Replace the last sentence of paragraph 1 by the following:

"These rules shall be applied to temporary medical units only during their assignment to medical duties."

(Referred to the Drafting Committee. See paragraph 41 below.)

Amendment CDDH/II/22:

Redraft paragraph 1 as follows:

"1. Permanent medical units shall at all times be respected and protected; they shall not be the object of attack. Temporary medical units shall be respected and protected during their assignment to medical purposes, while exclusively devoted to such purposes."

(Referred to the Drafting Committee. See paragraph 41 below.)

Amendment CDDH/II/39:

Amend paragraph 1 to read as follows:

"1. Permanent medical units shall at all times be respected and protected; they shall never be the object of attack. Temporary medical units shall be respected and protected while exclusively devoted to such medical purposes."

(Referred to the Drafting Committee. See paragraph 41 below.)

(iii) Paragraph 2

Amendment CDDH/II/19:

Delete the present text of paragraph 2, from the words:

"belong to the State" to the end of the paragraph, and substitute the following: "... either belong to one of the Parties to the conflict, or be recognized and authorized by the competent authority of that Party".

(Referred to the Drafting Committee. See paragraph 41 below.)

(iv) Paragraph 3

Amendment CDDH/II/22:

Redraft paragraph 3 as follows:

"3. The Parties to the conflict are invited to make known to each other the location of fixed civilian medical units."

(Referred to the Drafting Committee. See paragraph 41 below.)



Amendment CDDH/II/25:

Add to paragraph 3 the words "if they deem it expedient to do so", and a second sentence reading: "Failure to do so shall not absolve the Parties from the obligations referred to in paragraph 1 of the present article".

(Referred to the Drafting Committee. See paragraph 41 below.)

(v) Paragraph 4

Amendment CDDH/II/16:

Delete the phrase "in so far as is possible".

Amendment CDDH/II/22:

Redraft the English version of paragraph 4 as follows:

"4. The Parties to the conflict shall ensure that medical units are situated as far as possible so that attacks against military objectives cannot imperil their safety. Under no circumstances shall they be used in an attempt to protect military objectives from attack."

(Referred to the Drafting Committee. See paragraph 41 below.)

II. Proceedings of the Committee

(i) Meetings

40. The Committee initially considered article 12 and amendments thereto at its thirteenth and fourteenth meetings, on 5 and 6 February 1975, respectively. At its twenty-third meeting, on 24 February 1975, it considered the report of the Drafting Committee on that article.

(ii) Initial consideration

41. At its fourteenth meeting on 6 February 1975, the Committee decided without opposition to refer article 12 and amendments CDDH/II/13, CDDH/II/19, CDDH/II/22, CDDH/II/25, CDDH/II/39 thereto to the Drafting Committee.

(iii) Consideration of the report of the Drafting Committee

42. At the twenty-third meeting of the Committee, on 24 February 1975, the Rapporteur of the Drafting Committee submitted a report (CDDH/II/240) containing the text of article 12 as adopted by the Drafting Committee. Committee II adopted that text by consensus, subject to an oral amendment.

(iv) Text adopted by the Committee

43. In view of the foregoing, the Committee recommends that the Conference adopt, for article 12, the text reproduced in annex II to this report.

Article 13 - Discontinuance of protection of civilian  
medical units

I. Amendments

44. Amendments to article 13 were submitted by the following countries: Canada (CDDH/II/15); Poland (CDDH/II/17); Cuba (CDDH/II/25); Australia (CDDH/II/38); United Kingdom of Great Britain and Northern Ireland (CDDH/II/47).

45. These amendments arranged under sub-headings relating to paragraph 1 and paragraph 2, were to the following effect:

(i) Paragraph 1

Amendment CDDH/II/17:

After the words "a reasonable time limit", insert the words "for the discontinuance of the acts in question".

(Withdrawn. See paragraph 47 below.)

(ii) Paragraph 2

Amendment CDDH/II/15:

Revise paragraph 2 to read as follows:

"The following shall not be considered as harmful acts:

- (a) that the personnel of the unit are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge;
- (b) that in the absence of armed orderlies, the unit is protected by a picket or by sentries or by an escort;
- (c) that small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit;
- (d) the fact that members of the armed forces are receiving medical treatment in such medical units."

(Returned to the Drafting Committee. See paragraph 48 below.)

Amendment CDDH/II/25:

In paragraph 2 (c), insert, between "armed picket" and "sentries", the words "a reasonable number of ...".

(Returned to the Drafting Committee. See paragraph 48 below.)

Amendment CDDH/II/38:

In paragraph 2 (b), replace "the sick and the wounded" by "the wounded and the sick", and the word "competent" by the word "appropriate".

(Returned to the Drafting Committee. See paragraph 48 below.)

Amendment CDDH/II/47:

Revise paragraph 2 as follows:

In the first line of sub-paragraph (b), replace "the medical unit" by "a medical unit".

In the first line of sub-paragraph (c), replace "the medical unit" by "a medical unit".

(Withdrawn. See paragraph 47 below.)

II. Proceedings of the Committee(i) Meetings

46. The Committee initially discussed article 13, and the amendments thereto, at its fourteenth meeting, on 6 February 1975. At its twenty-third meeting, on 24 February 1975, the Committee considered the report of the Drafting Committee on this article.

(ii) Initial consideration

47. At the Committee's fourteenth meeting, amendment CDDH/II/17 pertaining to article 13, paragraph 1, was withdrawn. Amendment CDDH/II/47, pertaining to article 13, paragraph 2, was also withdrawn and its sponsor joined the sponsor of amendment CDDH/II/15.

48. At the same meeting, the Committee decided, without objection, to refer article 13 to the Drafting Committee, together with the remaining amendments (CDDH/II/15, CDDH/II/25, CDDH/II/38).

(iii) Consideration of the report of the Drafting Committee

49. At the twenty-third meeting of the Committee, on 24 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of article 13 adopted by the Drafting Committee. Committee II adopted this text by consensus, with two oral amendments.

(iv) Text adopted by the Committee

50. On the basis of the foregoing, the Committee recommends that the Conference adopt the text of article 13 as reproduced in annex II to the present report.

Article 14 - Requisition

I. Amendments

51. Amendments to article 14 were submitted by the following countries: Yugoslavia (CDDH/II/3); Romania (CDDH/II/16); Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (CDDH/II/19); Arab Republic of Egypt, Austria, Canada, Denmark, Finland, Libyan Arab Republic, Mexico, Pakistan, Sweden, Syrian Arab Republic, United Republic of Tanzania (CDDH/II/21 and Add.1)<sup>1/</sup>; Australia (CDDH/II/37).

52. These amendments and sub-amendments, arranged under sub-headings relating to the article as a whole, paragraph 1 and paragraph 2 of the article, were to the following effect:

(i) Article 14 as a whole

Amendment CDDH/II/21 and Add.1:

The article should be headed "Protection of Civilian Medical Units in Occupied Territories" and read:

"1. The Occupying Power shall take into account the civilian population's need for medical services and shall ensure that arrangements are maintained for the care and treatment of civilian patients by civilian medical units.

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<sup>1/</sup> Sponsors: Austria, Canada, Denmark, Finland, Sweden.  
Subsequent sponsors: Arab Republic of Egypt, Libyan Arab Republic, Mexico, Pakistan, Syrian Arab Republic, United Republic of Tanzania (CDDH/II/21/Add.1).

2. Civilian medical units, their equipment, their material and the services of their personnel shall not be requisitioned by the Occupying Power so long as they are necessary for the civilian population's need for adequate medical treatment. Requisitions, if made, shall be subject to the following conditions:

- i. That they are only temporary and are only made in case of urgent necessity,
- ii. That they are made solely for the purpose of providing medical care for sick and wounded members of the Armed Forces (including Prisoners of War) and of the Occupation Administration,
- iii. That immediate arrangements are made for the continuing care and treatment of any patients affected by the requisition,
- iv. That the obligations of the Occupying Power under paragraph 1 of this Article are maintained."

(Adopted. See paragraph 54 (b) below.)

Amendment CDDH/II/37:

"In paragraph 1, replace the words "sick and wounded members" by the words "the wounded and the sick".

(Withdrawn. See paragraph 55 below.)

(ii) Paragraph 1

Amendment CDDH/II/16:

"Add at the end of paragraph 1 the clause 'and provided the medical care of the civilian population is not adversely affected thereby'".

(Returned to the Drafting Committee. See paragraph 56 below.)

Amendment CDDH/II/19:

"Delete the words 'and of the occupation administration'".

(Adopted. See paragraph 54 (a) below.)

(iii) Paragraph 2

Amendment CDDH/II/3:

After the word "shall", replace the remaining part of the sentence by the following text:

"make arrangements in due time for the needs of the civilian population for medical treatment."

(Returned to the Drafting Committee. See paragraph 56 below.)

II. Proceedings of the Committee

(i) Meetings

53. The Committee initially discussed article 14, and the amendments thereto at its fifteenth meeting, on 7 February 1975. At its twenty-ninth meeting, on 4 March 1975, the Committee considered the report of the Drafting Committee on this article.

(ii) Initial consideration

54. At its fifteenth meeting, the Committee put to the vote two amendments which had been submitted to it. The result of the voting was as follows:

- (a) amendment CDDH/II/19 to paragraph 1 was adopted by 24 votes to 19, with 5 abstentions.
- (b) amendment CDDH/II/21 and Add.1 to article 14 as a whole, with the change introduced by amendment CDDH/II/19, was adopted by 40 votes to 3, with 11 abstentions.

55. At the same meeting of the Committee, the Australian amendment (CDDH/II/37) was withdrawn.

56. Also at its fifteenth meeting, the Committee decided, without opposition, to refer article 14 as amended to the Drafting Committee, together with the remaining amendments (CDDH/II/3 and CDDH/II/16).

(iii) Consideration of the report of the Drafting Committee

57. At the twenty-ninth meeting of the Committee, on 4 March 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240/Add.1) containing the text of article 14 adopted by the Drafting Committee. Committee II adopted this text by consensus.

(iv) Text adopted by the Committee

58. On the basis of the foregoing, the Committee recommends that the Conference adopt the text of article 14 reproduced in annex II to the present report.

Article 15 - Civilian medical and religious personnelI. Amendments

59. Amendments to article 15 were submitted by the following countries: Romania (CDDH/II/16); United Kingdom of Great Britain and Northern Ireland (CDDH/II/23); United States of America (CDDH/II/24); Holy See (CDDH/II/59); Arab Republic of Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Qatar, Saudi Arabia, Sultanate of Oman, Syrian Arab Republic, Tunisia, United Arab Emirates, Palestine Liberation Organization (CDDH/II/70); Brazil (CDDH/II/72); Austria, France, Holy See, Switzerland (CDDH/II/201); Australia, Austria, Belgium, France, Ghana, Guatemala, Holy See, Japan, Nigeria, Sweden, Switzerland (CDDH/II/201/Rev.1); Netherlands (CDDH/II/216).

60. The substance of these amendments, listed below under titles referring to paragraph 3, paragraph 6 and the new proposed paragraph, was as follows:

(i) Paragraph 3Amendment CDDH/II/16:

Delete the word "possible".

(Referred to the Drafting Committee. See paragraph 62 below.)

Amendment CDDH/II/23:

In the English text, replace the word "possible", which is too absolute in meaning, by the word "feasible".

(Referred to the Drafting Committee. See paragraph 62 below.)

Amendment CDDH/II/24:

In the English text of this article, replace "possible" by "feasible".

(Referred to the Drafting Committee. See paragraph 62 below.)

(ii) Paragraph 6

Amendment CDDH/II/59:

Delete the word "permanently", or after the word "permanently", insert the words "or temporarily".

(Withdrawn. See paragraph 64 below.)

Amendment CDDH/II/70:

Replace "Chaplains and other persons performing similar functions" by "Religious personnel"; paragraph 6 would then read: "Religious personnel performing similar functions who are permanently attached to civilian medical units shall be respected and protected. The provisions of the Conventions and of the present Protocol concerning the protection and identification of permanent medical personnel shall apply equally to such persons."

(Withdrawn. See paragraph 64 below.)

Amendment CDDH/II/72:

Replace the first sentence by the following:

"Chaplains of armed forces as well as other persons performing similar religious functions who are effectively attached to civilian medical units shall be respected and protected."

(Withdrawn. See paragraph 64 below.)

Amendment CDDH/II/201:

Replace the sentence "Chaplains and other persons performing similar functions who are permanently attached to civilian medical units shall be respected and protected" by "Religious personnel attached to civilian medical units - such as chaplains - shall be respected and protected ...".

(Withdrawn. See paragraph 65 below.)

Amendment CDDH/II/201/Rev.1:

Replace the sentence "Chaplains and other persons performing similar functions who are permanently attached to civilian medical units shall be respected and protected" by "All religious personnel attached to civilian medical units - such as chaplains - shall be respected and protected ...".

(Adopted. See paragraph 66 (a) below.)



(iii) Proposed new paragraphAmendment CDDH/II/216:Add a new paragraph:

"Persons attached to civilian medical units, who are giving not religious but other spiritual help, shall be protected and respected."

(Rejected. See paragraph 66 (b) below.)

II. Proceedings of the Committee(i) Meetings

61. At its fifteenth, sixteenth, seventeenth and nineteenth meetings, held on 7, 10, 11 and 13 February 1975, the Committee gave preliminary consideration to article 15, and the amendments relating thereto. At its twenty-third, twenty-fourth, twenty-ninth, thirtieth and forty-fourth meetings, on 24 and 25 February, 4 and 5 March and 2 April 1975, the Committee considered the report of the Drafting Committee.

(ii) Initial consideration

62. At its sixteenth meeting, on 10 February 1975, the Committee decided, without opposition, to refer amendments CDDH/II/16, CDDH/II/23 and CDDH/II/24 to the Drafting Committee.

63. At the same meeting, the Committee set up a Joint Working Group composed of members of Committees II and III for the purpose of formulating similar wording in draft Protocol I for designating combat zones.

64. At the seventeenth meeting of the Committee, on 11 February 1975, the sponsors of amendments CDDH/II/59, CDDH/II/70 and CDDH/II/72 relating to paragraph 6, withdrew their amendments in favour of a common amendment (CDDH/II/201).

65. At the nineteenth meeting of the Committee, on 13 February 1975, the sponsors of amendment CDDH/II/201 withdrew that proposal and submitted a new amendment (CDDH/II/201/Rev.1) for consideration by the Committee.

66. At the same meeting the Committee put some of the amendments submitted to it to the vote. The results of the voting were as follows:

- (a) Amendment CDDH/II/201/Rev.1 was adopted by 30 votes to none, with 8 abstentions.
- (b) Amendment CDDH/II/216 was rejected by 13 votes to 6, with 29 abstentions.
- (iii) Consideration of the report of the Working Group

67. At the Committee's forty-third meeting on 24 March 1975, the Chairman of the Working Group, Mr. Rosenblad (Sweden), introduced a report (CDDH/II/266 - CDDH/III/255). At the same meeting, the Committee decided to refer the report of the Working Group to the Drafting Committee, entrusting it with the consideration of the expression "combat zone" in articles 15 and 18 in the light of the Working Group's report.

(iv) Consideration of the report of the Drafting Committee

68. At the twenty-fourth meeting of the Committee, on 25 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240), containing the text of article 15 adopted by the Drafting Committee. Committee II adopted, by consensus, paragraphs 4, 5 and 6 of article 15, which subsequently became paragraphs 3, 4 and 5 as a result of the decision mentioned in paragraph 69 below.

69. At the same meeting, the Committee referred paragraphs 1 and 2 back to the Drafting Committee for the purpose of considering the possible merging of those two paragraphs. Paragraph 3 was referred to a Joint Working Group (see paragraph 63 above).

70. At the twenty-ninth and thirtieth meetings of the Committee, on 4 and 5 March 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240/Add.1), containing a note on paragraph 1 of article 15 adopted by the Drafting Committee. He also recommended that the Committee adopt provisionally paragraph (e) of article 8 contained in the same report, to which an amendment had been submitted by the United States of America and the United Kingdom of Great Britain and Northern Ireland (CDDH/II/239), which would render former paragraph 2 superfluous. Committee II adopted, by consensus, the proposal concerning paragraph 1 and the former paragraph 2 of article 15, and noted paragraph (e) of article 8 (see paragraphs 20 and 21 above).

71. At the forty-fourth meeting of the Committee, on 2 April 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/286) containing the text of the new paragraph 2 (previously paragraph 3) of article 15 adopted by the Drafting Committee. Committee II adopted, by consensus, paragraph 2 of article 15.

(v) Text adopted by the Committee

72. In the light of the above, the Committee recommends that the Conference adopt, for article 15, the text appearing in annex II to the present report.

Article 16 - General protection of medical dutiesI. Amendments

73. Amendments to article 16 were submitted by the following countries: Belgium (CDDH/II/1); United States of America (CDDH/II/24); Uruguay (CDDH/II/29); Australia (CDDH/II/35 and CDDH/II/36); United Kingdom of Great Britain and Northern Ireland (CDDH/II/48); Canada, Federal Republic of Germany, Netherlands, Sweden, Union of Soviet Socialist Republics, United States of America (CDDH/II/53); Brazil (CDDH/II/71); Republic of Viet-Nam (CDDH/II/88); United Kingdom of Great Britain and Northern Ireland (CDDH/II/209); Brazil, Netherlands, Spain (CDDH/II/211); Australia, Belgium, Canada, Federal Republic of Germany, Netherlands, Sweden, Union of Soviet Socialist Republics, United States of America (CDDH/II/212).

74. These amendments, arranged under sub-headings relating to the article as a whole, paragraphs 1, 2 and 3 of the article, and the proposed new paragraph, were to the following effect:

(i) Article 16 as a wholeAmendment CDDH/II/209:

Replace the present text by the following:

"No person engaged in medical activities may be punished or subjected to physical or mental torture, unpleasant or disadvantageous treatment, nor any form of coercion for:

- (a) carrying out medical activities compatible with medical ethics, irrespective of the person benefiting therefrom;
- (b) refusing to perform acts or to carry out work contrary to either medical ethics designed for the benefit of the wounded and sick, or the Conventions or the present Protocol, or abstaining from acts or work required by such ethics, the Conventions or the present Protocol;

(c) withholding from any member of the party adverse to that person information concerning the sick and wounded under his care, or who have been under his care, if that information is likely, in his opinion, to prove harmful to the sick and wounded concerned or to their families in relation to the armed conflict. Regulations for the compulsory notification of communicable diseases shall, however, be respected."

(Withdrawn, except for paragraph (c), part of which was adopted. See paragraph 77 (a), below.)

(ii) Paragraph 1

Amendment CDDH/II/36:

Amend paragraph 1 as follows:

"1. In no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom."

(Referred to the Drafting Committee. See paragraph 76, below.)

Amendment CDDH/II/48:

Replace the present text of paragraph by the following:

"In no circumstances shall any person be punished for carrying out medical activities compatible with professional ethics."

(Withdrawn. See paragraph 77 (a), below.)

Amendment CDDH/II/53:

Replace the word "professional" by "medical".

(Referred to the Drafting Committee. See paragraph 76, below.)

(iii) Paragraph 2

Amendment CDDH/II/1:

Complete paragraph 2 as follows:

"In particular, such persons shall not be compelled to administer to prisoners treatment calculated to induce them to behave in any given fashion in relation to the armed conflict."

(Withdrawn. See paragraph 77 (c), below.)

Amendment CDDH/II/36:

Revise paragraph 2 as follows:

"2. Persons engaged in medical activities shall not be compelled to perform acts or to carry out work contrary to:

- (a) medical ethics or rules designed for the benefit of the wounded and sick, or
- (b) the Conventions or the present Protocol.

Moreover, they shall not be compelled to abstain from acting in accordance with such medical ethics or rules, the Conventions or the present Protocol."

(Withdrawn. See paragraph 77 (c), below.)

Amendment CDDH/II/53:

Replace the existing text of paragraph 2 by:

"Persons engaged in medical activities shall not be compelled to perform acts or carry out work contrary to:

- (a) the provisions of the rules of medical ethics designed for the benefit of the wounded and sick, or
- (b) the Conventions or the present Protocol.

Moreover, they shall not be compelled to abstain from acts required by such rules, the Conventions or the present Protocol."

(Withdrawn. See paragraph 77 (c), below.)

Amendment CDDH/II/212:

Amend paragraph 2 to read:

"Persons engaged in medical activities shall neither be compelled to perform acts or carry out work contrary to, nor to refrain from acts required by:

(a) the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or

(b) the Conventions or the present Protocol."

(Adopted. See paragraph 77 (c), below.)

(iv) Paragraph 3

Amendment CDDH/II/24:

Change the second sentence to read:

"Regulations for the compulsory notification of communicable diseases shall, however, be respected."

(Referred to the Drafting Committee. See paragraph 76, below.)

Amendment CDDH/II/29:

Delete the words "should such information be likely to prove harmful to the persons concerned or to their families."

(Treated as void by the Committee. See paragraph 9, above.)

Amendment CDDH/II/35:

Redraft the paragraph as follows:

"3. No person engaged in medical activities may be compelled to give any authority of the adverse Party information concerning the wounded and the sick under his care if this information would be likely to prove harmful to the persons concerned or to their families. Compulsory medical regulations for the notification of communicable diseases shall however be respected."

(Referred to the Drafting Committee. See paragraph 76, below.)

Amendment CDDH/II/71:

Delete the last sentence of the paragraph.

(Withdrawn. See paragraph 77 (b), below.)

Amendment CDDH/II/88 to article 16:

Amend paragraph 3 to read as follows:

"No person engaged in the medical activities mentioned in paragraph 1 above, may be compelled ..."

(Referred to the Drafting Committee. See paragraph 76, below.)

(v) Proposed new paragraph

Amendment CDDH/II/71:

"4. Paragraph 3 does not apply in cases of compulsory medical regulations for the notification of communicable diseases, wounds by firearms, or other evidence related to a criminal offence."

(Withdrawn. See paragraph 77 (b), below.)

Amendment CDDH/II/211:

"Regulations for compulsory notification of communicable diseases shall be respected; as shall those for reporting injuries which, according to domestic law previously in force, give grounds for suspicion that a criminal offence has been committed."

(Rejected. See paragraph 77 (b), below.)

II. Proceedings of the Committee

(i) Meetings

75. The Committee first considered article 16 and the amendments thereto at its sixteenth, seventeenth, eighteenth and nineteenth meetings, on 10, 11, 12 and 13 February 1975. At its twenty-fourth meeting, on 25 February 1975, the Committee considered the report of the Drafting Committee on this article.

(ii) Initial consideration

76. At its sixteenth meeting, on 10 February 1975, the Committee decided, without objection, to refer the following amendments to the Drafting Committee: (CDDH/II/24), (CDDH/II/35), (CDDH/II/36), (CDDH/II/53), and (CDDH/II/88).

77. At its nineteenth meeting on 13 February 1975, the Committee voted on certain of the amendments before it:

(a) The sponsor of amendment CDDH/II/48, having withdrawn his amendment in favour of his amendment CDDH/II/209, from which he had deleted the introductory sentence and paragraphs (a) and (b), the Committee voted on the substantive phrases of paragraph (c).

- the words "party adverse to that person" were adopted by 26 votes to 1, with 10 abstentions

- the words "in his opinion" were adopted by 40 votes to none, with 9 abstentions.

The rest of the amendment was referred to the Drafting Committee, which was asked to produce a text embodying the principle in paragraph (c) of amendment CDDH/II/209.

(b) Amendment CDDH/II/211 was rejected by 32 votes to 9, with 14 abstentions. This amendment replaced amendment CDDH/II/71.

(c) Amendment CDDH/II/212 was adopted by 48 votes to none, with 5 abstentions. This amendment replaced amendments CDDH/II/1, CDDH/II/36 and CDDH/II/53.

(iii) Consideration of the report of the Drafting Committee

78. At the twenty-fourth meeting of the Committee, on 25 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of article 16 adopted by the Drafting Committee. Committee II adopted this text by consensus.

(iv) Text adopted by the Committee

79. On the basis of the foregoing, the Committee recommends that the Conference adopt the text of article 16 reproduced in annex II to this report.

Article 17 - Role of the civilian population

I. Amendments

80. Article 17 was the subject of amendments submitted by the following countries: Belgium (CDDH/II/1); Austria (CDDH/II/4); Belgium, Denmark, France, Federal Republic of Germany, Switzerland (CDDH/II/11); Belgium, France (CDDH/II/12); Israel (CDDH/II/14);



Romania (CDDH/II/16); Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (CDDH/II/19); Cuba (CDDH/II/25); Australia (CDDH/II/34); Australia, Canada, Federal Republic of Germany, Italy, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/54); Republic of Viet-Nam (CDDH/II/89); Australia (CDDH/II/203); New Zealand, Nigeria, United Kingdom of Great Britain and Northern Ireland (CDDH/II/256).

81. These amendments, arranged under sub-headings relating to the title and to paragraphs 1, 2, 3, 4 and 5 of the article, were to the following effect:

(i) Title

Amendment CDDH/II/54:

Change the title to read: "Role of the civilian population and relief societies".

(Adopted. See paragraph 84 (a) below.)

(ii) Paragraph 1

Amendment CDDH/II/14:

Following the words "wounded and the sick" insert "and combatants hors de combat".

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/34:

Redraft paragraph 1 as follows:

"1. The civilian population shall respect the wounded and the sick and the shipwrecked even if they belong to the adverse Party, and shall commit no act of violence against them."

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/203:

Omit the words "even if they belong to the adverse Party".

(Referred to the Drafting Committee. See paragraph 83 below.)

(iii) Paragraph 2

Amendment CDDH/II/1:

Insert the following expression after the words "Relief Societies": "such as National Red Cross (Red Crescent, Red Lion and Sun) Societies".

(Adopted. See paragraph 84 (b) below.)

Amendment CDDH/II/11:

Replace the words "Relief Societies and the civilian population" by the words "the civilian population and relief societies such as national Red Cross (Red Crescent, Red Lion and Sun) Societies".

(Adopted. See paragraph 84 (b) below.)

Amendment CDDH/II/12:

Replace the words "shelter, care and assistance" by the words "shelter, aid and care".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/16:

Reword the opening phrase of paragraph 2 to read as follows:

"The civilian population and relief societies such as the national Red Cross (Red Crescent, Red Lion and Sun) Societies shall be permitted,".

(Adopted. See paragraph 84 (b) below.)

Amendment CDDH/II/19:

Begin paragraph 2 with the words "national Relief Societies such as the Red Cross (Red Crescent, Red Lion and Sun) Societies ...".

(Adopted. See paragraph 84 (b) below.)

Amendment CDDH/II/54:

Change "shelter, care or assistance" to read "shelter and care".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/203:

Replace the words "shelter, care and assistance" by the words "medical assistance or care".

(Referred to the Drafting Committee. See paragraph 83 below.)

(iv) Paragraph 3

Amendment CDDH/II/12:

Replace the words "shelter, care or assistance" by the words "shelter, aid and care".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/34:

Redraft paragraph 3 as follows:

"3. No one shall be molested, prosecuted or convicted for having given shelter, care or assistance to sick or wounded persons or the shipwrecked, even if they belong to the adverse party."

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/54:

Change "shelter, care or assistance" to read "shelter and care".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/203:

"No one shall be molested, prosecuted or convicted for having given medical assistance or care to the wounded and sick and the shipwrecked."

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/89:

Amend paragraph 3 to read as follows:

"3. No one shall be molested, prosecuted or convicted for having given shelter, care or assistance to sick or wounded persons, even if they belong to the adverse party, on the sole condition that the fact is reported to the local authorities."

(Rejected. See paragraph 84 (c) below.)

(v) Paragraph 4

Amendment CDDH/II/1:

"It seems strange to us to place the charity, often improvised, of the civilian population before that of relief societies.

We suggest that the Drafting Committee might divide the paragraph into two:

- beginning with the relief societies and mentioning national Red Cross Societies, and
- then going on with an appeal to the charity of the civilian population.

If this is not acceptable, we would at least like to see the draft amended so as to mention the charity of relief societies before that of the civilian population."

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/12:

Replace the words "shelter, care and assistance" by the words "shelter, aid and care".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/25:

Replace the word "charity" by "humanitarian feelings".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/34:

Replace the words "the sick and the wounded" by the words "the wounded and the sick".

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/54:

Change "shelter, care and assistance to read "shelter and care".

Redraft the second sentence of paragraph 4 as follows:

"4. ... If the adverse party gains or regains control of the area, that party also shall afford the same protection and facilities for so long as they are needed."

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/203:

Replace the paragraph by the following text:

"The Parties to the conflict may appeal to the charity of the civilian population or of relief Societies to offer, under their supervision, medical assistance or care to the wounded and sick and the shipwrecked and shall, in each case, grant protection and the necessary facilities to those who respond to their appeal. If the adverse party gains or regains control of the area that party also shall afford the same protection and facilities."

(Referred to the Drafting Committee. See paragraph 83 below.)

(vi) Paragraph 5

Amendment CDDH/II/4:

For "the wounded, the sick and the shipwrecked", read "the wounded and the sick".

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/25:

Replace the word "charity" by "humanitarian feelings".

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/34:

Replace "the wounded, the sick and the shipwrecked" by "the wounded and the sick and the shipwrecked".

(Withdrawn. See paragraph 83 below.)

Amendment CDDH/II/203:

Amend paragraph 5 to read as follows:

"Parties to the conflict may appeal to the charity of commanders of civilian ships and craft and vehicles and aircraft to take aboard and care for the wounded and sick and the shipwrecked and to collect the dead. Ships and craft,

vehicles and aircraft responding to such appeals and those spontaneously giving shelter to such casualties shall be granted special protection and facilities for the discharge of their mission of assistance."

(Referred to the Drafting Committee. See paragraph 83 below.)

Amendment CDDH/II/256:

In document CDDH/II/240, delete the words "to collect the dead", in paragraph 2, and substitute "to search for and report the location of the dead".

(Adopted. See paragraph 87 below.)

II. Proceedings of the Committee

(i) Meetings

82. The Committee initially discussed article 17, and the amendments thereto, at its seventeenth meeting, on 11 February 1975. At its twenty-fourth, thirtieth and forty-fourth meetings, on 25 February, 5 March and 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

(ii) Initial consideration

83. At its seventeenth meeting on 11 February 1975, the Committee decided, without opposition, to refer to the Drafting Committee, together with article 17 the following amendments; CDDH/II/1 (paragraph 4); CDDH/II/12, CDDH/II/25, CDDH/II/54 (paragraphs 2, 3 and 4) and CDDH/II/203. Amendments CDDH/II/4 and CDDH/II/14 were withdrawn by their sponsors. Amendment CDDH/II/34 was withdrawn by its sponsor in favour of amendment CDDH/II/203.

84. At the same meeting, the Committee put to the vote certain of the amendments before it. The results of the voting were as follows:

- (a) The part of amendment CDDH/II/54 relating to the title of the article was adopted by consensus.
- (b) The principle underlying amendments CDDH/II/1, CDDH/II/11, CDDH/II/16 and CDDH/II/19 was adopted by 45 votes to none, with 7 abstentions.
- (c) Amendment CDDH/II/89 relating to article 17, paragraph 3, was rejected by 23 votes to 2, with 27 abstentions.

(iii) Consideration of the report of the Drafting Committee

85. At the twenty-fourth meeting of the Committee, on 25 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of paragraphs 1 and 2 of article 17 adopted by the Drafting Committee. The Committee adopted an oral amendment to paragraph 1 by consensus and referred the paragraph to the Drafting Committee. The Committee also decided to delete any reference to "feelings" in paragraph 2 by 27 votes to 8, with 14 abstentions.

86. At the thirtieth meeting of the Committee, on 5 March 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240/Add.1) containing the new text of paragraph 1 of article 17 adopted by that Committee. Committee II adopted paragraph 1 by consensus.

87. At its forty-fourth meeting, on 2 April 1975, the Committee adopted paragraph 2 (former paragraph 4) by consensus (see annex II to this report) after having adopted amendment CDDH/II/256 by consensus.

88. Paragraph 3 of article 17 (former paragraph 5) was reserved for consideration after the adoption of the articles on medical transports, since some delegations had expressed a wish that the principle of that paragraph should be extended to aircraft also (see annex II to this report).

Article 18 - Identification

I. Amendments

89. Article 18 was the subject of amendments and sub-amendments submitted by the following countries: Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (CDDH/II/19); Australia, Canada, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/55); Australia (CDDH/II/210).

90. The substance of the amendments submitted to paragraphs 1, 2, 4, 5 and 6 respectively was as follows:

(i) Paragraph 1

Amendment CDDH/II/55:

Replace the text of paragraph 1 by the following:

"1. Each Party to the conflict shall endeavour to ensure the identification of medical personnel, medical units and medical transports, including adopting and implementing reasonable methods and procedures for the recognition and protection of medical units and transports using the distinctive emblem or a distinctive signal."

(Withdrawn. See paragraph 92 below.)

Amendment CDDH/II/210:

In document CDDH/II/55, amend paragraph 1 to read:

"Each Party to the conflict shall endeavour to adopt and implement methods and procedures for the recognition and protection of medical units and means of transport using the distinctive emblem or a distinctive signal."

(Referred to the Working Group. See paragraph 92 below.)

(ii) Paragraph 2

Amendment CDDH/II/55:

Replace the words "The High Contracting Parties shall provide ..." by the words "Each Party to the conflict shall provide ...".

(Referred to the Working Group. See paragraph 92 below.)

(iii) Paragraph 4

Amendment CDDH/II/19:

Delete the last sentence beginning with the words:

"In case of an emergency ...".

(Withdrawn. See paragraph 92 below.)

Amendment CDDH/II/55:

Amend the paragraph to read as follows:

"4. In addition to the distinctive emblem, a Party to the conflict may authorize the use of distinctive signals to identify and recognize medical units and transports. In case of emergency threatening their safety, medical transports may be identified by such signals without being marked with the distinctive emblem."

(Referred to the Working Group. See paragraph 92 below.)



Amendment CDDH/II/210:

In document CDDH/II/55, amend paragraph 4 to read:

"In addition to the distinctive emblem a Party to the conflict may authorise the use of distinctive signals to identify or recognise medical units and transports. In case of emergency threatening their safety medical transports may be identified by such signals without being marked with the distinctive emblem."

(Referred to the Working Group. See paragraph 92 below.)

(iv) Paragraph 5

Amendment CDDH/II/55:

Replace the words "paragraphs 2 to 4" in the first line by the words "paragraphs 1 to 4".

Revise the second sentence of paragraph 5 to read:

"Signals designated in Chapter III of this annex for the exclusive use of medical units and transports shall not, except as provided therein, be used for any purpose other than to identify medical units and transports."

(Referred to the Working Group. See paragraph 92 below.)

(v) Paragraph 6

Amendment CDDH/II/55:

Insert the words "and of the present Protocol" after the word "Conventions".

(Adopted. See paragraph 92 below.)

II. Proceedings of the Committee

(i) Meetings

91. The Committee undertook the initial consideration of article 18 and amendments thereto at its eighteenth meeting, on 12 February 1975. It considered the Working Group's report on the article at its twenty-second meeting, on 21 February 1975, and the reports of the Drafting Committee at its thirtieth, thirty-second, forty-fourth and forty-ninth meetings on 5 and 7 March and 2 and 8 April 1975, respectively.

(ii) Initial consideration

92. At its eighteenth meeting, after the withdrawal of amendments CDDH/II/19 and CDDH/II/55, paragraph 1, the Committee adopted amendment CDDH/II/55, paragraph 6 by consensus and then referred article 18 to a Working Group, which was requested to redraft the article taking into account the following amendments: CDDH/II/55, paragraphs 2, 4 and 5; CDDH/II/210.

(iii) Consideration of the Working Group's report

93. At the Committee's twenty-second meeting, Mr. Al-Fallouji (Iraq), Chairman of the Working Group, introduced a report (CDDH/II/GT/16) containing the text of article 18 as adopted by the Group. The Committee adopted the substance of the text by consensus and referred article 18 to the Drafting Committee, which was requested to take account of various drafting points raised by the Committee.

(iv) Consideration of the Drafting Committee's report

94. At the Committee's thirtieth meeting, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240/Add.1) containing the text of article 18 as adopted by the Drafting Committee. Committee II then took decisions on the various paragraphs of article 18. The results were as follows:

- (a) Paragraph 1 was adopted by consensus after the adoption of an oral amendment.
- (b) Paragraph 2 was adopted by consensus.
- (c) The second of the two alternative texts proposed for paragraph 3 was adopted, with an oral amendment, by 50 votes to none, with 5 abstentions.
- (d) Paragraphs 4 to 8 were adopted by consensus.

95. At its thirty-second meeting, on 7 March 1975, the Committee took note of the Drafting Committee's report (CDDH/II/240/Add.2) concerning the translation of the oral amendment referred to in paragraph 94 (c) above.

96. At its forty-fourth meeting, on 2 April 1975, the Committee considered a report of the Drafting Committee on the expression "zone of military operations" in article 18, paragraph 3, submitted by the Drafting Committee in the light of report CDDH/II/266 - CDDH/III/255 (see paragraph 67 above). Committee II adopted the Drafting Committee's proposal by consensus.

97. At the forty-ninth meeting of the Committee, on 8 April 1975, Mr. Makin (United Kingdom), Rapporteur of the Working Group on articles 22 to 25 of draft Protocol I (see paragraph 210 below), introduced on behalf of that Group and of the Drafting Committee a report (CDDH/II/283/Rev.1) containing the second sentence of paragraph 4 (left pending) of article 18, which had been adopted by the Working Group and the Drafting Committee. Committee II adopted this sentence by consensus.

(v) Text adopted by the Committee

98. Taking the foregoing into account, the Committee recommends that the Conference adopt the text of article 18 shown in annex II to the present report.

Article 18 bis - Missing and Dead; Graves

99. See new Section I bis, paragraphs 113 to 124.

Article 19 - States not parties to a Conflict

I. Amendments

100. Amendments to article 19 were submitted by the following countries: Austria, Finland, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland (CDDH/45); Austria (CDDH/II/4); United Kingdom of Great Britain and Northern Ireland (CDDH/II/52); Australia (CDDH/II/215); Australia, Canada, New Zealand, United Kingdom of Great Britain and Northern Ireland (CDDH/II/242).

101. The substance of these amendments was as follows:

Amendment CDDH/II/52:

Amend the text as follows:

"States not Parties to the conflict shall apply the provisions of the present Protocol to the wounded, and sick and to medical and religious personnel belonging to the Parties to the conflict who may be received or interned in their territory and to any dead of such Parties who may be found."

(Referred to the Drafting Committee: see paragraph 103 below.)

Amendment CDDH/II/215:

Replace the present text by:

"States not parties to the conflict shall apply the provisions of the present Protocol to the wounded and sick and the shipwrecked, medical and religious personnel belonging to the Parties to the conflict who may be received or interned in their territory and to any dead who may be found."

(Referred to the Drafting Committee: see paragraph 103 below.)

Amendment CDDH/45:

In article 19 replace the words "States not Parties to a conflict" by "Neutral or other States not Parties to a conflict".

(Referred to the Drafting Committee: see paragraph 103 below.)

Amendment CDDH/II/4:

In article 19 for "the wounded, the sick and the shipwrecked", read "the wounded and the sick".

(Referred to the Drafting Committee: see paragraph 103 below.)

Amendment CDDH/II/242:

Amend provisional article 19 as reported in document CDDH/II/240 and insert:

"Neutral or other States not parties to a conflict shall, to the extent that they are applicable, comply with the provisions of this Part in respect of such persons protected by it who may be received or interned within their territory, and to any dead of the Parties to that conflict whom they may find."

(Adopted. See paragraph 105 below.)

II. Proceedings of the Committee

(i) Meetings

102. At its twentieth meeting, on 14 February 1975, the Committee undertook the initial consideration of article 19 and amendments thereto. At its twenty-sixth meeting, on 27 February 1975, the Committee considered the report of the Drafting Committee on that article (CDDH/II/240).

(ii) Initial consideration

103. At its twentieth meeting the Committee decided, without opposition, to refer to the Drafting Committee article 19 and the following relevant amendments: CDDH/45, CDDH/II/4, CDDH/II/215.

(iii) Consideration of the report of the Drafting Committee

104. At the twenty-sixth meeting, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) containing the text of article 19 as adopted by that Committee. At the same meeting the sponsors of amendment CDDH/II/242 submitted their proposal.

105. Committee II decided to vote on the issues of substance in amendment CDDH/II/242. The results of the votes were as follows:

- (a) The amendment replacing the words "by analogy" by the words "to the extent that they are applicable" was adopted by 27 votes to 10, with 11 abstentions.
- (b) The amendment replacing the word "apply" by the words "comply with" was adopted by 13 votes to 12, with 24 abstentions.
- (c) The Committee decided by consensus that the wording of the third line of the amendment should be changed to read: "... the provisions of this Protocol in respect of such persons protected by this Part ...".
- (d) The Committee decided by consensus that the words "on their territory" should be replaced by the words "within their territory".
- (e) The amendment to replace the words "who may be found" by "whom they may find" was adopted by 12 votes to 3, with 31 abstentions.

Committee II adopted article 19, as amended, by consensus.

(iv) Text approved by the Committee

106. On the basis of the foregoing, the Committee recommends that the Conference adopt, for article 19, the text appearing in annex II to the present report.

Article 20 - Prohibition of reprisals

I. Amendments

107. Amendments to article 20 were submitted by the following countries: Austria (CDDH/II/4); United States of America (CDDH/II/24); New Zealand (CDDH/II/213); Australia (CDDH/II/214).

108. The substance of these amendments was as follows:

Amendment CDDH/II/4

For "the wounded, the sick and the shipwrecked" read "the wounded and the sick".

(Referred to the Drafting Committee. See paragraph 110 (b) below.)

Amendment CDDH/II/24

(i) Change "wounded, the sick and the shipwrecked" to read "wounded and sick".

(ii) Replace the words "mentioned in this Part" by the words "protected by this Part of the present Protocol".

(Withdrawn. See paragraph 110 below.)

Amendment CDDH/II/213

After the words "means of transport" add the words "and against religious personnel".

(Withdrawn. See paragraph 110 below.)

Amendment CDDH/II/214

Replace the present text of article 20 by the following:

"Measures in the nature of reprisals against the persons and objects protected by this Part are prohibited."

(Adopted. See paragraph 110 (a) below.)

II. Proceedings of the Committee

(i) Meetings

109. At its twentieth meeting, on 14 February 1975, the Committee undertook the initial consideration of article 20 and amendments thereto. At its twenty-fifth meeting, on 26 February 1975, the Committee considered the report of the Drafting Committee on that article (CDDH/II/240).

(ii) Initial consideration

110. At the twentieth meeting of the Committee, the sponsors of amendments CDDH/II/213 and CDDH/II/24 having withdrawn those amendments, the Committee put to the vote the wording "measures in the nature of reprisals" contained in amendment CDDH/II/214.

- (a) That wording was approved by 15 votes to 8, with 32 abstentions.
- (b) At the same meeting the Committee decided, without opposition, to refer article 20 with the remaining amendments - CDDH/II/4 and CDDH/II/214 - to the Drafting Committee.
- (c) At the twenty-third meeting, on 23 February 1975, the sponsor of the expression "measures in the nature of reprisals" withdrew his amendment.

(iii) Consideration of the report of the Drafting Committee

111. At the twenty-fifth meeting of the Committee, on 26 February 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/240) proposing three different formulations for the concept of "reprisals".

- (a) The single word "reprisals" was adopted by 32 votes to none, with 9 abstentions.
- (b) The Committee then adopted the text of article 20 by consensus.

(iv) Text adopted by the Committee

112. On the basis of the foregoing, the Committee recommends that the Conference adopt, for article 20, the text appearing in annex II to the present report.

Section I bis: Information on the victims of a conflict, and remains of deceased

I. Text submitted by the sponsors of the amendment

113. The origin of the new Section I bis was the text of an article 18 bis proposed by the following countries: Federal Republic of Germany, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/56).

114. The Republic of Viet-Nam proposed a new Section III (CDDH/II/90), comprising articles 32 bis, ter and quater, which was considered at the same time as the amendment (CDDH/II/56), proposing the insertion of a new article 18 bis. In fact, these two amendments relate to the same subject but propose that it appear in different Sections of draft Protocol I.

115. Texts submitted by the sponsors of the amendments:

- (a) The text submitted by the sponsors of amendment CDDH/II/56, proposing the insertion of a new article 18 bis, was as follows:

"Article 18 bis - Missing and Dead; Graves

1. In this article - 'graves' includes other dispositions on land of the remains of deceased persons; 'home State' means, in relation to a deceased person, the State upon whom such deceased at the date of his death depended.
2. Each Party to the conflict shall seek, and keep records of, information regarding persons not its own nationals who have been captured or otherwise detained by it in connexion with the conflict and in respect of whom no provision in this regard is made in the Conventions.
3. Each Party to the conflict shall, to the fullest extent possible, properly mark and maintain graves of persons not its own nationals who have died either in connexion with the conflict or during detention in connexion with the conflict, and shall keep records of the location and identification of such graves.
4. At all times, and both before and after the cessation of active hostilities, such graves, together with their markings, shall be respected and shall be protected and maintained against damage, obliteration and improper disturbance.
5. As soon as circumstances permit, and at the latest from the end of active hostilities between the Parties to the conflict, those High Contracting Parties in whose territory are situated graves of persons not its own nationals who have died either in connexion with the conflict or during detention in connexion with the conflict:



- (a) shall, if so required by the home State of such deceased, facilitate the decent return to that State of the remains and of any personal effects of such deceased;
- (b) shall permit access to such graves by representatives of the Official Graves Registration Services of such home States, by representatives of international humanitarian organizations, and by the relatives of such deceased;
- (c) undertake to enter into bilateral agreements with such home States, regarding permanent arrangements for the protection and proper maintenance of such graves.

6. In the absence of a bilateral agreement as referred to in paragraph 5 (c) of this article, and where the High Contracting Party in whose territory those graves described in this article are situated has offered to facilitate the decent return to the home State of the remains and of any personal effects of such deceased, and where such offer has not been accepted, the cost of protecting and properly maintaining such graves in accordance with paragraph 3 of this article shall thereafter be borne by the home State of such deceased.

7. As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall endeavour to locate and obtain information concerning persons not its own nationals who are missing.

8. Information secured or recorded pursuant to paragraphs 2, 3 and 7 of this article shall be promptly transmitted to the home State of such deceased or missing person, either directly or through the Protecting Power, the International Committee of the Red Cross, a national Red Cross (Red Crescent, Red Lion and Sun) Society, or other impartial humanitarian organization.

9. To facilitate the operation of paragraphs 2, 3, 5 (a) and (b), 7 and 8 of this article, each High Contracting Party shall endeavour to make proper means of identification available to any of its nationals who may be in an area of armed conflict and who have not been issued with an identity card provided for under the Conventions.

10. The provisions of this article are supplementary to the obligations contained in the Conventions with regard to the missing and the dead, and with regard to graves."

- (b) The text submitted by the sponsor of amendment CDDH/II/90 of 21 September 1974, proposing the insertion of a new Section III, was as follows:

"Section III: The missing and dead

Article 32 bis

The Parties to the conflict shall endeavour to assist one another in collecting information concerning military personnel and civilians belonging to each Party who are reported missing. They shall set up and keep files on such persons for this purpose.

Article 32 ter

Each Party to the conflict shall, as far as possible, mark the site and maintain the graves of the dead of the other Party who are buried within the territory it controls. Each Party shall set up and keep files for the identification of these graves.

To the same end, burial shall be carried out individually and the dead interred in individual graves

Article 32 quater

At the close of hostilities, the Parties to the conflict shall agree to set up commissions for the purpose of seeking the missing and finding the graves of the dead.

They shall facilitate the repatriation of the missing who have been found; mortal remains; and personal effects of a sentimental value.

They shall also facilitate visits to graves by the families of the dead, social organizations and representatives of the Party concerned."

II. Sub-amendments

116. Sub-amendments to article 18 bis were submitted by the following countries: United Kingdom of Great Britain and Northern Ireland (CDDH/II/56/Rev.1); Canada and New Zealand (CDDH/II/204); New Zealand (CDDH/II/220); Italy (CDDH/II/221).

117. These sub-amendments, set out below under headings corresponding to paragraphs 1, 4, 5 and to the proposed new paragraph, were as follows:

(i) Paragraph 1Amendment CDDH/II/220:

Amend the definition of "home State" to read as follows:

"'Home State' means in relation to a deceased person, the State upon which such deceased at the date of his death depended, or, in the event of a succession of States later taking place in respect of that State, the State on which the deceased person would have been dependent."

(Referred to the Working Group. See paragraph 118 below.)

(ii) Paragraph 4Amendment CDDH/II/221:

To be added after the words "improper disturbance":

"... in such a way that, whenever possible, the identity of the deceased person should always be recognizable."

(Referred to the Working Group. See paragraph 118 below.)

(iii) Paragraph 5Amendment CDDH/II/56/Rev.1:

Redraft paragraph 5 (a) as follows:

"(a) shall, subject to any objection by the home State, facilitate the decent return of the remains of such deceased: the return of any personal effects of such deceased shall also be facilitated."

(Referred to the Working Group. See paragraph 118 below.)

(iv) Proposed new paragraphAmendment CDDH/II/204:

Add the following as paragraph 6 bis:

"A High Contracting Party in whose territory the graves described in this article are situated shall be permitted to exhume the remains from those graves only:

- i. in accordance with paragraph 5 (a) of this article; or
- ii. with the agreement of the home State; or
- iii. where exhumation is a matter of overriding public necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home State of its intention to exhume together with details of the intended place of reinterment."

(Referred to the Working Group. See paragraph 118 below.)

### III. Proceedings of the Committee

#### (i) Meetings

118. The Committee gave initial consideration to article 18 bis and amendments thereto at its nineteenth and twentieth meetings, on 13 and 14 February 1975. At its twentieth meeting the Committee decided, without opposition, to accept the principle of article 18 bis, and to refer to a Working Group under the chairmanship of Mr. Martins (Nigeria) article 18 bis with the following relevant amendments: CDDH/II/56/Rev.1, CDDH/II/204, CDDH/II/220, CDDH/II/221.

119. At the thirty-fourth and thirty-fifth meetings, on 11 and 13 March 1975, the Committee considered the first report of the Working Group.

#### (ii) Consideration of the first report of the Working Group

120. At the Committee's thirty-fourth meeting, Mr. Sieverts (United States of America), Rapporteur of the Working Group, introduced a report (CDDH/II/244/Rev.1), containing the text of the new Section adopted by the Working Group, and designed to replace article 18 bis:

#### "I. Information on the missing and dead

1. Each Party to the conflict shall record information on persons who have been captured or otherwise detained by it as a result of hostilities or occupation, or who die during such detention, and in respect of whom no provision in this regard is made in the Conventions. Such information shall include as a minimum the full name and age or date of birth, and the date and place of capture or detention. Additional information, such as names of close relatives, place of birth and residence, and service or prisoner number, shall also be recorded if available.

2. Each Party to the conflict shall facilitate and, if need be, carry out, the search for and the recording of information on:

- (a) persons who have died as a result of hostilities or occupation. Records shall be kept of the date, place and cause of death, and of the location and marking of their graves;
- (b) persons who have been reported by another Party as missing. This action shall be undertaken as soon as circumstances permit and at the latest from the end of active hostilities. The other Parties shall provide names and other information on such persons to facilitate such searches.

3. Information obtained or recorded pursuant to this section shall be transmitted promptly to the home country of such persons, either directly or through the Protecting Power or a substitute therefor, the International Committee of the Red Cross and its Central Tracing Agency, a national Red Cross (Red Crescent, Red Lion and Sun) Society, or another impartial humanitarian organization. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each party to the conflict shall ensure that such information is supplied to the Central Tracing Agency.

4. (a) The Parties to the conflict shall endeavour to agree on arrangements for burial teams to search for and recover the dead from battlefield areas.<sup>\*/</sup> Unless otherwise agreed, such teams shall be accompanied by personnel of the other party while carrying out these missions. Personnel of such teams shall be respected and protected in all circumstances while exclusively carrying out these duties in areas held by either party.

(b) Personnel of international humanitarian organizations may also assist in carrying out these missions.

5. To facilitate the implementation of this Section, each High Contracting Party shall endeavour to make means of identification available to its nationals who may be in an area of armed conflict and who have not been issued with an identity card provided for under the Conventions.

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<sup>\*/</sup> Subject to review by the Drafting Committee on use of phrase "combat zones".

## II. Graves

6. At all times, and both before and after the end of hostilities, graves of persons who have died as a result of hostilities or occupation or in detention resulting therefrom shall be respected and shall be protected and maintained against damage and improper disturbance. Interment should be carried out individually as far as circumstances permit. Care should be taken to ensure that available information on the identity of the deceased person is preserved.

7. As soon as circumstances permit, and at the latest from the end of active hostilities, the High Contracting Parties in whose territories such graves are situated shall:

- (a) permit access to such graves by representatives of the official graves registration services of the home countries of the deceased and by representatives of international humanitarian organizations. Access to graves by relatives of such deceased shall also be permitted and facilitated as soon as circumstances permit;
- (b) endeavour to agree on arrangements with such home countries for the permanent protection and maintenance of such graves;
- (c) upon request, facilitate the return of the remains of such deceased, unless this is objected to by the home country of such deceased. The return of personal effects of such deceased shall also be facilitated.

8. In the absence of arrangements as proposed in article 7 (b) of this Section, and where the High Contracting Party in whose territory the graves described in this section are situated has offered to facilitate the return to the home country of the remains of such deceased, and where such offer has not been accepted, the High Contracting Party, after five years from the date of this offer and upon due notice to the home country, may adopt the arrangements laid down in its own laws on cemeteries and graves.

9. A High Contracting Party in whose territory the graves described in this section are situated shall be permitted to exhume the remains from those graves only:

- (a) in accordance with article 7 (c) of this section; or

- (b) with the agreement of the home country; or
- (c) where exhumation is a matter of overriding public necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume together with details of the intended place of reinterment. 7\*

### III. Other provisions

10. In this section, 'graves' includes other dispositions of the remains of deceased persons. 'Home country' means the State on which a person depended on the date he died or was reported missing, or, in the event of a succession of States taking place in relation to that country, the State on which such person would have depended had he not died or been reported missing.

11. The provisions of this section apply to persons who are not nationals of the parties concerned. The said provisions are supplementary to the existing obligations contained in the Conventions with regard to the missing and the dead, and with regard to graves."

121. At its thirty-fifth meeting, on 13 March 1975, the Committee decided, without opposition, to refer back the new Section, with the relevant new amendments and oral amendments (see CDDH/II/SR.34 and CDDH/II/SR.35), to the Working Group (see paragraph 124 below).

### IV Amendments

122. Amendments to the new Section (CDDH/II/244/Rev.1) were submitted by the following countries: Republic of Viet-Nam (CDDH/II/257); Cyprus, France, Greece, Holy See (CDDH/II/259 and Add.1)1/; Canada, Federal Republic of Germany, Nigeria, Spain, United Kingdom of Great Britain and Northern Ireland (CDDH/II/260); United Kingdom of Great Britain and Northern Ireland (CDDH/II/261); Spain (CDDH/II/262); United States of America (CDDH/II/263).

123. These sub-amendments, set out below under headings corresponding to the article as a whole, to the introduction to the article, to paragraph 4, to paragraph 7 and to the proposed new paragraph, were as follows:

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\*/ New Zealand amendment.

1/ Sponsors: Cyprus, France, Holy See; co-sponsor: Greece (CDDH/II/259/Add.1)

(i) New Section as a whole

Amendment CDDH/II/262:

1. Reword part I of document CDDH/II/244/Rev.1 to read as follows:

"1. Information on the missing and the dead

1. Field of application

This section applies to persons who have died or are missing as a result of or in connexion with hostilities. It applies to persons who have been captured or otherwise detained by one of the Parties to the conflict as a result of hostilities or occupation and to persons who die while they are in the hands of that party and in respect of whom no provision is made in the Conventions.

2. Missing persons

To enable missing persons to be traced, the following rules shall be applied:

- (a) Each Party to the conflict shall communicate to the Central Tracing Agency and, either directly or through the Protecting Power or the ICRC, to the other Party or Parties, whatever information is necessary in connexion with persons it thinks are missing.
- (b) Each Party to the conflict shall keep a register, containing the information mentioned in the preceding sub-paragraph, of persons reported missing, and shall carry out the measures and investigations necessary to trace such persons.
- (c) Each Party to the conflict shall, where appropriate, inform the Central Tracing Agency or, either directly or through the Protecting Power or the ICRC, the other Party or Parties to the conflict, of the location and particulars of the persons referred to in this article /sub-paragraph / /paragraph /. In any event, the Parties to the conflict shall endeavour to make the requisite means of identification available to its nationals who may be in a combat zone.



3. The dead

- (a) The Parties to the conflict shall endeavour to make local arrangements to enable their special teams to search for and recover the dead from combat zones and, following their identification, to give their remains decent burial in accordance with the provisions of this section.

Such teams may consist also of persons belonging to international humanitarian organizations, charitable organizations and if necessary to the civilian population, to whom in that event a previous appeal will have to be made.

Recovery teams shall be respected and protected in all circumstances while carrying out their duties.

- (b) Each Party to the conflict shall keep special registers of persons belonging to the other Party or Parties or of the persons referred to in paragraph 1 of this section, who may have died while in its hands or whose bodies may have been recovered by its own services. Particulars of the dead who have been identified and information which may facilitate future identification of those not identified, shall be recorded separately in these registers.
- (c) The particulars referred to in the preceding sub-paragraph shall be communicated to the Central Tracing Agency and, either directly or through the Protecting Power or the ICRC, to the other Party or Parties to the conflict.

2. In paragraph 6, insert the following words after the word 'graves': 'or places where the remains have been laid'.

3. Delete the whole of Part III."

(Referred to the Working Group. See paragraph 121 above.)

(ii) Introduction to the proposed new Section I

Amendment CDDH/II/259 and Add.1:

The following sentence should appear at the head of the article, before section I:

"The activity of the Parties to the conflict and of the international agencies shall be mainly prompted by the fundamental right of families to know what has happened to their relatives."

(Referred to the Working Group. See paragraph 121 above.)

(iii) Paragraph 4 (CDDH/II/244/Rev.1)

Amendment CDDH/II/263:

In article 4 (a), the first sentence should read:

"The Parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify, and recover the dead from battlefield areas."

(Referred to the Working Group. See paragraph 121 above.)

(iv) Paragraph 7 (CDDH/II/244/Rev.1)

Amendment CDDH/II/260:

Replace the first sentence of paragraph 7 (c) by the following: "upon request of the home country or, unless the home country objects, of close relatives, facilitate the return of the remains of such deceased."

(Referred to the Working Group. See paragraph 121 above.)

(v) Proposed new paragraph

Amendment CDDH/II/261:

"The provisions of this Part 7 do not impose obligations on any party in respect of its own nationals."

(Referred to the Working Group. See paragraph 121 above.)

Amendment CDDH/II/257:

Add the following paragraph:

"The Parties to the conflict shall agree to set up committees to arrange for the repatriation of persons reported missing who have been found and to whom the provisions of the Conventions cannot be applied."

(Referred to the Working Group. See paragraph 121 above.)

Report of the Working Group

124. The Working Group prepared a further report (CDDH/II/271) which had two addenda (CDDH/II/271/Add.1 and Add.2). The acting Rapporteur of the Working Group (Mr. M. Bothe, Federal Republic of Germany) introduced that report at the fifty-second meeting of the Committee, on 10 April 1975. The Committee took note by consensus of the report of the Working Group contained in document CDDH/II/271 and accepted the proposal formulated in paragraph 3 of the report (CDDH/II/271/Add.2) of that Group, for the reasons explained in the report.

(i) Text of the new Section I bis

"INFORMATION ON THE VICTIMS OF A CONFLICT, AND REMAINS OF  
DECEASED

Chapter IInformation on the detained, the dead and the missing

1. In the implementation of the provisions of this Chapter concerning the obtaining, the recording and the transmission of information on persons who are detained, who have died, or have been reported missing as a result of hostilities or occupation, the High Contracting Parties shall bear in mind, and respond, to the fullest extent possible, to the basic human need of families to know the fate of their relatives.
2. Each Party to the conflict shall record information on persons who have been detained, imprisoned or otherwise held in captivity by it as a result of hostilities or occupation, or who die during such detention, / and in respect of whom no provision in this regard is made in the Conventions./\* Such information should include if possible the full name and age or date of birth, and the date and place of such detention. Additional information, such as names of next-of-kin, place of birth and residence, and identifying number, shall also be recorded if available.
3. Each Party to the conflict shall to the fullest extent possible facilitate and, if need be, carry out the search for, and the recording of, information on:

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\*/ Subject to review by the Drafting Committee.

- (a) persons who have died as a result of hostilities or occupation, /and in respect of whom no provision in this regard is made in the Conventions/\* . Records shall be kept of the date, place and cause of death, and of the location and marking of their graves or other location of their remains;
- (b) persons who have been reported by another High Contracting Party as missing. This action shall be undertaken as soon as circumstances permit and at the latest from the end of active hostilities. Such other Party shall provide names and other information on such persons to facilitate such searches.

4. Information obtained or recorded pursuant to this chapter shall be transmitted as rapidly as possible to the home country of such persons, either directly or through the Protecting Power or a substitute therefor, the International Committee of the Red Cross and its Central Tracing Agency, a national Red Cross (Red Crescent, Red Lion and Sun) Society, or another /impartial/\* humanitarian organization as referred to elsewhere in the Conventions and the present Protocol. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each Party to the conflict shall ensure that such information is also supplied to the Central Tracing Agency.

- 5. (a) The Parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify, and recover the dead from battlefield areas\*\* including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse Party while carrying out these missions in areas controlled by the adverse Party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.
- (b) Personnel of an international humanitarian organization as referred to elsewhere in the Conventions and the present Protocol may assist in carrying out these missions.

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\* Subject to review by the Drafting Committee.

\*\* Subject to review by the Drafting Committee on use of phrase "combat zones".

6. To facilitate the implementation of this chapter, each High Contracting Party is invited to make means of identification available to its nationals who may be in an area of armed conflict and who have not been issued with an identity card provided for under the Conventions.

## Chapter II

### Remains of deceased

7. At all times graves and, where appropriate, other locations of the remains of persons who have died as a result of hostilities or occupation or in detention resulting therefrom shall be respected and shall be protected and maintained against damage and improper disturbance. Interment or cremation should be carried out individually as far as circumstances permit. Care should be taken to ensure that available information on the identity of the deceased person is preserved.

8. As soon as circumstances permit,\*\* the High Contracting Parties in whose territories such graves are situated shall:

- (a) endeavour to permit access to such graves and other locations\* by representatives of the official graves registration services of the home countries of the deceased and by representatives of an international humanitarian organization as referred to elsewhere in the Conventions and the present Protocol. Access to such graves and other locations\* by relatives of such deceased shall also be permitted and facilitated as soon as circumstances permit. They shall also endeavour to permit and facilitate access to such graves and other locations\* by relatives of such deceased;
- (b) endeavour to agree on arrangements with such home countries for the permanent protection and maintenance of such graves and other locations\* and for access to graves as referred to in the preceding sub-paragraph;

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\* Subject to review by the Drafting Committee

\*\* These words are to be deleted if the words in brackets in paragraph 8 (a) are accepted.

- (c) at the request of the home country or, unless the home country objects, of the next-of-kin, facilitate the return of the remains of such deceased if possible. The return of personal effects of such deceased shall also be facilitated.

9. In the absence of arrangements as proposed in article 8 (b) of this chapter, and where the High Contracting Party in whose territory the graves / and other locations/\* described in this chapter are situated has offered to facilitate the return to the home country of the remains of such deceased, and where such offer has not been accepted, the High Contracting Party, after five years from the date of this offer and upon due notice to the home country, may adopt the arrangements laid down in its own laws on cemeteries and graves.

10. A High Contracting Party in whose territory the graves / and other locations/\* described in this chapter are situated shall be permitted to exhume the remains from those graves / and other locations/\*;

- (a) in accordance with article 8 (c) of this section; or
- (b) with the agreement of the home country; or
- (c) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume together with details of the intended place of reinterment.

### Chapter III

#### Other provisions

/11. 'Home country' means the State on which a person depended on the date he died or was reported missing, or, in the event of a succession of States taking place in relation to that country, the State on which such person would have depended had he not died or been reported missing./

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\* Subject to review by the Drafting Committee.

12. The provisions of this section do not impose obligations on any High Contracting Party with regard to its own nationals.7\*

(ii) Addendum 1

125. After the conclusion of the deliberations of the Working Group, the Rapporteur was asked by one delegation to transmit to Committee II the following reservations with regard to the proposed Section I bis:

- "Paragraph 2: Add 'to the fullest extent possible' after 'shall' in the first line.
- Paragraph 4: Both sentences should be changed into an endeavour clause.
- Paragraph 8 (a): The beginning of the phrase should read: 'endeavour to agree upon access.'
- Paragraph 8 (c): Add 'to the fullest extent possible' after 'facilitate'."

(iii) Addendum 2

126. While the principles contained in the proposed new section I bis are generally accepted and uncontroversial, there is still some disagreement as to their precise content and wording. In the opinion of the Working Group, these differences should, at the present stage of the Conference, not be disposed of by a vote, but every effort should be made to settle them by negotiation. Time should be given for this purpose.

127. The Working Group has also taken note of the desire expressed by several delegations that the text of the new section be shorter, more concise and more easy to understand. If this can be accomplished at all, it is possible only after a very careful study. Brevity of the text should not be reached at the expense of a meaningful protection. Time should therefore also be given in order to enable the governments to study the text with a view to its redrafting.

128. The Working Group, while reaffirming its adherence to the principles contained in the proposed section I bis, recommends, therefore, to Committee II to postpone a decision on the final text of the proposed new section until the third session.

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\* The need for this provision is subject to review by the Drafting Committee of the Conference as a whole.

DRAFT PROTOCOL II ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS

PART III

WOUNDED, SICK AND SHIPWRECKED PERSONS

Article 11 - Definitions

129. At its twenty-first meeting, on 18 February 1975, the Committee decided to defer consideration of article 11 until the other provisions of Part III had been adopted (see CDDH/II/SR.21).

Article 12 - Protection and care

I. Amendments

130. The following countries submitted amendments to article 12: Canada (CDDH/II/218); United States of America (CDDH/II/222); Australia (CDDH/II/225); Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (CDDH/II/238).

131. The amendments, arranged under sub-headings relating to the article as a whole and to paragraphs 1 and 2 of the article, were to the following effect:

(i) Article 12 as a whole

Amendment CDDH/II/222:

Make paragraphs 1 and 2 of article 12 of draft Protocol II conform, as appropriate, to paragraphs 1 and 2 of article 10 of draft Protocol I.

Make paragraphs 3 and 4 of draft Protocol II conform, as appropriate, to article 11 of draft Protocol I.

(Referred to the Drafting Committee. See paragraph 133 below.)

Amendment CDDH/II/225:

Delete existing article and insert:

"1. The wounded and sick and the shipwrecked, shall be respected and protected.

2. In all circumstances the wounded and sick shall be treated humanely and shall receive, with the least possible delay and without any discrimination, the medical care necessitated by their condition.



3. The physical or mental integrity of the wounded and sick, the shipwrecked and persons whose liberty has been restricted by capture or arrest for reasons in relation to the armed conflict shall not be endangered by any unjustified act or omission. Accordingly it is prohibited to subject the persons described in this article to any medical procedure which is not indicated by the state of health of the person concerned and is not consistent with accepted medical standards which would be applied to nationals of the Party under similar circumstances. In particular it is prohibited to carry out on such persons, even with their consent:

- (a) physical mutilation;
- (b) medical or scientific experiments;
- (c) the removal of tissue or organs for transplantation.

4. Exceptions to the provisions of paragraph 3 may be made only in the case of donations of blood or of skin for grafts provided that they are given voluntarily and without any coercion or inducement and then only under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient."

(Referred to the Drafting Committee. See paragraph 133 below.)

(ii) Paragraph 1

Amendment CDDH/II/218:

Amend paragraph 1 to read as follows:

"The wounded, sick and the shipwrecked shall be respected and protected."

(Withdrawn. See paragraph 133 below.)

(iii) Paragraph 2

Amendment CDDH/II/238:

Replace the present text and that of amendment CDDH/II/225 by the following:

"2. The wounded and the sick belonging to any Party to the conflict or to the neutral part of the population shall, under all circumstances, be treated humanely and offered necessary medical care on equal footing. The only criterion in determining the priority and scope in rendering medical assistance shall be the state of health."

(Referred to the Drafting Committee. See paragraph 133 below.)

II. Proceedings of the Committee

(i) Meetings

132. At its twenty-sixth meeting, on 27 February 1975, the Committee gave preliminary consideration to article 12 and the amendments thereto. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

(ii) Preliminary consideration

133. At the twenty-sixth meeting of the Committee, amendment CDDH/II/218 was withdrawn. At the same meeting, the Committee decided, without objection, to refer article 12 to the Drafting Committee together with the following amendments thereto: CDDH/II/222, CDDH/II/225, and CDDH/II/238. The Drafting Committee was also instructed to set up a Working Group to consider the questions of substance raised in the article.

(iii) Consideration of the report of the Drafting Committee

134. At the forty-fourth meeting of the Committee, on 2 April 1975, the Rapporteur of the Drafting Committee submitted a report, (CDDH/II/287) containing the text of articles 12 and 12 bis adopted by the Drafting Committee. The Committee adopted those texts by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.44).

(iv) Text adopted by the Committee

135. On the basis of the foregoing, the Committee recommends to the Conference the adoption of the text of articles 12 and 12 bis given in annex II to this report.

Article 13 - Search and evacuation

I. Amendment

136. The following amendment was submitted to article 13:

Australia (CDDH/II/226):

Insert the words "and the shipwrecked" after the words "wounded and sick" in both paragraphs.

(Referred to the Drafting Committee. See paragraph 138 below.)

## II. Proceedings of the Committee

### (i) Meetings

137. At its twenty-seventh meeting, on 28 February 1975, the Committee gave preliminary consideration to article 13 and the amendment thereto. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

### (ii) Preliminary consideration

138. At its twenty-seventh meeting the Committee decided, without objection to refer article 13 and amendment CDDH/II/226 to the Drafting Committee.

### (iii) Consideration of the report of the Drafting Committee

139. At the forty-fourth meeting of the Committee, on 2 April 1975, the Rapporteur of the Drafting Committee submitted a report (CDDH/II/287) containing the text of article 13 adopted by that Committee. Committee II adopted the text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.44).

### (iv) Text adopted by the Committee

140. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 13 appearing in annex II to this report.

## Article 14 - Role of the civilian population

### I. Amendments

141. Amendments to article 14 were submitted by the following countries: Republic of Viet-Nam (CDDH/II/7); United States of America (CDDH/II/222); Australia (CDDH/II/227).

142. These amendments, arranged under sub-headings relating to the article as a whole and to paragraph 3, were to the following effect:

#### (i) Article 14 as a whole

##### Amendment CDDH/II/227:

Replace the present text by the following:

"1. The civilian population shall respect the wounded and sick and the shipwrecked, even if they belong to the adverse party, and shall refrain from committing any acts of violence against them.

2. Relief societies, such as Red Cross (Red Crescent, Red Lion and Sun) organizations and the civilian population shall be permitted to offer medical assistance or care to the wounded and sick and the shipwrecked, either spontaneously or at the request of the Parties to the conflict.

3. No one shall be harmed, prosecuted or convicted for having given medical assistance or care to the wounded and sick and the shipwrecked, even if they belong to the adverse party.

4. Parties to the conflict may appeal to the charity of commanders of civilian ships and crafts, vehicles and aircraft to take aboard and care for the wounded and sick and the shipwrecked, and to collect the dead. Ships, craft, vehicles and aircraft responding to such appeals and those spontaneously giving shelter to such casualties shall be granted special protection and facilities for the discharge of their mission of assistance."

(Referred to the Drafting Committee. See paragraph 144 below.)

Amendment CDDH/II/222:

Make article 14 of draft Protocol II conform, as appropriate, to article 11 of draft Protocol I.

(Referred to the Drafting Committee. See paragraph 144 below.)

(ii) Paragraph 3

Amendment CDDH/II/7:

At the end of the paragraph, add the words: "provided they so inform the authorities in power."

(Withdrawn. See paragraph 144 below.)

II. Proceedings of the Committee

(i) Meetings

143. At its twenty-seventh meeting, on 28 February 1975, the Committee gave preliminary consideration to article 14 and the amendments thereto. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

(ii) Preliminary consideration

144. At the twenty-seventh meeting of the Committee, amendments CDDH/II/222 and CDDH/II/227 were referred, without objection, to the Drafting Committee. Amendment CDDH/II/7, being similar to amendment CDDH/II/89 which had been submitted to article 17 of draft Protocol I and which the Committee had rejected by vote (see paragraph 84 (c) above), was withdrawn.

(iii) Consideration of the report of the Drafting Committee

145. At the forty-fourth meeting of the Committee, on 2 April 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/287) containing the text of article 14 adopted by the Drafting Committee. The Committee adopted the text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.44) and an oral amendment.

(iv) Text adopted by the Committee

146. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 14 appearing in annex II to this report.

Article 15 - Medical and religious personnelI. Amendments

147. Amendments to article 15 were submitted by the following countries: United States of America (CDDH/II/222); Canada (CDDH/II/241); Australia, Austria, Belgium, France, Holy See, Nigeria, Switzerland (CDDH/II/243).

148. The amendments were as follows:

Amendment CDDH/II/243:

Redraft article 15 to read as follows:

"Medical personnel and religious personnel - such as chaplains - whether military or civilian, ministering to the wounded, the sick and the shipwrecked, shall in all circumstances be respected and protected.

They shall be granted all the aid necessary for the discharge of their functions and shall not be compelled to carry out tasks unrelated to their mission."

(Referred to the Drafting Committee. See paragraph 150 below.)

Amendment CDDH/II/241:

Amend article 15 to read:

"All medical personnel, chaplains and other persons performing similar functions, as well as civilians who care for the wounded and sick and the shipwrecked, shall be respected and protected at all times. They shall not be harmed, convicted or punished for having offered to provide or for having provided care to the wounded and sick and the shipwrecked, or otherwise attended to their needs."

This amendment replaces amendments to articles 15, 16 and 17 contained in document CDDH/II/218, dated 13 February 1975.

(Referred to the Drafting Committee. See paragraph 150 below.)

Amendment CDDH/II/222:

Make article 15 of draft Protocol II conform as appropriate, to paragraphs 1 and 6 of article 15 of draft Protocol I.

(Referred to the Drafting Committee. See paragraph 150 below.)

II. Proceedings of the Committee

(i) Meetings

149. At its twenty-seventh, twenty-eighth and thirty-first meetings, on 28 February and 3 and 6 March 1975, the Committee gave preliminary consideration to article 15 and the amendments thereto. At its forty-first and forty-third meetings, on 21 and 24 March 1975, the Committee considered the report of the Working Group on articles 15, 16 and 18 of draft Protocol II. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on article 15.

(ii) Preliminary consideration

150. At the twenty-seventh meeting of the Committee, the sponsor of amendment CDDH/II/241 withdrew the first sentence of his proposal. At its twenty-eighth meeting, the Committee decided, without objection, to refer article 15 with amendments CDDH/II/222, CDDH/II/241 and CDDH/II/243 to the Drafting Committee, subject to the comments of the Working Group (see paragraph 152 below).

151. At its thirty-first meeting, on 6 March 1975, the Committee considered a document submitted by the Chairman and the Vice-Chairman of the Drafting Committee entitled "Issues which should be decided by Committee II relative to articles 15, 16 and 18" (CDDH/II/GT/25). At the same meeting, the Committee appointed a Working Group under the chairmanship of Mr. Czank (Hungary) to deal with those questions.

(iii) Consideration of the report of the Working Group

152. At the forty-second meeting of the Committee, on 21 March 1975, Mr. Marriott (Canada), Rapporteur of the Working Group, introduced a report (CDDH/II/269) giving the answers to the questions raised and the text of article 11 (f) and article 15 adopted by the Working Group. At its forty-third meeting, on 24 March 1975, the Committee adopted the report and referred it to the Drafting Committee.

(iv) Consideration of the report of the Drafting Committee

153. At the forty-fourth meeting of the Committee, on 2 April 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/287) containing the text of article 15 adopted by the Drafting Committee. The Committee adopted the text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.44).

(v) Text adopted by the Committee

154. On the basis of the foregoing, the Committee recommends to the Conference the adoption of the text of article 15 appearing in annex II to this report.

Article 16 - General protection of medical duties

I. Amendments

155. The following countries submitted amendments to article 16: Belgium (CDDH/II/1); Republic of Viet-Nam (CDDH/II/6); Canada (CDDH/II/218); United States of America (CDDH/II/222); Australia (CDDH/II/229).

156. Those amendments, arranged under sub-headings relating to the article as a whole, to paragraphs 2 and 3 and to the deletion of the article, were to the following effect:

(i) Article 16 as a whole

Amendment CDDH/II/229:

Delete the existing article and insert the following:

"1. In no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall neither be compelled to perform acts or carry out work contrary to, nor to refrain from acts required by:

(a) medical ethics or rules designed for the benefit of the wounded and sick; or

(b) the present Protocol.

3. No person engaged in medical activities may be compelled to give to any authority adverse to that person information concerning the sick and wounded under his care or who have been under his care, if that information is likely, in his judgement, to prove harmful to the persons concerned or to their families. Regulations for the compulsory notification of communicable diseases shall, however, be respected."

(Referred to the Drafting Committee. See paragraph 159 below.)

(ii) Paragraph 2

Amendment CDDH/II/1:

Replace the present text by the following:

"In particular, such persons shall not be compelled to administer to prisoners treatment calculated to induce them to behave in any given fashion in relation to the armed conflict."

(Withdrawn. See paragraph 158 below.)

(iii) Paragraph 3

Amendment CDDH/II/6:

Replace the words "medical activities" by the words "medical activities as referred to in paragraph 1 above".

(Referred to the Drafting Committee. See paragraph 159 below.)



(iv) Deletion of the articleAmendment CDDH/II/222:

Delete the article.

(Withdrawn. See paragraph 158 below.)

Amendment CDDH/II/218:

Delete the article.

(Partially withdrawn. See paragraphs 158 and 160 below.)

III. Proceedings of the Committee(i) Meetings

157. The Committee initially discussed article 16, and the amendments thereto, at its twenty-eighth meeting, on 3 March 1975. At its thirty-ninth, fortieth, forty-first, forty-second and forty-fourth meetings, on 20 and 21 March and 2 April 1975, the Committee considered the report of the Working Group on paragraph 3 of the article. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on paragraphs 1 and 2 of the article.

(ii) Initial consideration

158. At the Committee's twenty-eighth meeting, the sponsors of amendments CDDH/II/1 and CDDH/II/222 withdrew their proposals. At the same meeting, the sponsor of amendment CDDH/II/218 withdrew his proposal to delete paragraphs 1 and 2 of the article.

159. Also at its twenty-eighth meeting, the Committee decided, without objection, to refer to the Drafting Committee article 16, paragraphs 1 and 2, with the amendments thereto (CDDH/II/6, CDDH/II/229) and the comments of the Working Group (see paragraph 152 above).

160. At the same meeting, the Committee appointed a Working Group under the chairmanship of Mr. Schultz (Denmark), to consider paragraph 3 of the article in the light of amendments CDDH/II/222 and CDDH/II/218.

(iii) Consideration of the report of the Working Group

161. At the thirty-ninth meeting of the Committee, on 20 March 1975, the Chairman of the Working Group introduced a report (CDDH/II/267) containing the text of article 16, paragraph 3, adopted by the

Working Group. At its forty-second meeting, on 21 March 1975, the Committee decided to refer article 16, paragraph 3, to the Working Group, which was requested to take into account all the amendments proposed at the thirty-ninth, fortieth, forty-first and forty-second meetings.

162. At the forty-fourth meeting of the Committee, on 2 April 1975, the Chairman of the Working Group introduced a report (CDDH/II/288) containing the text of paragraph 3 and new paragraph 4 of article 16 adopted by the Working Group. Paragraphs 3 and 4 were adopted unanimously. At the forty-sixth meeting, on 4 April 1975, two further statements were made on paragraphs 3 and 4 (see also CDDH/II/SR.47).

(iv) Consideration of the report of the Drafting Committee

163. At the forty-fourth meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/287) containing the text of paragraphs 1 and 2 of article 16 adopted by the Drafting Committee. The Committee adopted the text by consensus, with the amendments proposed by the Rapporteur (see CDDH/II/SR.44).

(v) Text adopted by the Committee

164. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 16 reproduced in annex II to this report.

Article 17 - Medical units and transports.

I. Amendments

165. An amendment to article 17 was submitted by the following country: United States of America (CDDH/II/235).

166. The amendment was to the following effect:

Amendment CDDH/II/235:

Revise as follows:

"1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.

2. The protection to which medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the adverse Party. Protection may, however, cease only after warning has been given setting, whenever appropriate, a reasonable time limit, and after such warning has remained unheeded.

3. The following shall not be considered harmful acts:
- (a) the fact that the personnel of a medical unit or medical transport are armed for their own defence or that of the wounded and sick in their care;
  - (b) the presence in medical units or medical transport of small arms and ammunition taken from the wounded and sick and not yet handed over to the proper service;
  - (c) the fact that medical units are guarded by armed sentries or escorts for keeping order."

(Adopted. See paragraph 168 below.)

## II. Proceedings of the Committee

### (i) Meetings

167. The Committee initially discussed article 17, and the amendment thereto, at its twenty-eighth meeting, on 3 March 1975. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

### (ii) Initial consideration

168. At its twenty-eighth meeting, the Committee put to the vote the amendment before it. The amendment was adopted by 34 votes to 1, with 15 abstentions. Article 17, together with amendment CDDH/II/235, was referred to the Drafting Committee.

### (iii) Consideration of the report of the Drafting Committee

169. At the forty-fourth meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/287) containing the text of article 17 adopted by the Drafting Committee. The Committee adopted the text provisionally by consensus, with the amendments proposed by the Rapporteur (see CDDH/II/SR.44).

### (iv) Text adopted by the Committee

170. At its fifty-third meeting, on 14 April 1975, the Committee adopted by consensus and definitively, the text of article 17 of draft Protocol II which had been provisionally adopted at the forty-fourth meeting on 2 April 1975. See annex II to the present report.

Article 18 - The distinctive emblem

I. Amendments

171. There were no amendments to article 18.

II. Proceedings of the Committee

(i) Meetings

172. The Committee initially discussed article 18 at its twenty-eighth and thirty-first meetings, on 3 and 6 March 1975. At its fortieth meeting, on 20 March 1975, the Committee considered the report of the Working Group. At its forty-fourth meeting, on 2 April 1975, the Committee considered the report of the Drafting Committee on the article.

(ii) Initial consideration

173. At its thirty-first meeting, the Committee decided to set up a Working Group to reword the article in the light of the various oral amendments submitted at the meetings and the Working Group's comments on articles 15, 16 and 18 (see paragraph 152 above).

(iii) Consideration of the report of the Working Group

174. At the fortieth meeting of the Committee, the Chairman of the Working Group, Mr. Schultz (Denmark), introduced a report (CDDH/II/268) containing the text of article 18 adopted by the Working Group. The Committee adopted this text with some amendments and decided, without objection, to refer article 18, with the report of the Working Group, to the Drafting Committee.

(iv) Consideration of the report of the Drafting Committee

175. At the forty-fourth meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/287) containing the text of article 18 adopted by the Drafting Committee. The Committee adopted this text by consensus, with the amendments proposed by the Rapporteur (see CDDH/II/SR.44).

(v) Text adopted by Committee

176. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 18 reproduced in annex II to this report.

Article 19 - Prohibition of reprisalsI. Amendments

177. Amendments to article 19 were submitted by the following countries: United States of America (CDDH/II/222); Australia (CDDH/II/230); New Zealand (CDDH/II/232).

178. These amendments were to the following effect:

Amendment CDDH/II/222:

Bring the text of article 19 of draft Protocol II into conformity, as appropriate, with that of article 20 of draft Protocol I.

(Referred to the Working Group. See paragraph 181 below.)

Amendment CDDH/II/232:

Delete article 19 and substitute the following:

"Reprisals against persons and objects protected by this Part are prohibited."

(Referred to the Working Group. See paragraph 181 below.)

Amendment CDDH/II/230:

Delete article 19.

(Withdrawn. See paragraph 180 below.)

II. Proceedings of the Committee(i) Meetings

179. The Committee initially discussed article 19, and the amendments thereto, at its twenty-eighth, thirty-first, thirty-second and thirty-third meetings, on 3, 6, 7 and 10 March 1975.

(ii) Initial consideration

180. At its thirty-third meeting, the sponsor of amendment CDDH/II/230 withdrew his proposal.

181. Also at the thirty-third meeting, the Committee decided, without objection, to refer article 19, with amendments CDDH/II/222 and CDDH/II/232 thereto, to a Working Group under the chairmanship of Mr. Chowdhury (Bangladesh). There was no objection to including in the text of draft Protocol II a provision concerning

measures comparable to those which, in an international conflict, would be considered as reprisals. At its forty-ninth meeting, on 8 April 1975, the Committee decided to postpone final consideration of this question until the third session of the Conference.

Article 19 quinquies - Foreign States

I. Text of the sponsor of the amendment  
and proceedings of the Committee

182. Article 19 quinquies was introduced by the representative of Norway at the thirty-fourth meeting of the Committee, on 11 March 1975. The sponsor of the amendment withdrew his proposal at the same meeting.

183. Amendment CDDH/II/248 read as follows:

"Article 19 quinquies - Foreign States

In the event of an armed conflict as defined in article 1 of this Protocol foreign States shall, to the extent that they are applicable, comply with the provisions of this Protocol (Part) in respect of (such persons protected by it) (the wounded, the sick and the shipwrecked) who may be received or interned within their territory and to any dead of the Parties to that conflict whom they may find."

(Withdrawn. See paragraph 182 above.)

DRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS

PART II

WOUNDED, SICK AND SHIPWRECKED PERSONS

SECTION II

MEDICAL TRANSPORTS

CHAPTER I

JOINT PROVISIONS

Article 21 - Definitions

I. Amendments

184. Amendments to article 21 were submitted by the following countries: Yugoslavia (CDDH/II/3); Belgium, Canada, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/79 and CDDH/II/217<sup>1/</sup>); Australia (CDDH/II/251).

185. The substance of those amendments, which are reproduced below in sections corresponding to the article as a whole, or to subparagraphs (a), (b), (c), (d) or (e), was as follows:

(i) Article 21 as a whole

Amendment CDDH/II/251:

Replace the present text by the following:

- "(a) 'Medical transportation' means the transportation by land, water or air of the wounded and sick and the medical personnel, equipment and supplies protected by the Conventions and by the present Protocol;
- (b) 'Medical transport' is any means of transportation such as hospital ships, life boats of all kinds and small medical service craft, vehicles, or aircraft be they military or civilian, permanent or temporary, assigned exclusively to medical transportation, under the control

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<sup>1/</sup> Sponsors: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America; co-sponsor: Netherlands (CDDH/II/217).

of a competent authority of a Party to the conflict. Permanent medical transports are those which are assigned for an indeterminate period to medical transportation. Temporary medical transports are those which are assigned to one or more medical transportation missions while devoted exclusively to the performance of such mission;"

Delete paragraphs (c), (d) and (e).

(Referred to the Drafting Committee. See paragraph 187 below.)

(ii) Sub-paragraph (a)

Amendment CDDH/II/3:

Replace "sea" by "water".

(Referred to the Drafting Committee. See paragraph 187 below.)

Amendment CDDH/II/79:

Replace the present text by the following:

"'Medical transportation' means the transportation by land, water, or air of the wounded and sick and of medical personnel, equipment and supplies protected by the Conventions and by the present Protocol;"

(Referred to the Drafting Committee. See paragraph 187 below.)

(iii) Sub-paragraph (b)

Amendment CDDH/II/79:

Replace the present text by the following:

"'Medical transport' is any means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation, under the control of a competent authority of a Party to the conflict. 'Permanent medical transports' are those which are assigned for an indeterminate period to medical transportation. 'Temporary medical transports' are those which are assigned to one or more medical transportation missions while devoted exclusively to the performance of such mission;"

(Referred to the Drafting Committee. See paragraph 187 below.)



(iv) Sub-paragraph (c)Amendment CDDH/II/3:

Replace "sea" by "water".

(Referred to the Drafting Committee. See paragraph 187 below.)

Amendment CDDH/II/79:

Replace the present text by the following:

"'Medical ships and craft' means any medical transport by water, including hospital ships, lifeboats of all kinds and small medical service craft, whether civilian or military;"

(Referred to the Drafting Committee. See paragraph 187 below.)

(v) Sub-paragraphs (d) and (e)Amendment CDDH/II/79:

In sub-paragraphs (d) and (e) delete the words "any means of".

(Referred to the Drafting Committee. See paragraph 187 below.)

II. Proceedings of the Committee(i) Meetings

186. The Committee first considered article 21 and amendments thereto at its thirty-seventh meeting, on 17 March 1975. At its forty-ninth meeting, on 8 April 1975, it considered the joint report of the Working Group and the Drafting Committee on that article.

(ii) Initial consideration

187. At its thirty-seventh meeting, the Committee decided unanimously to refer article 21 and the following amendments thereto to the Drafting Committee: CDDH/II/3, CDDH/II/79, CDDH/II/217 and CDDH/II/251.

(iii) Consideration of the joint report of the Working Group and the Drafting Committee

188. At the forty-ninth meeting of the Committee, Mr. Makin (United Kingdom), Rapporteur of the Working Group on articles 22 to 25 (see paragraph 210 below) introduced on behalf of that Group

and of the Drafting Committee a report (CDDH/II/296) containing the text of article 21, as adopted by the Working Group and the Drafting Committee. The Committee adopted that text by consensus, subject to a number of oral amendments.

(iv) Text adopted by the Committee

189. In view of the foregoing, the Committee recommends that the Conference adopt, for article 21, the text reproduced in annex II to the present report.

Article 22 - Search for wounded

I. Amendments

190. Amendments to article 22 were submitted by the following countries: Belgium, Canada, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/249 and Add.3)<sup>1/</sup>; Cuba (CDDH/II/254); Norway (CDDH/II/255); France (CDDH/II/264).

191. The substance of these amendments, listed hereunder, was:

Amendment CDDH/II/249 and Add.3:

Delete the article.

(Referred to a Working Group. See paragraph 193 below.)

Amendment CDDH/II/254:

Delete the full-stop and add the following: "but the prior consent of the party in control of the sector, and of both parties in the case of contact zones, shall be required in order to carry out such activities."

(Referred to a Working Group. See paragraph 193 below.)

II. Proceedings of the Committee

(i) Meetings

192. The Committee proceeded to an initial consideration of article 22 and amendments thereto at its thirty-seventh meeting, on 17 March 1975. At its forty-ninth meeting, on 8 April 1975, the Committee considered the report of the Working Group on article 22.

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<sup>1/</sup> Sponsors: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America; co-sponsors: Norway (CDDH/II/255), France (CDDH/II/264).

(ii) Initial consideration

193. At its thirty-seventh meeting, on 17 March 1975, the Committee decided to refer article 22, with the following amendments thereto, to the Working Group: CDDH/II/249 and Add.3, and CDDH/II/254.

194. For further consideration of article 22, see paragraph 210 below.

Article 23 - Application

I. Amendments

195. Amendments to article 23 were submitted by the following countries: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/249 and Add.3); Norway (CDDH/II/249/Add.1)<sup>1/</sup>; Sweden (CDDH/II/249/Add.2); Australia (CDDH/II/252); Norway (CDDH/II/255); Federal Republic of Germany (CDDH/II/258 and Add.1); France (CDDH/II/264).

196. The substance of the amendments and sub-amendments, listed below under headings relating to the article as a whole and to article 24, paragraph 4 and article 25, paragraph 3 as in document CDDH/II/249 and Add.3, was as follows:

(i) The Article as a whole

Amendment CDDH/II/249 and Add.3:

"Article 24 - Medical ships and craft

1. The status and protection of hospital ships described in Articles 22, 24 and 25 of the second Convention and that of craft described in Article 27 of that Convention, whether carrying military or civilian wounded or sick, and of their religious, medical and hospital personnel, and of their crews shall be governed by the provisions of the second Convention and by Article 20 of the first Convention.

2. The provisions of Articles 14 to 17 of the second Convention shall apply to the wounded and sick described in Article 13 of that Convention. Other civilian wounded and sick aboard hospital ships shall not be subject to capture at sea.

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<sup>1/</sup> Sponsors: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America; co-sponsors: Norway (CDDH/II/255), France (CDDH/II/264).

3. Notification of hospital ships described in Articles 22, 23 and 25 of the second Convention shall be made in conformity with Article 22 of the second Convention. Notification in the case of craft described in Article 27 of the second Convention may be made pursuant to article 22 of the present Protocol.

4. The provisions of Article 25 of the second Convention shall, by analogy, apply to hospital ships loaned for humanitarian purposes to a Party to a conflict by a State which is not a party to the conflict or by an organization of an international character.

Article 25 - Other medical ships and craft

1. Medical ships and craft other than those described in the preceding article or otherwise protected under the second Convention shall have the status and protection of medical transports as provided in the present Protocol or in the fourth Convention whether they are carrying military or civilian wounded and sick, or medical personnel or equipment and supplies.

2. The provisions of Article 38 of the second Convention shall govern the status, notification, and protection of ships chartered as transports of equipment and supplies exclusively intended for the treatment of the wounded and sick members of the armed forces or for the prevention of disease.

3. Articles 34 and 35 of the second Convention shall by analogy be applicable to military and civilian medical ships and craft."

(Referred to the Working Group. See paragraph 198 below.)

Amendment CDDH/II/252:

Delete paragraphs 1, 2 and 3 and insert:

"1. Subject to paragraph 4 a medical transport by sea is protected by the second Geneva Convention and by the relevant provisions of the present Protocol.

2. Subject to paragraph 4 a medical transport by inland water is protected by the first and fourth Geneva Conventions and by the relevant provisions of the present Protocol.

3. An amphibious medical transport is subject to the provisions of the Conventions and of the present Protocol relating to their use at a given time."

Paragraph 4

Delete the words "exclusively to civilian and military hospital ships" and in lieu thereof insert the words "to hospital ships only."

(Referred to the Working Group. See paragraph 198 below.)

Amendment CDDH/II/258 and Add.1:"Article 24 - Hospital ships

1. The provisions of the Conventions with respect to vessels described in Articles 22, 24, 25 and 27 of the second Convention, to their personnel, and to wounded and sick aboard shall apply also where these vessels carry civilian wounded and sick which do not belong to one of the categories mentioned in Article 13 of the second Convention. Such civilians are, however, not subject to surrender to any Party which is not their own, or capture at sea.

2. The protection provided by the Conventions for vessels described in Article 25 of the second Convention shall extend to hospital ships lent for humanitarian purposes to a Party to a conflict;

(a) by a neutral or other State which is not a party to that conflict; or

(b) by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of Red Cross Societies,

provided that the requirements set out in that Article are complied with.

3. Notifications with respect to craft described in Article 27 of the second Convention may be made pursuant to article 22 of the present Protocol in lieu of Article 22 of the second Convention."

"Article 25 - Other medical ships or craft

1. Medical ships and craft other than the vessels described in Articles 22, 24, 25, 27 and 38 of the second Convention shall, if they are civilian, be respected and protected in the same way as civilian medical units pursuant to article 12

of the present Protocol and medical transports pursuant to Article 21 of the fourth Convention. If they are military, they shall be respected and protected in the same way as mobile military medical units under the first Convention.

2. The protection provided for in paragraph 1 of this article shall only cease under the conditions set out in Articles 34 and 35 of the second Convention."

(Referred to the Working Group. See paragraph 198 below.)

(ii) Article 24, paragraph 4, as in document CDDH/II/249 and Add.3

Amendment CDDH/II/249/Add.2:

"The provisions under Article 25 of the second Convention shall (by analogy<sup>1/</sup>) apply to hospital ships lent for humanitarian purposes, to a Party to a conflict by a neutral or other State not party to the conflict or by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of the National Red Cross Societies."

(Referred to the Working Group. See paragraph 198 below.)

(iii) Article 25, paragraph 3, as in document CDDH/II/249 and Add.3

Amendment CDDH/II/249/Add.1:

Insert "such other" after "to" in article 25, paragraph 3.

(Referred to the Working Group. See paragraph 198 below.)

## II. Proceedings of the Committee

### (i) Meetings

197. The Committee proceeded to an initial consideration of article 23 and the amendments thereto at its thirty-seventh and thirty-eighth meetings, on 17 and 18 March 1975. At its forty-ninth meeting, on 8 April 1975, the Committee considered the Working Group's report on article 23.

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<sup>1/</sup> This wording should be avoided. (Note by the sponsor of the amendment.)

(ii) Initial consideration

198. At its thirty-eighth meeting, the Committee decided to refer article 23 to the Working Group, together with the following relevant amendments: CDDH/II/249/Add.1, CDDH/II/249/Add.2, CDDH/II/249 and Add.3, CDDH/II/252, CDDH/II/258 and Add.1

199. For further consideration of article 23, see paragraph 210 below.

Article 24 - ProtectionI. Amendments

200. Amendments to article 24 were submitted by the following countries: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/249 and Add.3)<sup>1/</sup>; Australia (CDDH/II/253); Norway (CDDH/II/255); France (CDDH/II/264).

201. The substance of those amendments was as follows:

Amendment CDDH/II/249 and Add.3:

Replace the present text by the following:

"Protection of medical vehicles

1. Military medical vehicles shall be respected and protected in the same way as mobile military medical units under the first Convention.
2. Civilian medical vehicles shall be respected and protected in the same way as civilian mobile medical units. Article 12, paragraphs 1, 2 and 4 of article 13 of the present Protocol shall apply by analogy to civilian medical vehicles."

(Referred to the Working Group. See paragraph 203 below.)

Note: Article 24 of the ICRC draft Protocol is also affected by articles 24 and 25 of amendment CDDH/II/249 and Add.3 (see paragraph 196 above).

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<sup>1/</sup> Sponsors: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America; co-sponsors: Norway (CDDH/II/255); France (CDDH/II/264).

Amendment CDDH/II/253:

Replace the present text by the following:

- "1. A medical transport shall be respected and protected except during such times as it is used to commit, contrary to its humanitarian function, any act harmful to the enemy.
2. It shall not be considered as an act harmful to the enemy for the purpose of paragraph 1 of this article to carry on a medical transport:
  - (a) equipment to be used solely for such transmissions as may be necessary for identification, movement or navigation;
  - (b) small arms and ammunitions which have been taken from the wounded and sick and the shipwrecked and not yet handed over to the proper authorities; or
  - (c) military medical personnel who are armed for their own protection and the protection of the wounded and sick and the shipwrecked being conveyed.
3. The protection afforded to medical aircraft is subject to articles 27, 28, 29 and 32 of the present Protocol."

(Referred to the Working Group. See paragraph 203 below.)

II. Proceedings of the Committee

(i) Meetings

202. At its thirty-eighth meeting, on 18 March 1975, the Committee undertook the initial consideration of article 24 and the amendments thereto. At its forty-ninth meeting, on 8 April 1975, the Committee considered the report of the Working Group on that article.

(ii) Initial consideration

203. At its thirty-eighth meeting the Committee decided to refer to the Working Group article 24 with the following amendments thereto: CDDH/II/249 and Add.3; CDDH/II/249/Add.1; CDDH/II/249/Add.2; CDDH/II/253.

204. For the further consideration of article 24 see paragraph 210 below.



Article 25 - NotificationI. Amendment

205. Article 25 was the subject of an amendment submitted by the following countries: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/249 and Add.3)<sup>1/</sup>; Norway (CDDH/II/255); France (CDDH/II/264).

206. The substance of the amendment was as follows:

"When not otherwise required to do so under the Conventions or the present Protocol, Parties to the conflict using medical transports may notify the adverse Party of characteristics facilitating the identification and recognition of these transports. Such notification shall indicate, inter alia, the means of identification to be used. The adverse Party shall acknowledge receipt of that information."

(Referred to the Working Group. See paragraph 208 below.)

II. Proceedings of the Committee(i) Meetings

207. At its thirty-eighth meeting, on 18 March 1975, the Committee gave initial consideration to article 25 and the amendments thereto. At its forty-ninth meeting, on 8 April 1975, the Committee considered the report of the Drafting Committee.

(ii) Initial consideration

208. At its thirty-eighth meeting the Committee decided to refer to the Working Group article 25 with the following amendment thereto: CDDH/II/249 and Add.3.

209. For the further consideration of article 25 see paragraph 210 below.

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<sup>1/</sup> Sponsors: Belgium, Canada, United Kingdom of Great Britain and Northern Ireland, United States of America; co-sponsors: Norway (CDDH/II/255), France (CDDH/II/264).

Articles concerning medical transport  
other than aircraft

(i) Consideration of the report of the Working Group

210. In view of the Committee's decision to refer articles 22 to 25 to a Working Group under the Chairmanship of Mr. Deddes (Netherlands), the Rapporteur of the Working Group, Mr. Makin (United Kingdom) introduced at the forty-ninth meeting of the Committee a report (CDDH/II/296) containing the text of articles 22 to 24 as adopted by that Group. The Committee adopted by consensus articles 22 and 23, as proposed by the Working Group. In accordance with the Group's proposal, the Committee deferred consideration of article 24 until the third session of the Conference. The Working Group furthermore proposed that no article on search for the wounded (article 22 of the ICRC draft Protocol) or on notification for all means of transport (article 25 of the ICRC draft Protocol) should be included in the draft Protocol. It also recommended that there should be no separate Chapters in Section II of Part II. No delegation raised any objection.

(ii) Text adopted by the Committee

211. In view of the above considerations the Committee recommended that the Conference adopt the text of articles 22 and 23 as they appear in annex II to the present report. The text of article 24 only appears therein for guidance.

CHAPTER II

MEDICAL AIR TRANSPORT

Article 26\*- General Protection of medical aircraft

I. Amendment

212. The following countries - Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America - submitted an amendment (CDDH/II/82/Rev.1) proposing a new article to the following effect:

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\* New article to precede article 26 of ICRC draft Protocol I.

Article 26\* - General protection of medical aircraft

"Subject to and in accordance with the provisions of this chapter, medical aircraft of a Party to the conflict shall be respected and protected."

(Referred to the Drafting Committee. See paragraph 215 below.)

II. Proceedings of the Committee

(i) Meetings

213. The Committee initially discussed the proposed new article 26 at its forty-fifth and forty-sixth meetings, on 3 and 4 April 1975. At its fifty-second meeting, on 10 April 1975, it considered the Drafting Committee's report on the article.

(ii) Initial consideration

214. At the forty-sixth meeting of the Committee, the sponsors of amendment CDDH/II/82/Rev.1 to article 26 proposed that the article should read as follows:

"Subject to the provisions of this Protocol and particularly of this Part, medical aircraft controlled by a Party to the conflict shall be respected and protected."

215. At the same meeting, the Committee adopted the principle of the article and decided, without objection, to refer it to the Drafting Committee.

(iii) Consideration of the report of the Drafting Committee

216. At the Committee's fifty-second meeting, on 10 April 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/306) containing the text of article 26 adopted by that Committee. The Committee adopted it by consensus, with the changes proposed by the Rapporteur (CDDH/II/SR.52).

(iv) Text adopted by the Committee

217. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 26 reproduced in annex II to the present report.

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\* / New article to precede article 26 of ICRC draft Protocol I.

Article 26 - Sectors controlled by national and allied forces

I. Amendment

218. An amendment to article 26 was submitted by the following countries: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1).

219. The amendment was to the following effect:

"Article 26 bis - Land areas controlled by friendly forces, and sea areas not controlled by the adverse Party.

There is no requirement for prior agreement with the adverse Party in order to operate medical aircraft on and over land areas physically controlled by friendly forces, or on and over sea areas not physically controlled by the adverse Party. For greater safety, however, a Party to the conflict so using its medical aircraft may notify the adverse Party or Parties as provided in article 30 of the present Protocol, in particular when such aircraft are making flights bringing them within range of surface-to-air anti-aircraft weapon systems of the adverse Party."

(Referred to the Drafting Committee. See paragraph 221 below.)

II. Proceedings of the Committee

(i) Meetings

220. The Committee initially discussed article 26 bis, and the amendment thereto, at its forty-sixth meeting, on 4 April 1975. At its fifty-second meeting, on 10 April 1975, it considered the Drafting Committee's report on the article.

(ii) Initial consideration

221. At its forty-sixth meeting, the Committee adopted in principle article 26 bis as proposed in document CDDH/II/82/Rev.1 and decided, without objection, to refer article 26 to the Drafting Committee, together with the relevant amendment.

(iii) Consideration of the report of the Drafting Committee

222. At the Committee's fifty-second meeting, on 10 April 1975, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/306) containing the text of article 26 bis adopted by that Committee. Committee II adopted the text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.52).

(iv) Text adopted by the Committee

223. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 26 bis reproduced in annex II to the present report.

Article 27 - Contact ZoneI. Amendment

224. The following countries submitted amendments to article 27: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1); German Democratic Republic (see CDDH/II/85).

225. These amendments, arranged under sub-headings relating to the article as a whole and to paragraph 2, were to the following effect:

(i) Article 27 as a wholeAmendment CDDH/II/82/Rev.1:

Replace the present text by the following:

"1. In and over those parts of the contact zone physically controlled by friendly forces and in and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the local military authorities of the Parties to the conflict as provided in article 30 of the present Protocol. In the absence of such an agreement, the Parties to the conflict shall respect medical aircraft as soon as they have been recognized.

2. Contact zone means any area on land upon which opposing forces are in direct contact with each other."

(Referred to the Drafting Committee. See paragraph 227 below.)

(ii) Paragraph 2Amendment CDDH/II/85:

Delete paragraph 2.

(Referred to the Drafting Committee. See paragraph 227 below.)

## II. Proceedings of the Committee

### (i) Meetings

226. The Committee initially discussed article 27, and the amendment thereto, at its forty-sixth meeting, on 4 April 1975. It considered the Drafting Committee's report on the article at its fifty-second meeting, on 10 April 1975.

### (ii) Initial consideration

227. At its forty-sixth meeting, the Committee decided, without objection, to refer article 27 to the Drafting Committee, together with amendment CDDH/II/82/Rev.1 and amendment CDDH/II/85.

### (iii) Consideration of the report of the Drafting Committee

228. At the Committee's fifty-second meeting, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/306) containing the text of article 27 adopted by that Committee. The Committee adopted this text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.52).

### (iv) Text adopted by the Committee

229. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 27 reproduced in annex II to the present report.

## Article 28 - Sectors controlled by enemy forces

### I. Amendment

230. The following countries submitted an amendment to article 28: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1).

231. The amendment was to the following effect:

### "Article 28 - Areas controlled by enemy forces

The medical aircraft of a Party to the conflict shall continue to benefit from protection while flying over land or sea areas physically controlled by an adverse Party provided that prior agreement to such flights has been obtained from the competent authority of the adverse Party concerned. Should a medical aircraft, in the absence of an agreement, fly over such areas through inadvertence or by force of urgent

necessity, it shall make every effort to give notice of the flight and to identify itself. The adverse Party shall, so far as possible, respect such medical aircraft. It shall take the security measures referred to in article 31, paragraph 1, before having recourse to extreme measures."

(Referred to the Drafting Committee. See paragraph 233 below.)

## II. Proceedings of the Committee

### (i) Meeting

232. The Committee initially discussed article 28, and the amendment thereto, at its forty-seventh meeting, on 5 April 1975. At its fifty-second meeting, on 10 April 1975, the Committee considered the report of the Drafting Committee on the article.

### (ii) Initial consideration

233. At its forty-seventh meeting, the Committee decided, without objection, to refer article 28 to the Drafting Committee, together with amendment CDDH/II/82/Rev.1 and the various comments made in the Committee (see CDDH/II/SR.47).

### (iii) Consideration of the report of the Drafting Committee

234. At the fifty-second meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/306) containing the text of article 28 adopted by the Committee. The Committee adopted the text by consensus with an oral amendment and with the changes proposed by the Rapporteur (CDDH/II/SR.52).

### (iv) Text adopted by the Committee

235. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 28 reproduced in annex II to the present report.

## Article 29 - Restrictions

### I. Amendment

236. An amendment to article 29 was submitted by the following countries: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1).

237. The amendment was to the following effect:

"1. The Parties to a conflict are prohibited from using their medical aircraft to attempt to acquire any military advantage over another Party to the conflict. The presence of medical aircraft shall not be used to render military objectives immune from attack.

2. Medical aircraft shall not be used for the collection or transmission of intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not encompassed within the definition of medical transportation contained in article 21 (a) of the present Protocol. The carrying on board of the personal effects of the occupants or of apparatus intended solely to facilitate navigation, communication, or identification shall not be considered as prohibited.

3. Medical aircraft shall not carry any armament other than small arms and ammunition belonging to the wounded and sick persons on board and not yet handed over to the proper authorities, and such arms and ammunition as may be necessary to enable the medical personnel on board to defend themselves and the wounded and sick persons in their care.

4. While carrying out flights referred to in articles 27 and 28 of the present Protocol, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded and sick and the shipwrecked."

(Referred to the Drafting Committee. See paragraph 239 below.)

## II. Proceedings of the Committee

### (i) Meetings

238. The Committee initially discussed article 29, and the amendment thereto, at its forty-seventh meeting, on 5 April 1975. At its fifty-second meeting, on 10 April 1975, the Committee considered the report of the Drafting Committee on the article.

### (ii) Initial consideration

239. At its forty-seventh meeting, the Committee decided, without objection, to refer article 29, together with amendment CDDH/II/82/Rev.1, to the Drafting Committee. In doing so, it requested the Drafting Committee to take the comments of the representative of the Union of Soviet Socialist Republics into account (see CDDH/II/SR.47).



(iii) Consideration of the report of the Drafting Committee

240. At the fifty-second meeting of the Committee, the Rapporteur of the Drafting Committee introduced a report (CDDH/II/306) containing the text of article 29 adopted by that Committee. The Committee adopted the text by consensus, with the changes proposed by the Rapporteur (see CDDH/II/SR.52).

(iv) Text adopted by the Committee

241. On the basis of the foregoing, the Committee recommends to the Conference for adoption the text of article 29 reproduced in annex II to the present report.

Article 30 - Agreements and NotificationsI. Amendments

242. Amendments to article 30 were submitted by the following countries: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1); Sweden (CDDH/II/273).

243. The contents of that amendment and sub-amendment, reproduced below under headings relating to the article as a whole or to paragraph 1 thereof, were as follows:

(i) Article 30 as a whole

"1. Notifications or requests under articles 26 bis, 27, 28, 29 and 32 of the present Protocol shall make specific mention of the number of medical aircraft, their flight plans and means of identification proposed and shall be understood to imply an undertaking to comply with article 29 of the present Protocol. The Party receiving the notification or request shall acknowledge the receipt of the information: and it may make clearance under articles 27, 28, 29 and 32 conditional upon reasonable alternative numbers, flight plans, or means of identification, and upon the prohibition or restriction of non-medical flights in the area concerned. If the Party employing the medical aircraft wishes the requested flight to be protected, it shall comply with such requirements.

2. The Parties to the conflict shall take necessary measures so that the substance of any such agreements and notifications is disseminated to the military units concerned and shall instruct such units concerning the means of identification that will be used by medical aircraft of the adverse Party."

(Referred to the Drafting Committee. See paragraph 245 below.)

(ii) Paragraph 1

Amendment CDDH/II/273:

Amend paragraph 1 in new article 30 as contained in document CDDH/II/82/Rev.1 to read:

"1. Notifications or requests under articles 26 bis, 27, 28, 29 and 32 of the present Protocol shall make specific mention of the number of medical aircraft, their flight plans, and means of identification proposed and shall be deemed to constitute an undertaking to comply with article 29 of the present Protocol. The Party receiving the notification or request shall acknowledge the receipt of the information, and it may make clearance under articles 27, 28, 29 and 32 conditional upon reasonable alternative numbers, flight plans, or means of identification. If the Party employing the medical aircraft wishes the requested flight to be protected, it shall comply with such requirements."

(Referred to the Drafting Committee. See paragraph 245 below.)

II. Proceedings of the Committee

(i) Meeting

244. The Committee first considered article 30 and amendments thereto at its forty-seventh meeting, on 5 April 1975.

(ii) Initial consideration

245. At its forty-seventh meeting, the Committee decided unanimously to refer article 30 and relevant amendments (CDDH/II/82/Rev.1 and CDDH/II/273) to the Drafting Committee and requested the latter to take into account the observations made by the various representatives who had spoken on the subject (see CDDH/II/SR.47).

(iii) Consideration of the report of the Drafting Committee

246. At its fifty-third meeting, on 14 April 1975, the Committee considered the report of the Drafting Committee (CDDH/II/314) containing the text of article 30 of draft Protocol I. That text with the oral modifications introduced by the Rapporteur of the Drafting Committee, was adopted by consensus.

(iv) Text adopted by the Committee

247. In the light of the foregoing, the Committee recommends that the Conference adopt article 30 as it appears in annex II to this report.

Article 31 - LandingI. Amendment

248. An amendment to article 31 was submitted by the following countries: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1).

249. The content of that amendment was as follows:

"Article 31 - Landing and inspection

1. Medical aircraft flying over land or water under the physical control of an adverse Party, or over those areas the physical control of which is not clearly established, may be ordered to land, or to alight on water, as appropriate, to permit inspection in accordance with the following paragraphs of this article. Medical aircraft shall obey such an order.

2. If such an aircraft lands or alights on water, whether ordered or otherwise, it may be subjected to inspection solely to determine the matters referred to in paragraphs 3 and 4 of this article. Any such inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick to be removed from the aircraft unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not prejudiced by the inspection or by such removal.

3. If such inspection discloses that the aircraft

- (a) is a medical aircraft within the meaning of article 21 (e) of the present Protocol and
- (b) is not in violation of the conditions prescribed in article 29 of the present Protocol and
- (c) has not flown without or in breach of a prior agreement where such agreement is required,

the aircraft and its occupants shall be authorized to continue the flight without delay.

4. If such inspection discloses that the aircraft
- (a) is not a medical aircraft within the meaning of article 21 (e) of the present Protocol, or
  - (b) is in violation of the conditions prescribed in article 29 of the present Protocol,

the aircraft may be seized. Each of the occupants shall be treated in conformity with the provisions of the Conventions and of the present Protocol. Such seized aircraft as are designated to serve as permanent medical aircraft may be used thereafter only as medical aircraft.

5. If the aircraft has flown without or in breach of a prior agreement where such agreement is required, it may also be seized provided that the Party seizing the aircraft can provide adequate facilities for necessary medical treatment of the wounded and sick aboard."

(Referred to the Drafting Committee. See paragraph 251 below.)

## II. Proceedings of the Committee

### (i) Meeting

250. The Committee first considered article 31 and the amendment thereto at its forty-eighth meeting, on 7 April 1975.

### (ii) Initial consideration

251. At its forty-eighth meeting, the Committee decided unanimously to refer article 31 and the amendment thereto (CDDH/II/82/Rev.1) to the Drafting Committee and requested the latter to take into account the observations made by the various representatives who had spoken on the subject (see CDDH/II/SR.48).

### (iii) Work of the Drafting Committee

252. The Drafting Committee did not adopt the text of article 31.

## Article 32 - States not parties to the conflict

### I. Amendments

253. Amendments to article 32 were submitted by the following countries: Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America (CDDH/II/82/Rev.1); Austria, Finland, Sweden, Switzerland, Yugoslavia (CDDH/II/290).

254. The content of these amendments was as follows:

Amendment CDDH/II/82/Rev.1:

"Article 32 - Neutral or other States not parties to the conflict

1. Except by prior agreement, medical aircraft shall not fly over or land on the territory of a State not party to the conflict. However, with such an agreement they shall be respected throughout their flight and also for the duration of any calls in the territory. Nevertheless they shall obey any summons to land or to alight on water, as appropriate.

2. Should a medical aircraft, in the absence of an agreement, fly over or alight, through inadvertence or by force of urgent necessity, on land or water in the territory of a neutral or other State not party to the conflict, it shall make every effort to give notice of the flight and to identify itself. The neutral or other State not party to the conflict shall, so far as possible, respect such aircraft. It shall take the security measures referred to in article 31, paragraph 1, before having recourse to extreme measures.

3. If an aircraft as mentioned in paragraph 2 lands, or alights on water, in the territory of a neutral or other State not party to the conflict, whether ordered or otherwise, the aircraft, with its occupants, may resume its flight after inspection, if any. Inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick to be removed from the aircraft unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not prejudiced by the inspection or such removal.

4. The wounded and the sick disembarked from a medical aircraft with the consent of the local authorities on the territory of a State not party to the conflict shall, unless agreed otherwise between that State and the Parties to the conflict, be detained by that State where so required by international law, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the Power to which those persons belong.

5. The States not parties to the conflict shall apply any conditions and restrictions on the passage or landing of medical aircraft on their territory equally to all Parties to the conflict."

(Referred to the Drafting Committee. See paragraph 256 below.)

Amendment CDDH/II/290:

"Article 32 - Neutral or other States not parties to the conflict

1. Except by prior agreement, medical aircraft shall not fly over or land on the territory of a neutral or other State not party to the conflict. However, with such an agreement they shall be respected throughout their flight and also for the duration of any calls in the territory. Nevertheless they shall obey any summons to alight, on land or water as appropriate.

2. Should a medical aircraft, in the absence of an agreement, be forced because of urgent necessity to fly over the territory of a neutral or other State not party to the conflict, the medical aircraft shall make every effort to give notice of the flight and to identify itself. The neutral or other State not party to the conflict shall, so far as possible, respect such aircraft. It shall take the security measures especially those referred to in article 31 paragraph 1 before having recourse to extreme measures.

3. In the event of alighting on land or water in the territory of a neutral or other State not party to the conflict, whether ordered or otherwise, a medical aircraft with its occupants other than those who must be detained in accordance with international law, shall be authorized by that State to resume its flight after inspection, if any. The inspection shall be commenced without delay and shall be conducted expeditiously. Should the inspection require the wounded and sick to be removed from the aircraft in order to facilitate the inspection, the inspecting party shall ensure that the health condition of these persons is not prejudiced by such removal.

4. The wounded and the sick disembarked from a medical aircraft with the consent of the local authorities on the territory of a neutral or other State not party to the conflict shall, unless agreed otherwise between that State and the Parties to the conflict, be detained by that State where so required by international law, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the State to which those persons belong.

5. The neutral or other States not parties to the conflict shall apply any conditions and restrictions on the passage or landing of medical aircraft on their territory equally to all Parties to the conflict."

(Referred to the Drafting Committee. See paragraph 256 below.)

## II. Proceedings of the Committee

### (i) Meeting

255. The Committee first considered article 32 and the amendments thereto at its forty-eighth meeting, on 7 April 1975.

### (ii) Initial consideration

256. At its forty-eighth meeting, the Committee decided unanimously to refer article 32 and amendments CDDH/II/82/Rev.1 and CDDH/II/290 thereto to the Drafting Committee and requested the latter to take into account the observations made by the various representatives who had spoken on the subject (see CDDH/II/SR.48).

### (iii) Work of the Drafting Committee

257. The Drafting Committee did not adopt the text of article 32.

DRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS

PART II - WOUNDED, SICK AND SHIPWRECKED PERSONS

SECTION III - THE MISSING AND THE DEAD

### Articles 32 bis, ter and quater

258. See new Section I bis, paragraphs 113 to 124.

DRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS

PART IV - CIVILIAN POPULATION

SECTION I - GENERAL PROTECTION AGAINST EFFECTS OF HOSTILITIES

CHAPTER VI - CIVIL DEFENCE

DRAFT PROTOCOL II ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS

PART V - CIVILIAN POPULATION

CHAPTER II - CIVIL DEFENCE

General debate on civil defence

259. At its fifty-first meeting, on 10 April 1975, the Committee held a general debate on Chapter VI (Civil defence) of Part IV of draft Protocol I and on Chapter II of Part V of draft Protocol II (see CDDH/II/SR.51).

DRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS

ANNEX: Regulations concerning the identification and marking of medical personnel, units and means of transport and civil defence personnel, equipment and means of transport.

Consideration of the report of the Technical Sub-Committee on Signs and Signals

260. At the fiftieth meeting of the Committee, on 9 April 1975, the Chairman (Mr. Kieffer, Switzerland) and the Rapporteur (Mr. Agudo Lopez, Spain) of the Technical Sub-Committee on Signs and Signals introduced the Sub-Committee's report (CDDH/49/Rev.1, annex II). By 32 votes to none with 8 abstentions, the Committee approved the report of the Technical Sub-Committee and the principles contained in the annex to CDDH/49/Rev.1. It requested the Technical Sub-Committee to meet again to consider details and, taking into account the comments made during the present session, to submit a new report at the third session of the Conference.

261. The Committee therefore decided, by consensus, that the Technical Sub-Committee would meet during the second and third weeks of the third Session of the Conference. The Committee also



decided by consensus to request those Governments particularly interested in questions of telecommunications to include experts from their national telecommunications administrations in their delegations. One delegation asked that written amendments submitted by delegations which were unable to participate in the work of the Technical Sub-Committee should be considered in the same way as the other amendments. No delegation raised any objection.

262. Lastly, the Committee gave provisional approval to the idea contained in a draft resolution submitted to it by the Swiss delegation suggesting that co-ordination be established at the national level with the authorities responsible for telecommunications.

263. At its fifty-third meeting, on 14 April 1975, the Committee adopted by consensus, the following draft resolution submitted by Algeria, Australia, Belgium, Canada, Denmark, France, Indonesia, Iraq, Nigeria, Philippines, Republic of Viet-Nam, Saudi Arabia, Switzerland, United States of America:

Need for national co-ordination on the radiocommunication matters raised in the technical annex to draft Additional Protocol I.

The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Geneva, 1975,

Having noted

(a) Document CDDH/211 entitled "Medical Radiocommunications" submitted by the International Committee of the Red Cross, and

(b) Document CDDH/213 on the need for national co-ordination on radiocommunication matters, submitted by the International Frequency Registration Board, a permanent organ of the International Telecommunication Union,

(c) Recommendation Mar2-17 adopted by the ITU World Maritime Administrative Radio Conference, Geneva 1974,

Recognizing that, for Recommendation Mar2-17 to be meaningful and for the radiocommunication requirements of the Diplomatic Conference to be accommodated, it is essential to define these requirements more precisely,

Requests the President of the Conference to be so kind as to bring to the knowledge of the Governments invited to the present Conference the wish of Committee II:

(a) that they consider initiating as soon as possible consultations between their national telecommunication administration and the other governmental authorities concerned within the nation so as to accommodate, in accordance with existing international Conventions, the radiocommunication requirements expressed in the annex to draft Additional Protocol I to the Geneva Conventions of 12 August 1949; and

(b) that the Governments specially interested in radiocommunication questions include experts from their national telecommunication administrations in their delegations with a view to their participation in the work of the Technical Sub-Committee on Signs and Signals during the second and third weeks of the third session of the Conference.

#### Annex

#### Related documentation

1. Annex to draft Additional Protocol I, as proposed in appendix I to the report of the Technical Sub-Committee on Signs and Signals (CDDH/49/Rev.1, annex II, dated 2 September 1974):

Chapter III	Distinctive signals
Chapter IV	Communications
Chapter VI	Periodical revision
2. Note entitled "Medical Radiocommunications" submitted by the International Committee of the Red Cross. (Document CDDH/211 dated 7 March 1975).
3. Memorandum by the International Frequency Registration Board, a permanent organ of the International Telecommunication Union, relating to the need for national co-ordination on radiocommunication matters (document CDDH/213, dated 3 April 1975).
4. The Radio Regulations annexed to the International Telecommunication Convention, in particular articles 5, 6, 32 to 37 inclusive, 37A and 44 which contain the specific provisions relating to

- the designation and use of frequencies,
  - operating procedures in the Mobile Services,
  - the distress, alarm, urgency and safety signals, and
  - the order of priority of communications in the Mobile Services, which are applicable in the circumstances covered by the annex to draft Additional Protocol I to the Geneva Conventions, 1949.
5. The International Telecommunication Convention and its annexes constitute an international treaty which is binding on 144 sovereign countries members of the Union.
  6. The Radio Regulations annexed to the Convention govern the use of the radio spectrum by all radio services.

ADOPTION OF THE REPORT OF COMMITTEE II

265. At its fifty-fifth meeting, on 16 April 1975, the Committee adopted this report as amended.



ANNEXES

ANNEX I

List of documents submitted to Committee II  
during the Second Session of the Conference

Text of resolution 3220 (XXIX) adopted by the United Nations General Assembly on 6 November 1974, entitled: "Assistance and co-operation in accounting for persons who are missing or dead in armed conflicts."	CDDH/II/202
Communication from the ICRC on radiocommunications (technical annex)	CDDH/211
Statement by the ICRC concerning missing and dead persons	CDDH/II/223
Declaration of Geneva (adopted by the General Assembly of the World Medical Association in 1948)	CDDH/II/GT/15
Issues which should be decided by Committee II relative to articles 15, 16 and 18	CDDH/II/GT/25
Expanded text of the statement made by Mr. I. Krasnopeev, representative of the Union of Soviet Socialist Republics, at the twenty-fifth meeting of Committee II on 26 February 1975	CDDH/II/GT/26
Working paper: Extract from "Signalling and Identification of Medical Personnel and Material", by Lt. Col. F. de Mulinen	CDDH/II/GT/34
Proposal of the representative of Hungary for the composition of Section II of Part II of draft Protocol I and for the basis of discussion thereof	CDDH/II/265
Report of the Working Group on questions relating to articles 15, 16 and 18 to be settled by Committee II	CDDH/II/269
Working Group to consider the concept of reprisals in draft Protocol II	CDDH/II/301
Communication from the International Frequency Registration Board (draft Protocol I, annex)	CDDH/213
Report of the Joint Working Group on terms to cover various military situations	CDDH/II/266- CDDH/III/255

## ANNEX II

## ARTICLES ADOPTED BY COMMITTEE II

Draft Protocol I,  
Part II, Section IArticle 9 - Field of application\*

1. In order to ameliorate the condition of the wounded and sick, and the shipwrecked, the present Part shall apply, without any discrimination, to all those affected by a situation referred to in Article 2 common to the Conventions.

2. Articles 27 and 32 of the first Convention shall apply to permanent medical units and transport (other than hospital ships, to which Article 25 of the second Convention applies) and their personnel lent for humanitarian purposes to a Party to a conflict:

- (a) by a neutral or other State which is not a Party to that conflict;
- (b) by a recognized and authorized aid society of such a State;
- (c) by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of Red Cross Societies.

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\* Paragraph 1 was adopted by vote (39 votes to one with 14 abstentions) and paragraph 2 by consensus at the twenty-third meeting on 24 February 1975, in the following languages: English, French, Russian and Spanish. See paragraphs 24 to 26 of the present report.

Draft Protocol I,  
Part II, Section I

Article 10 - Protection and care\*

1. All the wounded and sick, and the shipwrecked, to whichever party they belong, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any other than medical grounds.

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\* Adopted at the twenty-third meeting on 24 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 27 to 29 of the present report.

Draft Protocol I,  
Part II, Section I

Article 11 - Protection of persons\*

1. The physical or mental health and integrity of persons who have fallen into the hands of the adverse Party, or who are interned, detained or otherwise deprived of liberty, as a result of hostilities or occupation\*\*, shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with accepted medical standards which would be applied under similar medical circumstances to nationals of the Party conducting the procedure who are not in any way deprived of liberty.

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\* Adopted at the thirty-ninth meeting on 20 March 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 30 to 37 of the present report.

\*\* Attention is drawn to the words relating to a situation referred to in Article 2 common to the Geneva Conventions of 1949 in draft article 65, paragraph 3; article 67, paragraph 2, and article 68, paragraph 3 which deal with similar situations.



Draft Protocol I,  
Part II, Section I

Article 11 - Protection of persons (continued)

2. Subject to the provision of paragraph 1, it is, in particular, prohibited to carry out on such persons, even with their consent:

- (a) physical mutilations;
- (b) medical or scientific experiments;
- (c) removal of tissue or organs for transplantation.

3. Exceptions to the prohibition contained in paragraph 2 (c) of this article may be made only in the case of donations of blood for transfusion or of skin for grafting provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.

4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person described in paragraph 1 of this article and which either violates any of the prohibitions contained in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of the present Protocol.

5. The persons described in paragraph 1 of this article have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.

6. Each Party to a conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1 of this article, if that donation is made under the responsibility of that Party. In addition, each Party to a conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained, or otherwise deprived of liberty, as a result of hostilities or occupation. These records shall be available at all times for inspection by the Protecting Power.

Draft Protocol I,  
Part II, Section I

Article 12 - Protection of medical units\*

1. Medical units shall be respected and protected at all times and shall not be the object of attack.
2. Paragraph 1 of this article shall apply to civilian medical units provided that they:
  - (a) belong to one of the Parties to the conflict; or
  - (b) are recognized or authorized by the competent authority of one of the Parties to the conflict; or
  - (c) are authorized as required by article 9, paragraph 2, of the present Protocol and Article 27 of the first Convention.
3. The Parties to the conflict are invited to notify to each other the location of fixed medical units. Absence of such notification shall not exempt any of the Parties from the obligation to comply with the provisions of paragraph 1 of this article.
4. Under no circumstances shall medical units be used in an attempt to protect military objectives from attack. Whenever possible the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.

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\* Adopted at the twenty-third meeting on 24 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 38 to 43 of the present report.

Draft Protocol I,  
Part II, Section I

Article 13 - Discontinuance of protection of civilian medical units\*

1. The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

- (a) that the personnel of the unit are equipped with light individual weapons for their own defence, or for that of the wounded and sick in their charge;
- (b) that the unit is guarded by a picket or by sentries or by an escort;
- (c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the unit;
- (d) that members of the armed forces or other combatants are receiving medical treatment in the unit.

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\* Adopted at the twenty-third meeting, on 24 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 44 to 50 of the present report.

Draft Protocol I,  
Part II, Section I

Article 14 - Limitations on requisition of civilian  
medical units\*

1. The Occupying Power has the duty to ensure that the medical needs of the civilian population in occupied territory continue to be satisfied.
2. The Occupying Power shall not therefore requisition civilian medical units, their equipment, their material or the services of their personnel, so long as these resources are necessary for the provision of adequate medical services for the civilian population and for the continuing medical care of any wounded and sick already under treatment.
3. Provided that the general rule stated in paragraph 2 of this article continues to be observed, the Occupying Power may requisition the said resources, subject to the following specific conditions:
  - (a) that these resources are necessary for the adequate and immediate medical treatment of the wounded and sick members of the Armed Forces of the Occupation or of prisoners of war; and
  - (b) that the requisition continues only while such necessity exists; and
  - (c) that immediate arrangements are made to ensure that the medical needs of the civilian population, as well as those of any wounded and sick under treatment, who are affected by the requisition, continue to be satisfied.

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\* Adopted at the twenty-ninth meeting on 4 March 1975, by consensus, in the following languages: English, French, Russian, Spanish. See paragraphs 51 to 58 of the present report.

Draft Protocol I,  
Part II, Section I

Article 15 - Protection of civilian medical and religious personnel\*

1. Civilian medical personnel shall be respected and protected.
2. If needed all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.
3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. Under no circumstances shall such personnel be compelled to carry out tasks unrelated to their mission.
4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.
5. Religious personnel attached to civilian medical units - such as chaplains - shall be respected and protected. The provision of the Conventions and of the present Protocol concerning the protection and identification of permanent medical personnel shall apply equally to such persons.

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\* Paragraphs 3, 4 and 5 were adopted by consensus at the twenty-fourth meeting on 25 February 1975, in the following languages: English, French, Russian and Spanish; the new paragraph 1 (old paragraphs 1 and 2 combined) was adopted at the thirtieth meeting on 5 March 1975 by consensus, in the following languages: English, French, Russian and Spanish; paragraph 2 was adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 59 to 72 of the present report.

Draft Protocol I,  
Part II, Section I

Article 16 - General protection of medical duties\*

1. Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.
2. Persons engaged in medical activities shall neither be compelled to perform acts nor to carry out work contrary to, nor to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or the Conventions or the present Protocol.
3. No person engaged in medical activities shall be compelled to give to any member of the party adverse to him information concerning the wounded and sick who are, or who have been, under his care, if this information would be likely, in his opinion, to prove harmful to the persons concerned or to their families. Regulations for the compulsory notification of communicable diseases shall, however, be respected.

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\* Adopted at the twenty-fourth meeting on 25 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 73 to 79 of the present report.

Draft Protocol I,  
Part II, Section I

Article 17 - Role of the civilian population and  
of relief societies\*

1. The civilian population shall respect the wounded and sick, and the shipwrecked, even if they belong to the adverse Party, and shall commit no act of violence against them. The civilian population and relief societies, such as the national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to care for the wounded and sick, and the shipwrecked, even in invaded or occupied areas, and no one shall be harmed, prosecuted, convicted, or punished for having done so.

2. The Parties to the conflict may appeal to the civilian population and the relief societies referred to in paragraph 1 of this article to care for the wounded and sick, and the shipwrecked, and to search for and report the location of the dead; they shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse Party gains or regains control of the area, that party also shall afford the same protection and facilities for so long as they are needed.

3. /-Reserved for further consideration-/.

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\* Paragraph 1 was adopted at the thirtieth meeting on 5 March 1975 by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 2 was adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 3 is reserved for further consideration. See paragraphs 80 to 88 of the present report.

Draft Protocol I,  
Part II, Section I

Article 18 - Identification\*

1. Each Party to the conflict shall endeavour to ensure the identification of medical and religious personnel and medical units and transports.
2. Each Party to the conflict shall also endeavour to adopt and implement reasonable methods and procedures for the recognition of medical units and transports using the distinctive emblem and distinctive signals.
3. In occupied territory and in areas where fighting is taking place or is likely to take place, civilian medical personnel, and civilian religious personnel should be recognizable by the distinctive emblem, and an identity card certifying their status.
4. With the assent of the competent authority medical units and transports shall be marked by the distinctive emblem. The ships and craft referred to in article 23 of the present Protocol shall be marked in accordance with the provisions of the second Convention.

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\* Paragraphs 1 and 2 were adopted by consensus, paragraph 3 by vote (50 votes to none with 5 abstentions) and paragraphs 4 to 8 by consensus, at the thirtieth meeting on 5 March 1975, in the following languages: English, French, Russian and Spanish. In paragraph 3, the words "areas where fighting is taking place or is likely to take place" were adopted by consensus, at the forty-fourth meeting on 2 April 1975, in the following languages: English, French, Russian and Spanish. The second sentence of paragraph 4, which had been left pending when the above-mentioned decisions were taken, was adopted by consensus at the forty-ninth meeting on 8 April 1975, in the following languages: English, French, Russian and Spanish. See paragraphs 89 to 98 of the present report.



Draft Protocol I,  
Part II, Section I

Article 18 - Identification (continued)

5. In addition to the distinctive emblem a Party to the conflict may, as provided in Chapter III of the annex to the present Protocol, authorize the use of distinctive signals to identify medical units and transports. The only exception to this rule is the use by medical transports of distinctive signals, without displaying the distinctive emblem, in the special cases covered in that Chapter.\*

6. The application of the provisions of paragraphs 1-5 of this article is governed by Chapters I to III of the annex to this Protocol. Signals designated in Chapter III of the annex for the exclusive use of medical units and transports shall not, except as provided therein, be used for any purpose other than to identify the medical units and transports specified in that Chapter.

7. This article does not authorize any wider use of the distinctive emblem in peacetime than is prescribed in Article 44 of the first Convention.

8. The provisions of the Conventions and the present Protocol relating to supervision of the use of the distinctive emblem and to the prevention and repression of any misuse thereof shall be applicable to distinctive signals.

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\* The Committee recommends to the Technical Sub-Committee the following wording for a provision to be included in Chapter III of the annex:

Special cases (indicative only)

When unarmed temporary medical aircraft cannot be marked either for lack of time or because of their characteristics, with the distinctive emblem, they may use distinctive signals alone for their identification.

Draft Protocol I,  
Part II, Section I

Article 19 - Neutral or other States not parties  
to a conflict\*

Neutral or other States not parties to a conflict shall, to the extent that they are applicable, comply with the provisions of this Protocol in respect of such persons protected by this Part who may be received or interned within their territory, and of any dead of the Parties to that conflict whom they may find.

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\* Adopted at the twenty-sixth meeting on 27 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 100 to 106 of the present report.

Draft Protocol I,  
Part II, Section I

Article 20 - Prohibition of reprisals\*

Reprisals against the persons and objects protected by this Part are prohibited.

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\* Adopted at the twenty-fifth meeting on 26 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 107 to 112 of the present report.

Draft Protocol I,  
Part II, Section II

Article 21 - Definitions\*

For the purposes of the present Protocol:

- (a) "medical transportation" means the conveyance by land, water or air of the wounded and sick and of the shipwrecked and of medical and religious personnel, medical equipment and supplies protected by the Conventions and by the present Protocol;
- (b) "medical transport" is any means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation, under the control of a competent authority of a Party to the conflict. "Permanent medical transports" are those which are assigned for an indeterminate period to medical transportation. "Temporary medical transports" are those which are assigned to medical transportation missions for limited periods while devoted exclusively to the performance of such missions. In the absence of specific qualification the terms "medical transports", "medical vehicles", "medical ships and craft" and "medical aircraft" will cover both permanent and temporary categories;
- (c) "medical vehicles" mean any medical transport by land;
- (d) "medical ships and craft" mean any medical transport by water;
- (e) "medical aircraft" mean any medical transport by air.

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\* Adopted at the forty-ninth meeting on 8 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 134 to 139 of the present report.

Draft Protocol I,  
Part II, Section II

Article 22 - Medical vehicles\*

Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and the present Protocol.

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\* Adopted at the forty-ninth meeting on 8 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 210 and 211 of the present report.

Draft Protocol I,  
Part II, Section II

Article 23 - Hospital ships and coastal rescue craft\*

1. The provisions of the Conventions with respect:
  - (a) to vessels described in Articles 22, 24, 25 and 27 of the second Convention,
  - (b) to their lifeboats and their small craft,
  - (c) to their personnel and crews, and
  - (d) to the wounded and sick and the shipwrecked on board

shall also apply where these vessels carry civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the second Convention / and in article 42 of the present Protocol 7. Such civilians are, however, not subject to surrender to any Party which is not their own, or to capture at sea. If they find themselves in the hands of an adverse Party they shall be covered by the fourth Convention and the present Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the second Convention shall extend to hospital ships lent for humanitarian purposes to a Party to a conflict:

- (a) by a neutral or other State which is not a party to that conflict; or
- (b) by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of Red Cross Societies,

provided that the requirements set out in that Article are complied with.

3. Craft described in Article 27 of the second Convention shall be protected even if notification is not made. Parties to a conflict are, nevertheless, invited to inform other Parties to that conflict of any details of such craft which will facilitate their identification and recognition.

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\* Adopted at the forty-ninth meeting on 8 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 210 and 211 of the present report.

Draft Protocol I,  
Part II, Section II

/Article 24 - Other medical ships and craft\*

1. Medical ships and craft other than those referred to in article 23 of this Protocol and in Article 38 of the second Convention shall, whether at sea or on other waters, and subject to the provisions of this article, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. They shall remain subject to the laws of war, and to Article 14 of the second Convention and shall obey every navigational order given to them from a visible warship of an adverse Party, but may not otherwise be diverted from their mission so long as they are required for the wounded and sick and the shipwrecked on board. Such ships and craft shall, as far as possible, be marked with the distinctive emblem and, as far as possible, comply with paragraph 2 of Article 43 of the second Convention.

2. The protection provided in paragraph 1 of this article shall only cease under the conditions set out in Articles 34 and 35 of the second Convention. A clear refusal to obey a navigational order given in accordance with paragraph 1 of this article shall be an act harmful to the enemy under Article 34 of the second Convention.

3. A Party to the conflict should, whenever it could be useful, endeavour to notify any adverse Party of the name, description, expected time of sailing, course and speed of the ship or craft, and any other information which would facilitate identification and recognition. An adverse Party shall acknowledge receipt of such information.

4. The provisions of Article 37 of the second Convention shall apply to medical and religious personnel in such ships and craft.

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\* For its report, Committee II took note of article 24 in the form proposed by the Working Group and decided to postpone approval of this article until the third session, for the reasons set out in paragraph 6 of the report of the Working Group (CDDH/II/296). See paragraphs 210 and 211 of the present report.

Draft Protocol I,  
Part II, Section II

/Article 24 - Other medical ships and craft 7 (continued)

5. The provisions of the second Convention shall apply to the wounded and sick and the shipwrecked persons described in Article 13 of the second Convention and in article 42 of the present Protocol who may be on board such medical ships and craft. Civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the second Convention and in article 42 of the present Protocol shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft: if they find themselves in the hands of a Party to the conflict of which they are not nationals they shall be covered by the fourth Convention and this Protocol 7.



Draft Protocol I,  
Part II, Section II

Article 26 - Protection of medical aircraft\*

Medical aircraft shall be respected and protected, subject to the provisions of the present Part.\*\*

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\* Adopted at the fifty-second meeting on 10 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 212 to 217 of the present report.

\*\* If the definitions now contained in draft article 21 are removed from Part II to another part of the Protocol, this reference should be to "the present Protocol".

Draft Protocol I,  
Part II, Section II

Article 26 bis - Medical aircraft in areas not controlled  
by an adverse Party\*

On and over land areas physically controlled by friendly forces, or on and over sea areas not physically controlled by an adverse Party, respect and protection of medical aircraft is not dependent on any agreement with an adverse Party. For greater safety, however, a Party to the conflict so operating its medical aircraft may notify any adverse Party as provided in article 30 of the present Protocol, in particular when such aircraft are making flights bringing them within range of surface-to-air weapons systems of the adverse Party.

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\* Adopted at the fifty-second meeting on 10 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 218 to 223 of the present report.

Draft Protocol I,  
Part II, Section II

Article 27 - Medical aircraft in contact or similar zones\*

1. On and over those parts of the contact zone physically controlled by friendly forces and on and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the competent military authorities of the Parties to the conflict as provided in article 30 of the present Protocol. Although, in the absence of such an agreement, medical aircraft operate at their own risk, they shall, nevertheless, be respected after they have been recognized as such.

2. "Contact zone"\*\* means any area on land where the forward elements of opposing forces are in contact with each other, especially where they are exposed to direct fire from the ground.

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\* Adopted at the fifty-second meeting on 10 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 224 to 229 of the present report.

\*\* If the term "contact zone" is to be used in other articles of the Protocol, a decision must be taken as to whether the definition contained in this article applies or not. This decision must be reflected by an appropriate drafting.

Draft Protocol I,  
Part II, Section II

Article 28 - Medical aircraft in areas controlled  
by an adverse Party\*

1. The medical aircraft of a Party to the conflict shall continue to be protected while flying over land or sea areas physically controlled by an adverse Party, provided that prior agreement to such flights has been obtained from the competent authority of the adverse Party concerned.

2. A medical aircraft which flies over an area physically controlled by an adverse Party without, or in deviation from the terms of, an agreement provided for in paragraph 1 of this article, either through navigational error or because of an emergency affecting the safety of the flight, shall make every effort to identify itself and to inform the adverse Party of the circumstances. As soon as such medical aircraft has been recognized by the adverse Party, every reasonable effort shall be made to give the order referred to in article 31, paragraph 1 of the present Protocol or to take other measures to safeguard the interests of the said Party, and to allow the aircraft time for compliance, before attacking it.

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\* Adopted at the fifty-second meeting on 10 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 230 to 235 of the present report.

Draft Protocol I,  
Part II, Section II

Article 29 - Restrictions on operations of medical aircraft\*

1. A Party to a conflict is prohibited from using its medical aircraft to attempt to acquire any military advantage over an adverse Party. The presence of medical aircraft shall not be used in an attempt to render military objectives immune from attack.
2. Medical aircraft shall not be used to collect or transmit intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not included within the definition in article 21 (a) of the present Protocol. The carrying on board of the personal effects of the occupants or of equipment intended solely to facilitate navigation, communication, or identification shall not be considered as prohibited.
3. Medical aircraft shall not carry any armament other than small arms and ammunition taken from the wounded and sick and the shipwrecked on board, and not yet handed to the proper service, and such light individual weapons as may be necessary to enable the medical personnel on board to defend themselves and the wounded and sick and the shipwrecked in their charge.
4. While carrying out the flights referred to in articles 27 and 28 of the present Protocol, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded and sick and the shipwrecked.

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\* Adopted at the fifty-second meeting on 10 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 236 to 241 of the present report.

Draft Protocol I,  
Part II, Section II

Article 30 - Notifications and agreements concerning  
medical aircraft\*

1. Notifications under article 26 bis, or requests for prior agreement under articles 27, 28 or 32 as well as paragraph 4 of article 29 of the present Protocol shall state the proposed number of medical aircraft, their flight plans, and means of identification, and shall be understood to mean that every flight will be carried out in compliance with article 29 of the present Protocol.

2. A Party which receives a notification given under article 26 bis of this Protocol shall at once acknowledge receipt of such notification.

3. A Party which receives a request for prior agreement under either articles 27, 28, 32 or paragraph 4 of article 29 shall, as rapidly as possible, notify the other Party:

(a) that the request is agreed; or

(b) that the request is denied; or

(c) of reasonable alternative proposals to the request. It may also propose a prohibition or restriction of other flights in the area during the time involved. If the Party which submitted the request accepts the alternative proposals, it shall notify the other Party that those proposals are agreed.

4. The Parties shall take the necessary measures to ensure that notifications and agreements can be made rapidly.

5. The Parties shall also take the necessary measures so that the substance of any such notifications and agreements is disseminated rapidly to the military units concerned and shall instruct such units on the means of identification that will be used by the medical aircraft.

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\* Adopted by consensus at the fifty-third meeting on 14 April 1975, in the following languages: English, French, Russian and Spanish. See paragraphs 242 to 247 of the present report.

Draft Protocol II,  
Part III

Article 12 - Protection and care\*

1. All the wounded and sick, and the shipwrecked, to whichever party they belong, and whether or not they have taken part in the armed conflict, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any other than medical grounds.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 130 to 135 of the present report.

Draft Protocol II,  
Part III

Article 12 bis - Protection of persons\*

1. The physical or mental health and integrity of persons who are interned, detained or otherwise deprived of liberty, by any of the Parties to an armed conflict for reasons relating to that conflict, shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.

2. Subject to the provisions of paragraph 1, it is, in particular, prohibited to carry out on such persons, even with their consent:

- (a) physical mutilations;
- (b) medical or scientific experiments;
- (c) removal of tissue or organs for transplantation.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 130 to 135 of the present report.



Draft Protocol II,  
Part III

Article 13 - Search and evacuation\*

1. At all times on land, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them.
2. At sea or on other waters, whenever circumstances permit, and particularly after an engagement, the measures specified in paragraph 1 of this article shall be taken with respect to the wounded and sick, the shipwrecked, and the dead.
3. Whenever circumstances permit, every endeavour should be made to arrange for the removal of the wounded and sick, aged persons and children\*\* from a besieged or encircled area, or an area of similar danger.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 136 to 140 of the present report.

\*\* The expression "aged persons and children" is to be reconsidered after the adoption of the definitions article and when a decision has been reached on article 32 of draft Protocol II.

Draft Protocol II,  
Part III

Article 14 - Role of the civilian population and  
of relief societies\*

1. The civilian population shall respect the wounded and sick, and the shipwrecked, to whichever Party they belong, and whether or not they have taken part in the armed conflict, and shall commit no act of violence against them.\*\* The civilian population and relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, shall be permitted, even on their own initiative, to care for the wounded and sick, and the shipwrecked, and no one shall be harmed, prosecuted, convicted or punished for having done so.

2. The Parties to the conflict may appeal to the civilian population and the relief societies referred to in paragraph 1 of this article to care for the wounded and sick, and the shipwrecked, and to collect the dead and shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse Party gains or regains control of the area, that Party shall also afford the same protection and facilities for so long as they are needed.

3. Parties to the conflict may appeal to commanders of civilian ships and craft to take on board and care for the wounded and sick, and the shipwrecked, and to collect the dead. Ships and craft responding to such appeals, and those who give shelter on their own initiative to such casualties shall be granted special protection and facilities for the discharge of their mission of assistance.

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\* Paragraphs 1 and 2 were adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 141 to 146 of the present report. Paragraph 3 is reserved for further consideration. One delegation desires to apply the principle of this paragraph also to aircraft and land vehicles. Committee II has decided to postpone the consideration of this issue, including a decision on the words in brackets in paragraph 2, until after the adoption of article 17, paragraph 3 of draft Protocol I.

\*\* This paragraph incorporates CDDH/221/Rev.1/Corr.1.

Draft Protocol II,  
Part III

Article 15 - Protection of medical and religious personnel\*

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian role.

2. The Parties to the conflict may not require that medical personnel give priority to any person, in the performance of their duties, except on medical grounds.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 147 to 154 of the present report.

Draft Protocol II,  
Part III

Article 16 - General protection of medical duties\*

1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.
2. Persons engaged in medical activities shall neither be compelled to perform acts nor to carry out work contrary to, nor to refrain from, acts required by the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or the present Protocol.
3. The professional obligations of persons engaged in medical activities regarding information which they may acquire concerning the wounded and sick under their care shall, subject to national law, be respected.
4. Subject to national law, no person engaged in medical activities may be penalized in any way by any Party to the conflict for refusing or failing to give information concerning the wounded and sick who are, or who have been, under his care.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 155 to 164 of the present report.

Draft Protocol II,  
Part III

Article 17 - Protection of medical units and transports\*

1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.
2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit, outside their humanitarian function\*\*, acts harmful to the adverse Party. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.
3. The following shall not be considered as harmful acts:
  - (a) that the personnel of the unit or the transport are equipped with light individual weapons for their own defence or for that of the wounded and sick for whom they are responsible;
  - (b) that the unit or the transport is guarded by a picket, sentries or an escort;
  - (c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the unit or transport;
  - (d) that members of the Armed Forces of the High Contracting Party or other combatants are in the unit for medical reasons, or that such persons if wounded or sick, are in the transport.

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\* Adopted provisionally at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. Finally adopted at the fifty-third meeting on 14 April 1975, in the above languages. See paragraphs 165 to 170 of the present report.

\*\* Expression adopted by the Committee for article 13 of Protocol I. Article 21 of the first Geneva Convention of 1949, however, uses the term "duties". The question arises whether the same terms ought not to be used in the Additional Protocols as are used in the Conventions.

Draft Protocol II,  
Part III

Article 18 - The distinctive emblem and signals\*

1. Under the direction of the competent authority of a Party to the conflict, the distinctive emblem shall be displayed by medical and religious personnel and medical units, and on medical transports, of that Party. It shall be respected in all circumstances.
2. In addition to the distinctive emblem, Parties to the conflict may agree upon the use of distinctive signals to identify medical units and transports.
3. Neither the distinctive emblem nor the distinctive signals shall be used to protect other persons or objects. Each Party to the conflict shall adopt special measures for supervising the use of the distinctive emblem and signals in order to prevent and repress any misuse of them.

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\* Adopted at the forty-fifth meeting on 3 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 171 to 176 of the present report.

MIXED GROUP REPORT

MARCH 1975

The Chairman, Committee II  
The Chairman, Committee III

Sirs,

1. At your joint request, a mixed working group from members of Committee II and Committee III consisting of:

<u>Chairman:</u>	Mr. E. Rosenblad, Sweden	(Committee II)
<u>Members:</u>	Mr. S. Modisi, Botswana	"
	Mr. V. N. Denisov, Ukraine SSR	"
	Comdt. S. F. Agudo Lopez, Spain	(Committee III)
	Brig. L. A. Kermose, <u>Rapporteur</u> , New Zealand	"
	Brig. El Misbah El Sadig, Sudan	"
	Col. D. T. Starling, Brazil	"

(in attendance Mr. F. de Mulinen, ICRC),

met during the period 24 February to 13 March 1975 with the aim of recommending:

- (a) terms that should be used to cover the various military situations that are envisaged in some of the articles contained in the Draft Additional Protocols I and II to the Geneva Conventions of 12 August 1949; and
- (b) definitions of the terms recommended.

2. As Chairman of this Group I have much pleasure in submitting our report.

3. The terms recommended, together with their definitions, are attached as Annex A. For your convenience it is produced in English, French, Russian and Spanish.

4. At the beginning of its deliberations the Group decided to try:

- (a) to keep the number of terms to be recommended to the minimum possible;
- (b) to recommend only terms that, as far as possible, could be understood and accepted by both civilians and military persons and could be translated with the minimum difficulty and ambiguity into the various languages to be used for the Protocols;
- (c) to avoid special military terms wherever possible, and to use the language of the Protocols.

5. In arriving at its recommendations this Group

First; agreed upon a diagrammatic display of a classical ground forces disposition. This was done so that all members could agree as to what area was being referred to. (Copy is attached as Annex B).

Second; made a comprehensive list of the various terms that had so far been used when drafting the Articles of Protocols I and II. (Copy is attached as Annex C).

6. Amongst the military members of the Group it was generally agreed that the total area in any armed conflict over which military activity extends, can conveniently be divided into three distinct zones or areas, namely:

- (a) the total area of the conflict, which includes the area of all military or para-military units taking a direct or even indirect part in the conflict;
- (b) that area of a conflict where fighting on any scale is taking place;
- (c) that limited area of the fighting where the opposing forces are in direct, and at times physical, contact with each other.

7. Once the terms and the definitions covering these three zones or areas were agreed upon by this Group, the instances where military situations had been envisaged in the articles (see Annex C) were examined to see if the terms recommended would be appropriate. They were found to be so.

8. The Group did not deem it appropriate to suggest where in the articles, each one of the terms recommended should be employed. This choice, it believed, should be made by Committees II or III because they would be the best judges of what military situation was referred to in the articles it would be debating.



9. The term "Combat Area" would seem to cover most situations, but the other terms are also submitted since this Group, when it examined the relevant articles of the Draft Protocols, could foresee situations where these terms might be required.

10. The terms "at sea", "on land", or "in the air", have been avoided in the definitions, because this Group believes that the substance of each individual article will clarify this aspect.

11. The terms recommended, together with their definitions (see Annex A), are proposed for the purposes of Protocols I and II only.

(Signed) Esbjörn Rosenblad



Annex A to Mixed Group Report of March 1975

For the purposes of Protocols I and II the following terms are recommended:

Zone of Military Operations means, in an armed conflict, the territory where the armed forces of the adverse Parties taking a direct or an indirect part in current military operations, are located.

Combat Area means, in an armed conflict, that area where the armed forces of the adverse Parties actually engaged in combat, and those directly supporting them, are located.

Contact Area means, in an armed conflict, that area where the most forward elements of the armed forces of the adverse Parties are in contact with each other.



Annexe A à un Rapport d'un Groupe Mixte mars 1975

Aux fins des Protocoles I et II les termes suivants sont recommandés :

Zone de combat - Dans un conflit armé, cette expression désigne la zone où les forces armées des parties adverses réellement engagées dans le combat, et où sont situées celles qui les soutiennent directement.

Zone de contact - Dans un conflit armé, cette expression désigne les zones où les éléments les plus avancés des forces armées des parties adverses sont au contact les unes des autres.

Zone des opérations militaires - Dans un conflit armé, cette expression signifie le territoire où se trouvent les forces armées qui participent directement ou indirectement aux opérations militaires en cours.



Приложение А к докладу смешанной  
группы, март 1975 г.

Для целей Протоколов I и II рекомендуются следующие термины:

Зона военных операций означает в вооруженном конфликте территорию, где располагаются вооруженные силы враждебных сторон, принимающие прямое или косвенное участие в проводимых военных операциях.

Район боевых действий означает в вооруженном конфликте район, в котором располагаются вооруженные силы враждебных сторон, фактически участвующие в боевых действиях, и тыловые части, непосредственно их обеспечивающие.

Район соприкосновения означает в вооруженном конфликте район, в котором наиболее передовые части вооруженных сил враждебных сторон находятся в соприкосновении друг с другом.





Anexo A al Informe del Grupo Mixto, marzo, 1975

Para los fines de los Protocolos I y II, se recomiendan los términos siguientes:

Zona de operaciones militares

Significa, en un conflicto armado, el territorio donde están ubicadas las fuerzas armadas que toman parte directa o indirecta en las operaciones militares en curso.

Area de combates

Significa, en un conflicto armado, aquella área donde están ubicadas las fuerzas armadas de las partes adversarias empeñadas realmente en combate

Area de contacto

Significa, en un conflicto armado, aquella área donde los elementos más avanzados de las fuerzas de las partes adversarias están en contacto entre sí.

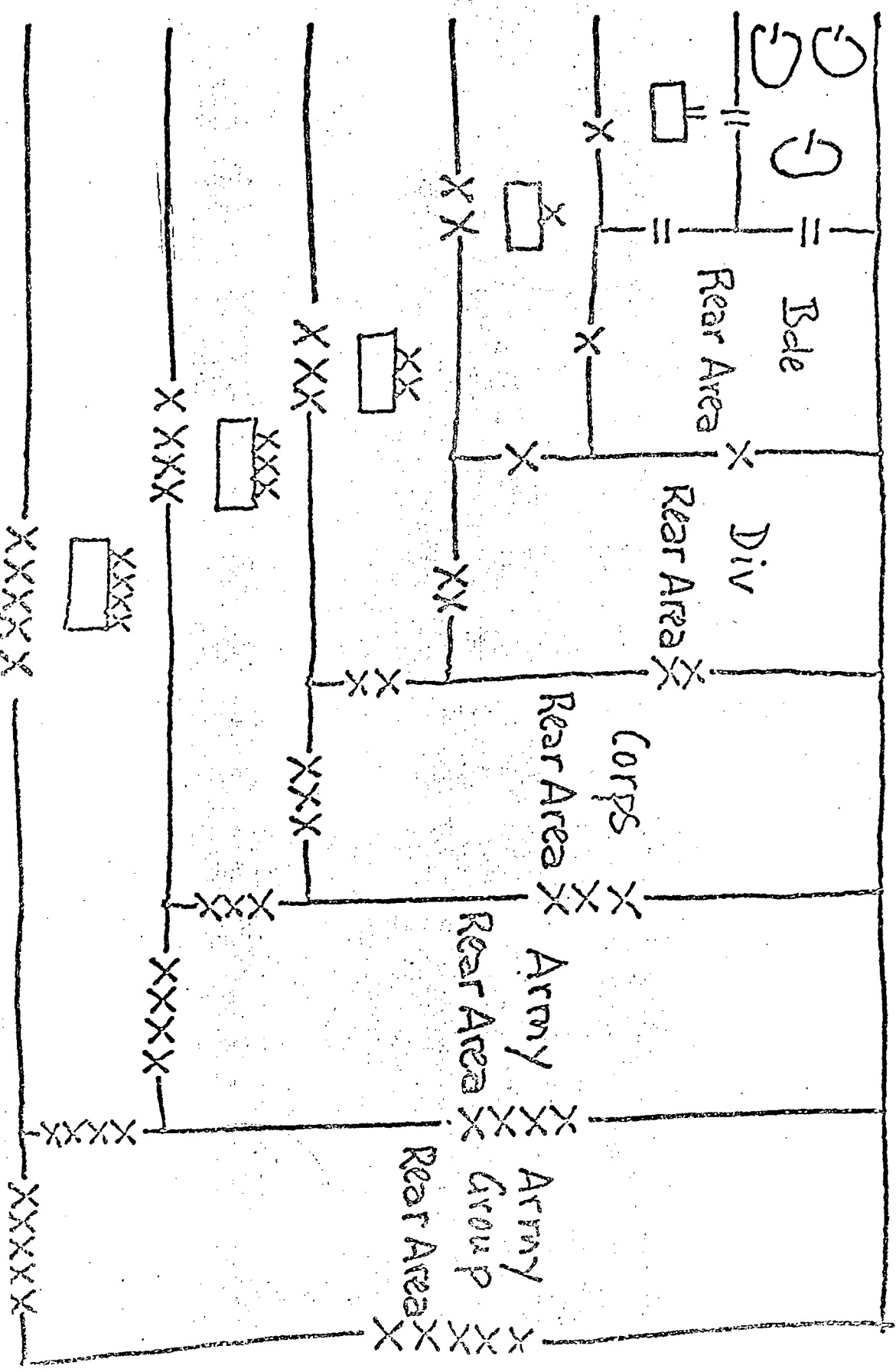


— E N E M Y —

ARMED FORCES ORGANIZATION ON LAND

DIAGRAMMATIC DISPLAY OF

GHEB/AT/200  
GDDH/III/255  
Annex B





Annex C to Mixed Group Report of March, 1975

TERMS USED IN THE GENEVA CONVENTIONS OF 1949 AND THE  
DRAFT ADDITIONAL PROTOCOLS I AND II

- C III/47/2 If the combat zone (le front - la linea de fuego) draws closer to a camp, the prisoners of war in the said camp .....
- C IV/127/4 If the combat zone (le front - la linea de combate) draws close to a place of internment, .....
- C III/23/1 No prisoner of war at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, (zone de combat - al fuego de la zona de combate) nor may his presence be used to render certain points or areas immune from military operations.
- C III/19/1 Prisoners of war shall be evacuated as soon as possible after their capture, to camps situated in an area far enough from the combat zone (zone de combat - la zona de combate) for them to be out of danger.
- P I/15/3 All possible help shall be afforded medical personnel in the combat zone. (zone de combat - la zona de combate)
- P II/8/3 d places of internment and detention shall not be set up close to the combat zone ..... (zone de combat - zona de combate)
- P II/13/2 Whenever circumstances permit, local arrangements shall be concluded by the parties to the conflict for the removal of the wounded and the sick from the combat zone (zone de combat - zona de combate) or from a besieged or encircled area.
- P II/32/2 c (The parties to the conflict shall) take measures, if necessary and with the consent of their parents or persons responsible for their care, to remove children from the area of combat (zone de combat - zona de combate) .....
- C IV/20/2 In occupied territory and in zones of military operations, (zones d'opérations militaires - zonas de operaciones militares) the above personnel (hospital staff) shall be recognisable by means of an identity card .....
- C IV/28 The presence of a protected person may not be used to render certain points or areas immune from military operations. (régions à l'abri des opérations militaires - o regiones al abrigo operaciones militares)

- P I/55/1 In zones of military operations (zônes d'opérations militaires - zonas de operaciones militares), the civilian bodies which are established or recognized by their governments and are assigned to the discharge of the tasks mentioned in Article 54 shall be respected and protected.  
.....
- C IV/49/5 The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war (région particulièrement exposée aux dangers de la guerre - regiones singularmente expuestas a peligros de guerra) unless the security of the population or imperative military reasons so demand.
- C IV/83/1 The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war. (régions particulièrement exposées aux dangers de la guerre - regiones particularmente expuestas a los peligros de la guerra)
- C IV/38/1/4 (The non repatriated protected persons :) if they reside in an area particularly exposed to the dangers of war, (région particulièrement exposée aux dangers de la guerre - regiones particularmente expuestas a peligros de la guerra) they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
- C IV/15/1 Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, (les régions où ont lieu les combats - regiones donde tengan lugar los combates) neutralized zones intended to shelter from the effects of war the following persons, .....
- C III/19/3 Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone. (zone de combat - zona de combate)
- P I/27/1 In any parts of a land or sea contact zone effectively controlled by national or allied troops, (zone de contact effectivement contrôlée - zona de contacto efectivamente controlados) and in those areas the control of which is not clearly established, the only guarantee of protection for medical aircraft is an agreement reached between the local military authorities of the Parties to the conflict. No particular form of such agreement is prescribed.

- P I/52/2 ..... the Parties to the conflict may declare as a non-defended locality any inhabited place near or in a zone where armed forces are in contact. (zone où les forces armées sont en contact - zona donde las fuerzas armadas están en contacto) Armed forces and all other combatants, as well as mobile weapons and mobile military equipment, must have been evacuated from that locality ; no hostile use shall be made of fixed military installations or establishments ; no acts of warfare shall be committed by the authorities or the population.
- P I/53/3 (Neutralized localities) the subject of such an agreement may be any inhabited place situated outside a zone where armed forces are in contact. (zone où les forces armées sont en contact - zona donde las fuerzas armadas están en contacto) Armed forces and all other combatants, as well as mobile weapons and mobile military equipment, must have been evacuated from that locality ; no hostile use shall be made of fixed military installations or establishments ; no acts of warfare shall be committed by the authorities or the population ; any activity linked to the military effort must have ceased.
- C III/19/2 Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone. (zone dangereuse - zona peligrosa)
- P I/Ann./  
6/2 As far as possible, medical personnel removing casualties from the battle area (champ de bataille - campo de batalla) shall wear headgear and clothing bearing distinctive emblems.
- P I/26 Subject to Article 27, the medical aircraft of a Party to the conflict may fly over areas of land or sea controlled by itself or by its allies. (secteurs qu'elle ou ses alliés contrôlent - sectores controlados por dicha Parte o por sus aliados) without the prior agreement of the adverse Party. However, for greater safety, a Party to the conflict so using its medical aircraft may inform the adverse Party or its allies of such flights.





Geneva, 3 February - 18 April 1975

Protocol II, Part III  
Articles 15, 16 and 18

Report of the Working Group on  
questions relating to articles 15, 16 and 18  
to be settled by Committee II

Question 1

The Working Group considers that the term "medical personnel" as used in Protocol II should include all the categories of personnel listed in article 8, paragraph (d) of Protocol I. It also thinks that although the distinction between "permanent" and "temporary" personnel should appear as infrequently as possible in Protocol II, some provision for the definition of temporary medical personnel is required. Control over "temporary" personnel is a difficult matter in a non-international conflict, and to distinguish between "temporary" personnel and other civilians providing aid and care for the wounded is by no means easy and may often be impossible. This point will, moreover, be developed in item 2 of the questionnaire.

Question 2

The Working Group found that the various categories of persons who are at present covered by article 8(d) of Protocol I as amended by new article 8(e) are as follows:

- (1) military medical personnel (as referred to in articles 24 and 25 of the First Convention and articles 36 and 37 of the Second Convention)
- (2) civilian medical personnel (article 8(d) ii of Protocol I)
- (3) medical personnel of civil defence (article 8(d) iii of Protocol I)
- (4) medical personnel of relief societies (article 8(d) iii of Protocol I)

- (5) all other persons carrying out medical duties in an auxiliary capacity (article 25 of the First Convention)  
(all these categories can be permanent or temporary)

The categories cover all supporting personnel, i.e., medical personnel who have not completed their medical studies together with personnel with no medical qualifications or working as auxiliaries or assistants. This category might have increased significance under the circumstances of an internal conflict.

Medical personnel can therefore be described strictly with reference to their duties, and the use of the term need not imply the possession of a recognized academic qualification or other certificate of achievement in medical skills.

Taking all this into consideration, the Working Group has therefore prepared a definition of medical personnel, which is attached to this report, to facilitate the wording of Article 15, Protocol II.

#### Question 3

(a) In the opinion of the Working Group, point 3 (a) raises no problems, since it is already defined in article 11 (including also the National Societies).

(b) This is a somewhat more delicate issue. However, the Working Group has proposed a definition which shows that medical personnel belong to a Party to the conflict and are assigned by it to medical duties. It is considered that this implies an adequate degree of both recognition and authorization. The same holds true for temporary medical personnel.

#### Question 4

The Working Group considers that the exception mentioned in article 35 is sufficient and that there is no need for any mention of it at all in article 15.

#### Question 5

The Working Group feels that the ICRC text is unnecessarily restrictive on this point, and that it should be sufficient to provide that medical personnel shall not be employed on tasks which are not compatible with their humanitarian role.

#### Question 6

The Working Group considers that religious personnel should be defined in article 11 of Protocol II. A proposal for a definition which defines the scope of religious personnel will be introduced directly to Committee II. Provided that this is accepted, the words "religious personnel" will still be included in article 15. If it is not accepted, it will be necessary to propose a new article 17 bis, dealing with the protection of religious personnel.

The Working Group has also prepared a text of article 15 which is in harmony with the definition of medical personnel mentioned in the proposed amendment to article 11 (g) and with the findings included in this report.

Question 7

The Working Group considers that the Working Group on article 16, paragraph 3, has already answered this question (see CDDH/II/GT/28).

Question 8

This question should be settled by the Working Group on the distinctive emblem (article 18 of Protocol II).

Article 11, paragraph (f)

(f) "Medical personnel" means those persons exclusively assigned to the search for, or the collection, transportation or treatment of the wounded and sick, or to the prevention of disease; and also persons exclusively assigned to the administration of medical units, or to the operation or administration of medical transports. Such assignment may be either permanent or temporary. The term shall include:

- (i) the medical personnel of Parties to the conflict, whether military or civilian;
- (ii) medical personnel of the National Red Cross (Red Crescent, Red Lion and Sun) Society and of other voluntary aid societies recognized by a Party to the conflict.

"Permanent medical personnel" are those persons assigned exclusively and for an indeterminate period to medical purposes. "Temporary medical personnel" are those persons exclusively devoted to medical purposes for limited periods, during the whole of such periods. In the absence of specific qualification, the term "medical personnel" shall cover both permanent and temporary categories.

Article 15

(a) Medical personnel and religious personnel<sup>1</sup> shall, under all circumstances, be respected and protected, and shall be granted all available aid for the execution of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian role.

---

<sup>1</sup> Subject to acceptance by Committee II of a definition of religious personnel.

(b) No Party to the conflict may require that medical personnel, in the performance of their duties, give priority to any person except on medical grounds.

Geneva, 3 February - 18 April 1975

Draft Protocol I, Part II  
Section I, Article 11

COMMITTEE II - DRAFTING COMMITTEE

Report on draft Protocol I,  
Article 11

The Drafting Committee, in considering article 11, has had the following mandate:

- (1) to draft a provision on medical record keeping based on the proposals made by the representatives of the Federal Republic of Germany and of Canada;
- (2) to draft a provision on grave breaches based on the various proposals made during the debate;
- (3) to propose a solution as to the place of these provisions and the paragraphs of article 11 already adopted by the Committee or the Drafting Committee;
- (4) to examine paragraphs 3 and 4 of article 11, as contained in document CDDH/II/240 and CDDH/II/240/Add.1 as to whether any change might be required in the light of the new provisions referred to sub (1) and (2).

It is understood that the provision on grave breaches is subject to reconsideration when Committee I deals with the articles on grave breaches.

In fulfilling this mandate, the Drafting Committee submits to Committee II the following new text of article 11:

Article 11 - Protection of persons

1. The physical or mental health and integrity of persons who have fallen into the hands of the adverse Party, or who are interned, detained or / otherwise / deprived of liberty, as a result of hostilities or occupation<sup>1)</sup>, shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with accepted medical standards which would be applied to other nationals of the Party under similar circumstances. / applied under similar circumstances to nationals of the Party conducting the procedure who are not in any way deprived of liberty. /

2. In particular it is prohibited / Subject to the provision of paragraph 1, it is, in particular, prohibited / to carry out on such persons, even with their consent:

- (a) physical mutilations;
- (b) medical or scientific experiments;
- (c) removal of tissue or organs for transplantation.

3. Exceptions to the prohibition contained in paragraph 2 (c) of this Article may be made only in the case of donations of blood for transfusion or of skin for grafting provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.

---

1) Attention is drawn to the words "related to a situation referred to in article 2 common to the Conventions" in draft articles 65 (3), 67 (2) and 68 (3) which deal with similar situations.

4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person described in paragraph 1 of this Article and which either violates any of the prohibitions contained in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of the present Protocol.

5. The persons described in paragraph 1 of this Article have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.

6. Each Party to a conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1 of this Article, if that donation is made under the responsibility of that Party. In addition, each Party to a conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained, or otherwise deprived of liberty, as a result of hostilities or occupation. These records shall be available at all times for inspection by the Protecting Power.





Geneva, 3 February - 18 April, 1975

COMMITTEE II

Report of the Drafting Committee

Draft Protocol I

Article 15(2) - Article 17(1) - Article 18(3)

The Drafting Committee has considered articles 15 para.2, 17 para. 1 and 18 para. 3 of Protocol I in the light of the report of the Mixed Working Group on "combat zone" and similar expressions. As a result, it submits the following proposals.

Article 15, para.2

If needed all available help shall be afforded to civilian medical personnel in an area where civilian medical service is disrupted by reason of combat activity.

Article 17, para.1

No change

Article 18, para.3

Replace the words "in zones of military operations" by: "in areas where fighting is taking place or is likely to take place".



Geneva, 3 February - 18 April 1975

Draft Protocol II  
Articles 12 to 18

COMMITTEE II

Report of the Drafting Committee

Article 12 - Protection and care

1. All the wounded and sick, and the shipwrecked, to whichever party they belong, and whether or not they have taken part in the armed conflict, shall be respected and protected.
2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any other than medical grounds.

Article 12 bis - Protection of persons

1. The physical or mental health and integrity of persons who have been interned, detained or otherwise deprived of liberty, by any of the parties to an armed conflict for reasons relating to that conflict, shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.
2. Subject to the provisions of paragraph 1, it is, in particular, prohibited to carry out on such persons, even with their consent:

- (a) physical mutilations;
- (b) medical or scientific experiments;
- (c) removal of tissue or organs for transplantation.

#### Article 13 - Search and evacuation

1. At all times on land, and particularly after an engagement, parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently to dispose of them.
2. At sea or on other waters, whenever circumstances permit, and particularly after each engagement, the measures specified in paragraph 1 of this article shall be taken with respect to the wounded and sick, the shipwrecked, and the dead.
3. Whenever circumstances permit, every endeavour should be made to arrange for the removal of the wounded and sick, aged persons and children from a besieged or encircled area, or an area of similar danger.

#### Article 14 - Role of the civilian population and of relief societies

1. The civilian population shall respect the wounded and sick, and the shipwrecked, to whichever party they belong, and whether or not they have taken part in the armed conflict, and shall commit no act of violence against them. The civilian population and relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations shall be permitted, even on their own initiative, to care for the wounded and sick, and the shipwrecked, and no one shall be harmed, prosecuted, convicted or punished for having done so.
2. The parties to the conflict may appeal to the civilian population and the relief societies referred to in paragraph 1 of this article to care for the wounded and sick, and the shipwrecked /and to collect the dead/ and shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse party gains or regains control of the area, that party shall also afford the same protection and facilities for so long as they are needed.
3. /Reserved/

#### Article 15 - Protection of Medical and Religious Personnel

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian role.

2. The parties to the conflict may not require that medical personnel give priority to any person, in the performance of their duties, except on medical grounds.

Article 16 - General protection of medical duties

1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

2. Persons engaged in medical activities shall neither be compelled to perform acts nor to carry out work contrary to, nor to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or the present Protocol.

3. /Reserved/

Article 17 - Protection of medical units and transports<sup>1/</sup>

1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.

2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the adverse party. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time limit, and after such warning has remained unheeded.

3. The following shall not be considered as harmful acts:

- (a) that the personnel of the unit or the transport are equipped with light individual weapons for their own defence or for that of the wounded and sick for whom they are responsible;
- (b) that the unit or the transport is guarded by a picket, sentries or an escort;
- (c) that small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the unit or transport;

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<sup>1/</sup> Most of the changes made to the text of the amendment which appear in document CDDH/II/235 are intended to harmonize article 17 of Draft Protocol II with article 13 of Draft Protocol I.

- (d) that members of the armed forces of the High Contracting Party or other combatants are in the unit for medical reasons or that such persons, if wounded or sick, are in the transport.

Article 18 - The distinctive Emblem

1. Under the direction of the competent authority of a party to the conflict, the distinctive emblem shall be displayed by medical and religious personnel and medical units, and on medical transports, of that party. It shall be respected in all circumstances. In addition to the distinctive emblem, parties to the conflict may agree upon the use of distinctive signals to identify medical units and transports.
2. Neither the distinctive emblem nor the distinctive signals shall be used to protect other persons or objects. Each party to the conflict shall adopt special measures for supervising the use of the distinctive emblem and signals in order to prevent and repress any misuse of them.

Draft Protocol I, Part II,  
Section II

COMMITTEE II

Report of the Working Group on Articles 21-25  
and of the Drafting Committee

1. We have held five meetings between 19 March and 4 April and submit our report and proposed articles herewith. As will be seen from these articles we have concluded that it is more satisfactory to have separate articles dealing with vehicles, hospital ships and coastal craft, and other medical ships and craft, and thereby as far as possible to include all the provisions relating to those three kinds of transport in the relevant article.
2. On this basis the Working Group concluded that there was no requirement for a separate article on Notification, the relevant provisions being included in article 23, paragraph 3, and article 24, paragraph 3. The Working Group is of the opinion that notification would be of no practical value in the case of medical vehicles. Similarly the provisions regarding protection have been included in the relevant articles.
3. The Working Group considers that reference to search and evacuation is undesirable. This function is fully covered in the First, Second and Fourth Conventions and in article 17 of the Protocol. To refer to the matter again would be to cast doubt on the meaning of the Conventions, and if search and evacuation were mentioned the other functions of medical transport when carrying medical personnel should also be included, and those are already fully covered under the definition of medical personnel. Consequently, no article corresponding to ICRC article 22 is recommended.
4. It follows from this approach that either there should be individual chapters on definitions, vehicles, ships and craft, and aircraft, or one chapter on medical transport. The Working Group

feel unable to recommend chapters containing in some cases only one article, and therefore propose that there should be no separate chapters, and that Section II under the title 'MEDICAL TRANSPORT' should cover the whole of the subject matter dealt with in ICRC articles 21 to 32 inclusive, the titles of the articles making clear the subject of each article.

5. The Working Group has also considered the wording of the second sentence of article 18(4) (CDDH/II/283 refers) and recommend the following:

"The ships and craft referred to in article 23 of the present Protocol shall be marked in accordance with the Second Convention."

6. The article which the Working Group found most difficulty in preparing is the proposed article 24. The subject is both new and important and has not been as extensively studied by experts as other parts of this Section. For these reasons the members of the Working Group have placed the article in brackets, and they recommend that the Committee should not adopt this article at the present session. They consider that the article should be deferred until the 1976 session of the Conference so as to give all delegations time to consult their Governments on the matter.

7. The articles which the Working Group recommend are based on the assumption that the provisional definition of "the shipwrecked" in article 8(b) will be amended along the lines of the Annex to this report. The Annex is intended only to be indicative of the kind of change that is needed and is not put forward as a formal proposal at this time.

8. The Working Group have made no specific mention of amphibious medical transport as they consider that they would be covered by article 22 when on land and article 24 when at sea or on other waters.

9. For translation reasons the term "medical vehicles" will be translated into Russian as the equivalent of "ground medical transport".

10. The reference to an international humanitarian organization contained in article 23 should be re-examined for consistency with article 70 bis (see Document CDDH/I/263), if such an article is adopted, and vice versa. The same applies to other references to humanitarian organizations or Red Cross organizations in other articles of Protocol I which have been adopted by Committee II. It is recommended that a note to this effect be included in the report of Committee II.



SECTION II

MEDICAL TRANSPORTS

Article 21 - Definitions

For the purposes of the present Protocol:

- (a) "medical transportation" means the conveyance by land, water or air of the wounded and sick and the shipwrecked and of medical and religious personnel, medical equipment and supplies protected by the Conventions and by the present Protocol;
- (b) "medical transport" is any means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation, under the control of a competent authority of a Party to the conflict. "Permanent medical transports" are those which are assigned for an indeterminate period to medical transportation. "Temporary medical transports" are those which are assigned to medical transportation missions for limited periods while devoted exclusively to the performance of such missions. In the absence of specific qualification the terms "medical transports", "medical ships and craft", "medical vehicles" and "medical aircraft" will cover both permanent and temporary categories;
- (c) "medical ships and craft" mean any medical transport by water;
- (d) "medical vehicles" mean any medical transport by land;
- (e) "medical aircraft" mean any medical transport by air.

Article 22 - Medical vehicles

Medical vehicles shall be respected and protected in the same way as mobile medical units under the Conventions and the present Protocol.

Article 23 - Hospital ships and Coastal Rescue Craft

1. The provisions of the Conventions with respect to vessels described in articles 22, 24, 25 and 27 of the Second Convention, to their lifeboats and their small craft, to their personnel and crews, and to the wounded and sick and the shipwrecked on board shall also apply where these vessels carry civilian wounded and sick and shipwrecked which do not belong to any of the categories mentioned in article 13 of the Second Convention and in article 42

of the present Protocol. Such civilians are, however, not subject to surrender to any Party which is not their own, or to capture at sea: if they find themselves in the hands of a Party to the conflict of which they are not nationals, they shall be covered by the Fourth Convention and the present Protocol.

2. The protection provided by the Conventions for vessels described in article 25 of the Second Convention shall extend to hospital ships lent for humanitarian purposes to a Party to a conflict:

- (a) by a neutral or other State which is not a Party to that conflict; or
- (b) by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of Red Cross Societies,

provided that the requirements set out in that article are complied with.

3. Craft described in article 27 of the Second Convention shall be protected even if notification is not made. Parties to a conflict are, nevertheless, invited to inform other Parties to that conflict of any details of the craft which will facilitate identification and recognition.

#### Article 24 - Other medical ships and craft

1. Medical ships and craft other than those referred to in article 23 of this Protocol and in article 38 of the Second Convention shall, whether at sea or on other waters, and subject to the provisions of this article, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. They shall remain subject to the laws of war, and to article 14 of the Second Convention and shall obey every navigational order given to them from a visible warship of an adverse Party, but may not otherwise be diverted from their mission so long as they are required for the wounded and sick and the shipwrecked on board. Such ships and craft shall, as far as possible, be marked with the distinctive emblem and, as far as possible comply with paragraph 2 of article 43 of the Second Convention.

2. The protection provided in paragraph 1 of this article shall only cease under the conditions set out in articles 34 and 35 of the Second Convention. A clear refusal to obey a navigational order given in accordance with paragraph 1 of this article shall be an act harmful to the enemy under article 34 of the Second Convention.

3. A Party to the conflict should, whenever it could be useful, endeavour to notify any adverse Party of the name, description, expected time of sailing, course and speed of the ship or craft, and any other information which would facilitate identification and recognition. An adverse Party shall acknowledge receipt of such information.

4. The provisions of article 37 of the Second Convention shall apply to medical and religious personnel in such ships and craft.

5. The provisions of the Second Convention shall apply to the wounded and sick and the shipwrecked persons described in article 13 of the Second Convention and in article 42 of the present Protocol who may be on board such medical ships and craft. Civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in article 13 of the Second Convention and in article 42 of the present Protocol shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft: if they find themselves in the hands of a Party to the conflict of which they are not nationals they shall be covered by the Fourth Convention and this Protocol.<sup>7</sup>

Annex to Report of Working Group  
on articles 21-25

Change definition of shipwrecked, article 8 b to read:

- (b) "the shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of the destruction, loss or disablement of the vessel or aircraft in which they were travelling and who refrain from any act of hostility. The term shall also be construed to cover those who have been rescued until they are established ashore or on another vessel, or otherwise acquire another status under the Conventions, provided they continue to refrain from any act of hostility.



Geneva, 3 February - 18 April 1875

Draft Protocol I, Part II,  
Section II

COMMITTEE II

Report of the Drafting Committee  
on Articles 26 to 29

Article 26 - Protection of medical aircraft

Medical aircraft<sup>1/</sup> shall be respected and protected, subject to the provisions of the present Part<sup>2/</sup>.

Article 26 bis - Medical aircraft in areas not controlled by an  
adverse Party

On and over land areas physically controlled by friendly forces, or on and over sea areas not physically controlled by an adverse Party, respect and protection of medical aircraft is not dependent on any agreement with an adverse Party. For greater safety, however, a Party to the conflict so operating its medical aircraft may notify any adverse Party as provided in Article 30 of the present Protocol, in particular when such aircraft are making flights bringing them within range of surface-to-air weapons systems of the adverse Party.

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<sup>1/</sup> If the definition of "medical transport" adopted by the Committee does not contain the words "under the control of a competent authority of a Party to the conflict", these words should be included here.

<sup>2/</sup> If the definitions now contained in draft Article 21, are removed from Part II to another part of the Protocol, this reference should be to "the present Protocol".

Article 27 - Medical aircraft in contact and similar zones

1. On and over those parts of the contact zone physically controlled by friendly forces and on and over those areas the physical control of which is not clearly established, protection for medical aircraft can be fully effective only by prior agreement between the competent military authorities of the Parties to the conflict as provided in Article 30 of the present Protocol. Although, in the absence of such an agreement, medical aircraft operate at their own risk, they shall, nevertheless, be respected after they have been recognized as such.

2. "Contact zone" means any area on land where the forward elements of opposing forces are in contact with each other, especially where they are exposed to direct fire from the ground.

Article 28 - Medical aircraft in areas controlled by an adverse Party

1. The medical aircraft of a Party to the conflict shall continue to be protected while flying over land or sea areas physically controlled by an adverse Party, provided that prior agreement to such flights has been obtained from the competent authority of the adverse Party concerned.

2. A medical aircraft which flies over an area physically controlled by an adverse Party without, or in deviation from the terms of, an agreement provided for in paragraph 1 of this Article, either through navigational error or because of an emergency affecting the safety of the flight, shall make every effort to identify itself and inform the adverse Party of the circumstances. As soon as such medical aircraft has been recognized by the adverse Party, every reasonable effort shall be made to give the order referred to in Article 31, paragraph 1 of the present Protocol or to take other measures to safeguard the interests of the adverse Party, and to allow the aircraft time for compliance, before attacking it.

Article 29 - Restrictions on Operations of medical aircraft

1. A Party to a conflict is prohibited from using its medical aircraft to attempt to acquire any military advantage over an adverse Party. The presence of medical aircraft shall not be used to render military objectives immune from attack.

2. Medical aircraft shall not be used to collect or transmit intelligence data and shall not carry any equipment intended for such purposes. They are prohibited from carrying any persons or cargo not included within the definition in Article 21 (a) of the present Protocol. The carrying on board of the personal

effects of the occupants or of equipment intended solely to facilitate navigation, communication, or identification shall not be considered as prohibited.

3. Medical aircraft shall not carry any armament other than small arms and ammunition taken from the wounded and sick and the shipwrecked on board, and not yet handed to the proper service, and such light individual weapons as may be necessary to enable the medical personnel on board to defend themselves and the wounded and sick and the shipwrecked in their charge.

4. While carrying out flights referred to in Articles 27 and 28 of the present Protocol, medical aircraft shall not, except by prior agreement with the adverse Party, be used to search for the wounded and sick and the shipwrecked.





Geneva, 3 February - 18 April, 1975

COMMITTEE II

DRAFTING COMMITTEE

Draft Protocol I, Part II,  
Section II

Report on Article 30

Article 30 - Agreements and notifications concerning medical  
aircraft

1. Notifications under article 26 bis, or requests for prior agreement under articles 27, 28 or 32 as well as paragraph 4 of article 29 of the present Protocol shall state the proposed number of medical aircraft, their flight plans, and means of identification, and shall be understood to mean that every flight will be carried out in compliance with article 29 of the present Protocol.
2. A Party which receives a notification given under article 26 bis of this Protocol shall at once acknowledge receipt of such notification.
3. A Party which receives a request for prior agreement under either article 27, 28, 32 or paragraph 4 of article 29 shall, as rapidly as possible, notify the other Party:
  - (a) that the request is agreed; or
  - (b) that the request is denied; or
  - (c) of a reasonable alternative to the original request. It may also propose a prohibition or restriction of other flights in the area during the time involved. If the Party which submitted the original request accepts the alternative proposals, it shall notify the other Party that those proposals are agreed.

4. The Parties shall take necessary measures so that the substance of any such notifications and agreements is disseminated to the military units concerned and shall instruct such units concerning the means of identification that will be used by medical aircraft concerned.

5. The Parties shall take the necessary measures to ensure that such notifications and such agreements can be made rapidly.

THIRD SESSION

(Geneva, 21 April - 11 June 1976).

COMMITTEE II

REPORT



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COMMITTEE II

REPORT

PART ONE

INTRODUCTION

A. OFFICERS OF THE COMMITTEE AND OFFICERS AND MEMBERS OF THE  
DRAFTING COMMITTEE

Officers of the Committee

1. Mr. S-E. Nahlik (Poland) continued to act as Chairman of the Committee. He was elected Chairman at the second session, on 3 February 1975.

2. The two Vice-Chairmen were Mr. K. Saleem (Pakistan), who had already filled that post during the second session, and Mr. C. Mackenney (Chile), who replaced Mr. O. Salas (Chile), who did not attend the third session.

3. In the absence of Mr. D. Maiga (Mali), his place as Rapporteur was taken, as from the fifty-ninth meeting, by Mr. El Hasseen El Hassan (Sudan). The officers of the Committee were thus as follows:

<u>Chairman:</u>	Mr. S-E. Nahlik	(Poland)
<u>Vice-Chairmen:</u>	Mr. K. Saleem	(Pakistan)
	Mr. C. Mackenney	(Chile)
<u>Rapporteur:</u>	Mr. El Hasseen El Hassan	(Sudan)

4. The secretariat of the Committee consisted of Mrs. H. Tollenaere and Mr. J.M. Froidevaux, Legal Secretaries, and Mrs. J. Maritz and Mrs. N. Marinković, Secretaries.

5. The International Committee of the Red Cross (ICRC) was represented by the following experts: Mr. Y. Sandoz, Mr. P. Eberlin, Mr. G. Malinverni and Mr. F. de Mulinen.

Officers and members of the Drafting Committee

6. As some members of the Drafting Committee elected at the first and second sessions of the Conference were unable to participate in the work of the third session, they had to be replaced by other members of the same delegations. The officers and members of the Drafting Committee were as follows:

Chairman: Mr. B. Jakovljević (Yugoslavia)  
Vice-Chairman: Mr. W.A. Solf (United States of America)  
(Acting Chairman)  
Vice-Chairman: Mr. V.M. Ruiz-Pérez (Mexico)  
Rapporteur: Mr. M. Bothe (Federal Republic of Germany)  
Deputy Rapporteur: Mr. F.J. Sanchez del Rio (Spain)

Members:

Mr. C.A. Passalacqua	(Argentina)
Mr. C.E. Sette Camara da Fonseca Costa	(Brazil)
Mr. A.E. Khairat	(Egypt)
Mr. G. Alba and Mr. J. Pennaneac'h	(France)
Mr. L. Czank	(Hungary)
Mr. S. Ijas	(Indonesia)
Mr. I. Al-Fallouji	(Iraq)
Mr. K. Ichioka and Mr. K. Kamioka <sup>1/</sup>	(Japan)
Mr. P. Martins	(Nigeria)
Mr. I. Lazar	(Romania)
Mr. Ben Buga	(Uganda)
Mr. I.I. Krasnopeev	(Union of Soviet Socialist Republics)

B. MEETINGS, ORGANIZATION OF WORK, REPORTS OF THE DRAFTING  
 COMMITTEE, PLAN OF THE REPORT

Meetings

7. During the third session of the Conference, Committee II held twenty-seven meetings, between 21 April and 9 June 1976. The Drafting Committee held twenty-nine meetings between 22 April and 3 June 1976.

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<sup>1/</sup> Mr. Kamioka - from 21 April to 11 June 1976.  
 Mr. Ichioka - from 21 April to 15 May 1976.

### Organization of work

8. At its third session the Committee resumed its consideration of articles at the point where they had been left at the second session (see the report of Committee II on its second session - CDDH/221/Rev.1, and CDDH/II/SR.55).
9. The Committee continued, in accordance with its decision at the thirteenth meeting on 5 February 1975, to consider the groups of articles of draft Protocol II immediately after the corresponding articles of draft Protocol I had been discussed (see CDDH/II/SR.13, para. 7).
10. The method of work of the Committee was the same as that adopted at the second session (see CDDH/221/Rev.1, paras. 6 et seq.).

### Reports of the Drafting Committee

11. The reports of the Drafting Committee of Committee II were in general submitted in the form of adopted texts. In some cases the texts were accompanied by notes by the Rapporteur. The Drafting Committee considered the articles in the following languages: English, French and Spanish. The Russian text of the articles is a translation. Each articles recommended by the Drafting Committee was introduced to the Committee by the Rapporteur of the Drafting Committee, who outlined the main considerations that had prompted the recommendations. The statements by the Rapporteur of the Drafting Committee appear in the summary records of Committee II.

### Plan of the report of Committee II

#### Part One - Introduction

12. The introduction contains information concerning the officers of the Committee, meetings, organization of work, etc.

#### Part Two - Consideration by Committee II of the articles of the draft additional Protocols referred to it

13. This part describes the proceedings of the Committee article by article. As a general rule the original numbering of the articles has been retained, as it appears in the draft Protocols prepared by the ICRC, while giving new articles, provisionally, such numbers as 20 bis, 20 ter, etc. This part is closely connected with the summary records of the meetings of the Committee (CDDH/II/SR.56 to SR.82). The texts of the articles adopted by the Committee during the third session appear in annex I to the present report.

## PART TWO

CONSIDERATION BY COMMITTEE II OF THE ARTICLES  
OF THE DRAFT ADDITIONAL PROTOCOLS REFERRED TO ITDRAFT PROTOCOL I ADDITIONAL TO THE GENEVA CONVENTIONS OF  
AUGUST 12, 1949, AND RELATING TO THE PROTECTION OF VICTIMS  
OF INTERNATIONAL ARMED CONFLICTS

## PART II

## WOUNDED, SICK AND SHIPWRECKED PERSONS

Section IGeneral ProtectionArticle 8 - DefinitionsBackground

14. Article 8 was considered at the first session of the Conference in 1974, and the Committee decided to refer it to the Drafting Committee (see the report of Committee II on its first session - CDDH/49/Rev.1, paras. 19-44).

15. A new amendment to the article was submitted at the second session. The Committee decided to defer consideration of the amendment until after the other provisions of Part II of draft Protocol I had been adopted. (See CDDH/221/Rev.1, paras. 19-23). The Drafting Committee resumed consideration of article 8 at the third session.

Amendment

CDDH/II/374

Austria, Guatemala, Holy See,  
Nicaragua.

16. The amendment proposed a new sub-paragraph (e) bis defining "religious personnel".

Proceedings of the Committee

17. At its seventy-fifth meeting, on 31 May 1976, the Committee took note of the report of the Drafting Committee on sub-paragraph (e) bis of article 8 (CDDH/II/377). It approved sub-paragraph (e) bis, defining "religious personnel", by consensus.

18. At its seventy-seventh meeting, on 1 June 1976, the Committee took cognizance of the report of the Drafting Committee on article 8, sub-paragraphs (a), (b), (c), (d), (e), (f) and (g) (CDDH/II/379). It adopted article 8 by consensus, embodying therein sub-paragraph (e) bis, which became sub-paragraph (f), so that the article now contains an additional element, namely sub-paragraph (h).

19. The United Kingdom representative had asked that the Committee's report should recapitulate certain explanatory remarks made by the Rapporteur of the Drafting Committee in his written report to the Committee (CDDH/II/379), as well as in his oral introduction of the report. That request was agreed to by the Committee.

20. The explanatory remarks are reproduced below:

" With regard to sub-paragraph (c), it is the unanimous understanding of the Drafting Committee that the medical purposes mentioned in that paragraph include dental treatment. The expression 'hospitals and other similar units' include rehabilitation centres providing medical treatment.

One delegation asked that a note be added to this report to explain the interpretation of the words 'those persons assigned exclusively to the administration of medical units' (sub-paragraph (d)). These words include persons who look after the administration of medical units and establishments, without being directly concerned in the treatment of the wounded and sick. This would include office staff, ambulance drivers, plumbers, cooks, and other skilled workers. They form an integral part of medical units and establishments which could not function properly without their help. Hence they are entitled to the same protection as medical personnel.

With respect to sub-paragraph (e), it is to be noted that permanent medical units or personnel are 'assigned' to medical purposes, whereas temporary units or personnel are 'devoted' to such purposes. These different words have been chosen in order to make it clear that the protection of permanent units or personnel starts at the time of the order, assignment or similar act creating the unit or giving a medical task to the personnel. The protection of temporary units or personnel, however, commences only when they have in fact ceased to do other than medical work.

The words 'unless otherwise specified' are a deviation from the language used in the corresponding provision of article 21. The article should be changed accordingly by the Drafting Committee of the Conference.

Sub-paragraph (f) should be re-examined after the adoption of the provisions on identification of civil defence in order to avoid any inconsistency or any confusion in relation to the protective sign of civil defence."

Article 9 - Field of application

Proceedings of the Committee

21. At its seventy-fifth meeting on 31 May 1976, as requested by the International Committee of the Red Cross and the League of Red Cross Societies (CDDH/II/Inf.266), the Committee decided to re-open discussion on article 9, paragraph 2 (c). By 37 votes to none with 8 abstentions, it decided to defer consideration of this article until the fourth session.

Article 13 - Discontinuance of protection of  
civilian medical units

Paragraph 2, sub-paragraph (d)

Amendment

CDDH/II/378

Canada, Federal Republic of Germany,  
United Kingdom of Great Britain and  
Northern Ireland, United States of  
America.

Proceedings of the Committee

22. The wording of draft Protocol I, article 13, paragraph 2, sub-paragraph (d), as adopted by the Committee at its twenty-third meeting on 24 February 1975, differed from that of the corresponding article of draft Protocol II, namely article 17, paragraph 3, sub-paragraph (d), adopted by the Committee at its fifty-third meeting on 14 April 1975, where the term "medical reasons" was used instead of "medical treatment". At the request of the delegation which submitted the above amendment, the Committee decided unanimously by consensus, at its seventy-fifth meeting, on 31 May 1976, to reconsider the provision in question and replace "medical treatment" by "medical reasons". Article 13, paragraph 2, sub-paragraph (d) of draft Protocol I, as amended, was adopted at the same meeting.

Article 15 - Protection of civilian medical and  
religious personnel

Paragraph 3

Amendment

CDDH/II/388

Canada, United Kingdom of Great  
Britain and Northern Ireland, United  
States of America.

Proceedings of the Committee

23. At its eighty-first meeting on 9 June 1976, the Committee decided, by consensus, to reconsider article 15, paragraph 3, and adopted by consensus the proposal contained in amendment CDDH/II/388.

Article 15 - Protection of civilian medical and  
religious personnel

Paragraph 5

Amendment

CDDH/II/373

Austria, Belgium, France, Holy See,  
Nicaragua, Spain, Switzerland,  
Venezuela.

Proceedings of the Committee

24. At its seventy-first meeting, on 20 May 1976, the Committee decided by consensus to revise article 15, paragraph 5, which had been adopted at the twenty-fourth meeting on 25 February 1975.

25. The Committee considered the above amendment at its seventy-third meeting on 25 May 1976. It decided to defer taking any decision on this amendment, which proposed the deletion of the word "permanent" in paragraph 5 of the article, until such time as article 8 of draft Protocol I had been adopted, and in particular sub-paragraph (f) defining religious personnel. Sub-paragraph (f) having been adopted at the seventy-fifth meeting, on 31 May 1976, the Committee decided unanimously at the same meeting to delete the word "permanent".

Article 16 - General protection of medical dutiesParagraph 3Proposal

CDDH/II/397

Text submitted by the Working  
GroupProceedings of the Committee

26. At its eighty-first meeting, on 9 June 1976, the Committee decided, by consensus, to reconsider article 16, paragraph 3, and adopted by consensus the text of the Working Group's proposal (CDDH/II/397).

Article 17 - Role of the civilian population  
and of relief societiesParagraph 3Amendments

27. Amendments had been submitted at the second session of the Conference (see the report of Committee II on its second session - CDDH/221/Rev.1, paras. 80 and 81).

Proceedings of the Committee

28. At the second session of the Conference, the Committee decided at its forty-fourth meeting on 2 April 1975, to hold over paragraph 3 for further study. During the current session, at its fifty-seventh meeting, on 26 April 1976, Committee II took note of the report of the Drafting Committee (CDDH/II/334), which considered that the decision of Committee II to reserve the adoption of part of article 17 for further study did not mean that it would be referred back once again to the Committee. The Committee considered paragraph 3 of article 17 at its fifty-ninth meeting, and decided to delete it by 22 votes to 11, with 13 abstentions.

Section I bisInformation on the victims of a conflict, and remains of deceasedArticle 20 bis - PurposeArticle 20 ter - Missing personsArticle 20 quater - Remains of deceased



Amendments

(See the report of Committee II on its second session (CDDH/221/Rev.1, para. 113))

Proceedings of the Committee

29. Section I bis was considered at the second session. A Working Group was set up which submitted two reports to the Committee at that session (see CDDH/221/Rev.1, paras. 118 to 128). The Working Group continued to work during the third session and submitted a new report (CDDH/II/376) to the Committee at its seventy-sixth meeting on 29 April 1976. The Committee adopted the new Section I bis as to substance, by consensus, at its seventy-eighth meeting on 2 June 1976. It decided at the same time to refer the text so adopted back to the Drafting Committee of Committee II, requesting it to make any necessary drafting changes and to turn paragraph 1 of article 20 bis into a separate article (see CDDH/II/SR.78). The Committee at its seventy-ninth meeting on 4 June 1976, took cognizance of the text as revised by the Drafting Committee (CDDH/II/385, articles 20 bis, 20 ter, 20 quater) and approved it definitively, after a few minor drafting changes.

Section II

Medical transports

Article 23 - Hospital ships and coastal rescue craft

Amendments

(See the report of Committee II on its second session (CDDH/221/Rev.1, paras. 195 et seq.,))

Proceedings of the Committee

30. Article 23 had been adopted at the second session (see CDDH/221/Rev.1, paras. 195-199). It was, however, decided by consensus at the fifty-ninth meeting, on 29 April 1976, to bring the wording of the article into line with that of paragraph 6 of article 24, as adopted by the Committee.

31. At its seventy-fifth meeting, on 31 May 1976, as requested by the International Committee of the Red Cross and the League of Red Cross Societies (CDDH/II/Inf.266), the Committee decided to re-open discussion on article 9, paragraph 2 (c) and article 23, paragraph 2 (b). By 37 votes to none with 8 abstentions, it decided to defer consideration of these articles until the fourth session.

Article 24 - Other medical ships and craftAmendments

(See the report of Committee II on its second session (CDDH/221/Rev.1, paras. 200-204, 210 and 211))

Proceedings of the Committee

32. Article 24 had been considered at the second session. Committee II had decided to defer consideration of that article until the third session (see CDDH/221/Rev.1, para. 210). During the third session, at its fifty-sixth meeting, on 22 April 1976, the Committee considered the text of article 24 as reproduced in CDDH/221/Rev.1, p. 131, and subsequently referred it to a Working Group, which was instructed to report to the Drafting Committee. The Committee took note of the latter's report (CDDH/II/350), submitted by its Rapporteur at the fifty-ninth meeting, on 29 April 1976, and adopted the text by consensus, subject to some slight drafting changes.

Article 25 - NotificationAmendments

(See the report of Committee II on its second session (CDDH/221/Rev.1, paras. 205-210))

Proceedings of the Committee

33. Article 25 had been considered at the second session and as Committee II had not reached any decision on the subject at that session (see CDDH/221/Rev.1, paras. 205-210), it resumed consideration of the article at the third session. The Committee entrusted consideration of the article to a Working Group which was instructed to report upon it to the Drafting Committee. At its fifty-ninth meeting on 29 April 1976, the Committee took note of the report of the Drafting Committee (CDDH/II/334) on article 25, and decided by consensus to delete the article. The Committee decided not to include a general article on notification.

Article 31 - Landing and inspectionAmendments

(See the report of Committee II on its second session (CDDH/221/Rev.1, paras. 248 and 249))

Proceedings of the Committee

34. Article 31 had been considered at the second session. The Committee had referred it to the Drafting Committee with the relevant amendment (see CDDH/221/Rev.1, para. 251). Since the Drafting Committee was unable to conclude its work on the article at the second session, its consideration was resumed at the third session.

35. At its fifty-seventh meeting, on 26 April 1976, the Committee took note of the report of the Drafting Committee on article 31 (CDDH/II/333), containing six paragraphs, of which it adopted paragraphs 1, 2, 3 and 4 by consensus. The Committee continued its consideration of the article at its fifty-eighth meeting, on 27 April 1976, and decided by a two-thirds majority to re-open discussion of paragraph 4 (see CDDH/II/SR.58). It subsequently decided to refer back paragraphs 4, 5 and 6 to the Drafting Committee for reconsideration (see CDDH/II/SR.58).

36. The Drafting Committee presented its report (CDDH/II/350) to the Committee at its fifty-ninth meeting, on 29 April 1976. Paragraphs 4, 5 and 6 had been combined to form a single paragraph 4, which was adopted by consensus.

Article 32 - Neutral or other States not parties  
to the conflict

Amendments

(See the report of Committee II on its second session (CDDH/221/Rev.1,  
paras. 253 and 254))

Proceedings of the Committee

37. Article 32 had been considered at the second session of the Conference and had been referred to the Drafting Committee, together with the related amendments. The Drafting Committee had not taken any action on the article (see CDDH/221/Rev.1, para. 256). It continued its work on the article at the third session and submitted its report to the Committee (CDDH/II/333) at the latter's fifty-seventh meeting, on 26 April 1976. At its fifty-eighth meeting, on 27 April 1976, the Committee adopted paragraphs 1, 3, 4 and 5 by consensus and paragraph 2 by 40 votes to 3, with 6 abstentions.

## PART IV

## CIVILIAN POPULATION

Section IGeneral protection against effects of hostilitiesChapter VICivil DefenceArticles 54 - 59 terAmendment

CDDH/II/351

Canada

Article 54 - Definition

38. The following amendments were submitted:

CDDH/II/44

Philippines

(Paragraph 1 was rejected by 43 votes to 1, with 12 abstentions at the sixty-second meeting on 4 May 1976).

CDDH/II/318

Denmark, Federal Republic of  
Germany, Uganda, United Kingdom  
of Great Britain and Northern  
Ireland, United States of  
America

(Replaced by amendment CDDH/II/321 at the sixty-first meeting on 3 May 1976)

CDDH/II/321

Denmark

(Referred to the Drafting Committee/Working Group at the sixty-third meeting on 5 May 1976)

CDDH/II/336

Australia

(Referred to the Drafting Committee/Working Group at the sixty-third meeting on 5 May 1976)

CDDH/II/344

Finland, Norway, Sweden

(Referred to the Drafting Committee/Working Group at the sixty-third meeting on 5 May 1976)

Article 55 - Zones of military operations

39. The following amendments were submitted:

CDDH/II/234	Spain
CDDH/II/236	Denmark

(Replaced by CDDH/II/325/Rev.1 at the sixty-third meeting on 5 May 1976)

CDDH/II/307	Denmark, Finland, Norway, Sweden, United Republic of Tanzania, Yugoslavia
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(Denmark and Sweden withdrew their sponsorship at the sixty-third meeting)

CDDH/II/319	Denmark, Federal Republic of Germany, Uganda, United Kingdom of Great Britain and Northern Ireland
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(Denmark withdrew its sponsorship at the sixty-third meeting)

CDDH/II/322	Denmark
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(Referred to the Drafting Committee/Working Group)

CDDH/II/341	Netherlands
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(Referred to the Drafting Committee/Working Group)

CDDH/II/358	Yugoslavia
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Article 56 - Occupied territories

40. The following amendments were submitted:

CDDH/II/70	Egypt, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Saudi Arabia, Oman, Syrian Arab Republic, Tunisia, United Arab Emirates, Palestine Liberation Organization
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CDDH/II/234	Spain
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(Withdrawn provisionally at the sixty-fifth meeting on 7 May 1976)

CDDH/II/307

Denmark, Finland, Norway, Sweden,  
United Republic of Tanzania,  
Yugoslavia(Denmark and Yugoslavia withdrew their sponsorship at the  
sixty-fifth meeting on 7 May 1976)

CDDH/II/323

Denmark

(Referred to the Drafting Committee/Working Group)

CDDH/II/358

Yugoslavia

(Referred to the Drafting Committee/Working Group)

CDDH/II/340

Yugoslavia

(Referred to the Drafting Committee/Working Group)

CDDH/II/346

United States of America

(Referred to the Drafting Committee/Working Group)

CDDH/II/352

Byelorussian Soviet Socialist  
Republic, Ukrainian Soviet  
Socialist Republic, Union of Soviet  
Socialist Republics(Referred to the Drafting Committee/Working Group)Article 57 - Civil defence bodies of States not parties  
to a conflict and international bodies

41. The following amendments were submitted:

CDDH/45

Austria, Finland, Sweden,  
Switzerland, United Kingdom of  
Great Britain and Northern Ireland

CDDH/II/234

Spain

CDDH/II/324

Denmark

CDDH/II/337

Australia

CDDH/II/349

Indonesia

CDDH/II/345

Finland, Norway, Sweden

(All referred to the Drafting Committee/Working Group)

Article 57 bis - General protection

42. The following amendments were submitted:

CDDH/II/325                      Denmark

(Replaced by CDDH/II/325/Rev.1 at the sixty-third meeting on  
5 May 1976)

CDDH/II/342                      Finland, Norway, Sweden

(Referred to the Drafting Committee/Working Group)

Article 58 - Cessation of protection

43. The following amendments were submitted:

CDDH/II/70                      Egypt, Iraq, Jordan, Kuwait,  
Lebanon, Libyan Arab Republic,  
Mauritania, Oman, Saudi Arabia,  
Syrian Arab Republic, Tunisia,  
United Arab Emirates, Palestine  
Liberation Organization

CDDH/II/320                      Denmark, Federal Republic of  
Germany, Uganda, United Kingdom of  
Great Britain and Northern Ireland

CDDH/II/326                      Denmark

CDDH/II/338                      Australia

CDDH/II/343                      Finland, Norway, Sweden

CDDH/II/347                      Belgium

CDDH/II/353                      Byelorussian Soviet Socialist  
Republic, Ukrainian Soviet  
Socialist Republic, Union of Soviet  
Socialist Republics

(All referred to the Drafting Committee/Working Group)

Article 59 - Identification

44. The following amendments were submitted:

CDDH/II/237

Denmark

(Replaced by amendment CDDH/II/327 at the sixty-seventh meeting on 11 May 1976)

CDDH/II/327

Denmark

(Referred to the Drafting Committee/Working Group)

CDDH/II/339

Australia

(Referred to the Drafting Committee/Working Group)

CDDH/II/348  
and Corr. 1

Indonesia

(Referred to the Drafting Committee/Working Group at the sixty-seventh meeting)

Article 59 bis - Protection of civilians and  
civilian objects  
(title given by the Secretariat)

45. The following amendment was submitted:

CDDH/II/317

Denmark, Federal Republic of  
Germany, Uganda, United Kingdom  
of Great Britain and Northern  
Ireland

(Replaced by amendment CDDH/II/325/Rev.1 at the sixty-seventh meeting on 10 May 1976)

Article 59 ter - Status of military units assigned  
exclusively to civil defence tasks

46. The following amendment was submitted:

CDDH/II/335

Switzerland

(Referred to the Drafting Committee/Working Group)



Proceedings of the Committee

47. At its sixtieth to sixty-seventh meetings, the Committee held a general debate on articles 54 to 59 ter, relating to civil defence. In the course of those meetings, it decided to refer all those articles, with the corresponding amendments, to the combined Drafting Committee/Working Group. The latter has not yet completed its consideration of all the articles referred to it. It has, however, submitted an interim report (CDDH/II/384) containing proposals for certain articles. That report was discussed by the Committee at its eightieth meeting, on 4 June 1976.

48. At its eighty-first meeting on 9 June 1976, the Committee continued the debate on the interim report of the Drafting Committee/Working Group on Civil Defence (CDDH/II/384/Rev.1). It took note of that report as a basis for further discussion. Special reference is made to the oral explanations by the Chairman of the restricted Sub-Group at the eightieth meeting on 4 June 1976, reported in summary record CDDH/II/SR.80.

49. The interim report (CDDH/II/384/Rev.1) is annexed to the present report (see annex II).

ANNEX TO DRAFT PROTOCOL I\*Regulations concerning the identification, recognition and marking of medical personnel, units of transport, and civil defence personnel, equipment of transportsIntroductionBackground

50. The annex to draft Protocol I was considered by the Technical Sub-Committee at the first session of the Conference, occupying eight meetings; the Sub-Committee drew up a report on its work (see the report of Committee II on its first session (1974) - CDDH/49/Rev.1, annex II).

51. At the second session of the Conference (1975), Committee II at its fiftieth meeting, 9 April 1975, approved this report by 32 votes to none with 8 abstentions. (See the report of Committee II, second session - CDDH/221/Rev.1, paras. 259 et seq.). The Committee then decided that the Technical Sub-Committee should meet again at the third session of the Conference.

52. During the third session, the Technical Sub-Committee held ten meetings between 26 April and 7 May 1976. The officers of the Sub-Committee were as follows:

<u>Chairman:</u>	Mr. H.A. Kieffer (Switzerland)
<u>Vice-Chairman:</u>	Mr. I.I. Krasnopeeov (Union of Soviet Socialist Republics)
<u>Rapporteur:</u>	Mr. F.J. Sanchez del Rio (Spain)
<u>ICRC expert:</u>	Mr. P. Eberlin

53. The Technical Sub-Committee resumed consideration of the annex on the basis of the report that it had drawn up at the first session of the Conference (CDDH/49/Rev.1, annex II).

Amendments

54. New amendments to the annex were submitted to the Technical Sub-Committee: they consist of the following (articles numbered as in the text of the Sub-Committee's report to the first session of the Conference - CDDH/49/Rev.1, annex II, appendix I):

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\* For the texts of the articles adopted by Committee II, see annex II to the present report.

<u>Articles 1, 2 and 14</u>	CDDH/II/328	United States of America
<u>Article 6</u>	CDDH/II/329	United States of America
<u>Article 8</u>	CDDH/II/330	United States of America
<u>Article 9</u>	CDDH/II/332	United States of America
<u>Article 10</u>	CDDH/II/331	United States of America
<u>Article 16</u>	CDDH/II/357	United Kingdom of Great Britain and Northern Ireland

(This amendment was withdrawn and replaced by:

CDDH/II/359 Canada, United Kingdom of  
Great Britain and Northern  
Ireland, United States of  
America)

Proceedings of the Technical Sub-Committee

55. In the course of the ten meetings held from 26 April to 7 May 1976, the Technical Sub-Committee adopted the sixteen articles of the annex by consensus, except for article 1, paragraph 2, on which Egypt expressed a reservation; its representative thought that the identity card should be in the same form for all States and should follow the model attached, whereas all the other delegations approved the wording "The parties to the conflict may be guided by the single language model shown in Fig. 1".

56. Certain other articles were adopted with the addition of square brackets, until Committee II reached a final decision on the corresponding articles in draft Protocol I or on other prior questions:

Article 2 - The words "and religious" corresponding to article 8 of Protocol I

Note 47 underneath the model identity card (corresponding to articles 54 to 59 of draft Protocol I on civil defence).

Chapter V - articles 14 and 157: corresponding to articles 54 to 59 of draft Protocol I

Article 16 - Periodical revision: (The Committee has still to reach a decision on the final placing of this article.)

57. The Technical Sub-Committee also adopted three draft resolutions:

- CDDH/II/363/Rev.1 - Draft resolution concerning the use of radiocommunications for announcing and identifying medical transports protected by the Geneva Conventions of 1949 or any additional instrument.
- CDDH/II/364/Rev.1 - Draft resolution concerning the use of certain electronic and visual means of identification by medical aircraft protected by the Geneva Conventions of 1949 or any additional instrument.
- CDDH/II/366/Rev.1 - Draft resolution concerning the use of visual signalling for identification of medical transport protected by the Geneva Conventions of 1949 or any additional instrument.

58. At the end of its work, the Technical Sub-Committee approved the report (CDDH/II/371) drafted by its Rapporteur, Mr. F.J. Sanchez del Rio.

#### Proceedings of Committee II

59. At its seventieth meeting on 19 May 1976, Committee II took note of the above-mentioned report, which was introduced by Mr. H.A. Kieffer, Chairman of the Technical Sub-Committee. At this meeting the Committee adopted by consensus the following chapters of the annex:

Chapter II	articles 3 and 4
Chapter III	articles 5, 6, 7 and 8
Chapter IV	articles 9, 10, 11, 12 and 13.

60. The Committee also adopted at the same meeting the three draft resolutions mentioned above. 1/

61. At its seventy-second meeting on 21 May 1976, the Committee adopted by consensus Chapter I (articles 1 and 2) and took note of the Technical Sub-Committee's report (CDDH/II/371). 2/

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1/ For the draft resolutions as adopted at the thirty-third plenary meeting of the Conference, on 11 June 1976, see document CDDH/243.

2/ For the Technical Sub-Committee's report, see annex III to the present report.

62. The Committee also decided by consensus that Chapter V should be left pending until the Committee reached a final decision on articles 54 to 59 of Protocol I on civil defence.

63. At its seventy-fourth meeting, on 27 May 1976, the Committee decided by consensus that the provisions of article 16 of the annex to draft Protocol I should be inserted at an appropriate place in that Protocol and not in the annex. The Committee adopted by consensus paragraphs 2, 3, 4 and 5 of article 16 of the annex. Paragraphs 1 and 6 were referred to the Drafting Committee for modification.

64. At its seventy-seventh meeting on 1 June 1976, the Committee took note of the Drafting Committee's report (CDDH/II/380) on paragraphs 1, 5 and 6 of article 16 of the annex, which had by consensus been given a new numbering between square brackets as article /18 bis/ of Protocol I, leaving the final numbering to be made by the Drafting Committee of the Conference. The Committee adopted paragraph 1 by 37 votes to none, with 6 abstentions. The last sentence in paragraph 1 and the whole of paragraph 6 were also adopted by consensus. The Committee once again referred the whole of article /18 bis/ to the Drafting Committee to improve its wording.

65. At its seventy-ninth meeting on 4 June 1976, the Committee took note of the Drafting Committee's final report on article /18 bis/ (CDDH/II/381) and by consensus adopted this article. After its adoption, the delegations of Australia, Brazil, Mongolia, and the Union of Soviet Socialist Republics stated that they reserved their Governments' positions on this article.

66. At the same meeting the Committee also adopted by consensus the models of the identity card, in four languages, as described in articles 1 and 2 of the annex to draft Protocol I.

DRAFT PROTOCOL II ADDITIONAL TO THE GENEVA  
CONVENTIONS OF AUGUST 12, 1949, AND  
RELATING TO THE PROTECTION OF  
VICTIMS OF NON-INTERNATIONAL  
ARMED CONFLICTS

PART III

WOUNDED, SICK AND SHIPWRECKED PERSONS

Article 11 - Definitions

Amendments

67. All the amendments were submitted at the first and second sessions.

CDDH/II/18	Holy See
CDDH/II/58	Holy See
CDDH/II/218	Canada
CDDH/II/219	United States of America
CDDH/II/224	Australia
CDDH/II/270	Austria, France, Holy See, Nigeria
CDDH/II/315	Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America

Proceedings of the Committee

68. During the second session of the Conference, Committee II, at its twenty-first meeting on 18 February 1975, decided to defer consideration of article 11 until the other provisions of Part III had been adopted (see the report of Committee II on its second session (CDDH/221/Rev.1, para. 129)).

69. At its seventy-ninth meeting on 4 June 1976, the Committee took note of the report of the Drafting Committee on article 11 of draft Protocol II (CDDH/II/386). The Drafting Committee had reverted to the text of the corresponding articles in draft Protocol I, articles 8 and 21, with changes designed solely to meet the different demands arising from a context of non-international conflict. Committee II adopted that article, comprising sub-paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i), by consensus. The

relevant explanations of the Rapporteur of the Drafting Committee concerning article 8 of draft Protocol I are therefore equally relevant to article 11 of draft Protocol II (see above, para. 18). Sub-paragraph (f) was adopted at the eightieth meeting, on 4 June 1976, with a foot-note indicating that it should be reconsidered in the light of article 35 of draft Protocol II.

Article 14 - Role of the civilian population  
and of relief societies

Paragraph 3

Amendments

(See the report of Committee II on its second session (CDDH/221/  
Rev.1, paras. 141 and 142))

Proceedings of the Committee

70. Paragraphs 1 and 2 of this article had been adopted at the second session. The Committee had reserved paragraph 3 for further consideration (CDDH/221/Rev.1, p. 142, foot-note). During the current session the Committee, at its sixtieth meeting, on 30 April 1976, decided by 21 votes to 13, with 12 abstentions, to retain the paragraph, and subsequently to refer it to a Working Group. At its seventy-third meeting, on 25 May 1976, the Committee took note of the report of that Working Group (CDDH/II/372) and adopted article 14, paragraph 3, by consensus, with some slight drafting changes. At that same meeting the Committee decided by consensus to remove the square brackets from article 14, paragraph 2 which had remained in abeyance since the second session.

Article 15 - Protection of medical and religious personnel

Paragraph 1

Amendment

CDDH/II/388

Canada, United Kingdom of Great  
Britain and Northern Ireland,  
United States of America

Proceedings of the Committee

71. At its eighty-first meeting, on 9 June 1976, the Committee decided to reconsider article 15, paragraph 1, and adopted, by consensus, amendment CDDH/II/388.

PART V

CIVILIAN POPULATION

Chapter II

Civil Defence

Article 30 - Respect and protection

72. The following amendment was submitted:

CDDH/II/368

Denmark

(Referred to the Drafting Committee/Working Group)

Article 31 - Definition

73. The following amendments were submitted:

CDDH/II/51

Philippines

CDDH/II/369

Denmark

(Referred to the Drafting Committee/Working Group)

Article 31 bis - Identification

74. The following amendment was submitted:

CDDH/II/370

Denmark

(Referred to the Drafting Committee/Working Group)

Proceedings of the Committee

75. At its sixty-eighth meeting, on 11 May 1976, the Committee referred the above amendments to the Drafting Committee/Working Group, which has not yet considered them.

ADOPTION OF THE REPORT OF COMMITTEE II

76. At its eighty-second meeting, on 9 June 1976, the Committee adopted this report, as amended, by consensus.



A N N E X E S

ANNEX I

ARTICLES ADOPTED BY COMMITTEE II

ARTICLES OF DRAFT PROTOCOL I



ANNEX I

ARTICLES OF DRAFT PROTOCOL I

Draft Protocol I  
Part II, Section I

Article 8 - Definitions\*

For the purposes of this Protocol:

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them, and who refrain from any act of hostility. These persons shall be considered shipwrecked during their rescue until they acquire another status under either the Conventions or this Protocol, provided that they continue to refrain from any act of hostility.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease. The term includes, for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such medical units. Medical units may be fixed or mobile, permanent or temporary.

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\* Sub-paragraph (e) bis (f) was adopted at the seventy-fifth meeting, on 31 May 1976, by consensus, in the following languages: English, French, Russian and Spanish. Sub-paragraphs (a) to (g) of article 8 were adopted at the seventy-seventh meeting, on 1 June 1976, by consensus, in the following languages: English, French, Russian and Spanish. See paragraphs 14 to 20 of the present report.

(d) "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

- (i) medical personnel of a party to the conflict, whether military or civilian, including those described in the First and Second Conventions, and those assigned to civil defence /units/ /bodies/.
- (ii) medical personnel of national Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict.
- (iii) medical personnel of medical units or medical transports described in article 9, paragraph 2, of this Protocol.

(e) "Permanent medical units" and "permanent medical personnel" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units" and "temporary medical personnel" are those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical units" and "medical personnel" respectively cover both permanent and temporary categories.

(f) "Religious personnel" means persons such as chaplains, whether military or civilian, exclusively engaged in the work of their ministry and attached to:

- (i) the armed forces of a party to the conflict, or
- (ii) medical units or medical transports of a party to the conflict, or
- (iii) medical units or medical transports described in article 9, paragraph 2 of this Protocol.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of sub-paragraph (e) apply to them.

(g) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.

(h) "Distinctive signal" means any signal or message specified for the exclusive identification of medical units or transports in Chapter III of the annex to this Protocol.

Draft Protocol I  
Part II, Section I

Article 13 - Discontinuance of protection of civilian  
medical units\*

1. The protection to which civilian medical units are entitled shall not cease unless they are used to commit, outside their humanitarian function, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

- (a) that the personnel of the unit are equipped with light individual weapons for their own defence, or for that of the wounded and sick in their charge;
- (b) that the unit is guarded by a picket or by sentries or by an escort;
- (c) that the small arms and ammunition taken from the wounded and sick, and not yet handed to the proper service, are found in the unit;
- (d) that members of the armed forces or other combatants are in the unit for medical reasons.

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\* Adopted by consensus at the twenty-third meeting, on 24 February 1975, in the following languages: English, French, Russian and Spanish. Paragraph 2 (d) was reconsidered at the seventy-fifth meeting, on 31 May 1976, and amended and adopted by consensus in the following languages: English, French, Russian and Spanish. See paragraph 22 of the present report.

Draft Protocol I  
Part II, Section I

Article 15 - Protection of civilian medical and  
religious personnel\*

1. Civilian medical personnel shall be respected and protected.
2. If needed all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.
3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.
4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.
5. Religious personnel attached to civilian medical units - such as chaplains - shall be respected and protected. The provision of the Conventions and of the present Protocol concerning the protection and identification of medical personnel shall apply equally to such persons.

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\* Paragraphs 3, 4 and 5 were adopted by consensus at the twenty-fourth meeting, on 25 February 1975, in the following languages: English, French, Russian and Spanish; the new paragraph 1 (former paragraphs 1 and 2 combined) was adopted by consensus at the thirtieth meeting, on 5 March 1975, in the following languages: English, French, Russian and Spanish; paragraph 2 was adopted by consensus at the forty-fourth meeting, on 2 April 1975, in the following languages: English, French, Russian and Spanish. Paragraph 5 was reconsidered at the seventy-fifth meeting, on 31 May 1976, and amended and adopted by consensus in the following languages: English, French, Russian and Spanish. Paragraph 3 was reconsidered at the eighty-first meeting on 9 June 1976, and modified and adopted by consensus. See paragraphs 23 to 25 of the present report.

Draft Protocol I  
Part II, Section I

Article 16 - General protection of medical duties\*

1. Under no circumstances shall any person be punished for carrying out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.
2. Persons engaged in medical activities shall neither be compelled to perform acts nor to carry out work contrary to, nor to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or the Conventions or the present Protocol.
3. No person engaged in medical activities shall be compelled to give to anyone belonging either to an adverse party, or to his own party except as required by the law of the latter party, any information concerning the wounded and sick who are, or who have been, under his care, if such information would, in his opinion, prove harmful to the patients concerned or to their families. Regulations for the compulsory notification of communicable diseases shall, however, be respected.

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\* Adopted at the twenty-fourth meeting on 25 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 3 was reconsidered at the eighty-first meeting, amended and adopted by consensus. See paragraph 26 of the present report.

Draft Protocol I  
Part II, Section I

Article 17 - Role of the civilian population and  
and of relief societies\*

1. The civilian population shall respect the wounded and sick, and the shipwrecked, even if they belong to the adverse party, and shall commit no act of violence against them. The civilian population and relief societies, such as the national Red Cross (Red Crescent, Red Lion and Sun) Societies, shall be permitted, even on their own initiative, to care for the wounded and sick, and the shipwrecked, even in invaded or occupied areas, and no one shall be harmed, prosecuted, convicted, or punished for having done so.

2. The parties to the conflict may appeal to the civilian population and the relief societies referred to in paragraph 1 of this article to care for the wounded and sick, and the shipwrecked, and to search for and report the location of the dead; they shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse party gains or regains control of the area, that party also shall afford the same protection and facilities for so long as they are needed.

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\* Paragraph 1 was adopted at the thirtieth meeting, on 5 March 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 2 was adopted at the forty-fourth meeting, on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 3, which had been held over for further consideration, was deleted at the fifty-ninth meeting, on 29 April 1976, by 22 votes to 11, with 13 abstentions. See paragraphs 27 and 28 of the present report.



Draft Protocol I  
Part II, Section I

/Article 18 bis - revision of the annex/\*

1. Not later than four years after the coming into force of the Protocol and thereafter at intervals of not less than four years, the International Committee of the Red Cross shall consult the High Contracting Parties concerning the annex and, if it considers it necessary, may propose a meeting of technical experts to review the annex and to propose such amendments to it as may appear to be desirable. Unless, within six months of the communication of a proposal for such a meeting to the High Contracting Parties, one third of them objects, the International Committee of the Red Cross shall convene the meeting, inviting also observers of appropriate international organizations. Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.
2. The depositary State shall convene a conference of the High Contracting Parties and the Parties to the Conventions to consider amendments proposed by the meeting of technical experts, if, following that meeting, the International Committee of the Red Cross or one third of the High Contracting Parties so request.
3. Amendments to the annex may be adopted at such a conference by a two-thirds majority of the High Contracting Parties present and voting.
4. The depositary State shall communicate any amendment so adopted to the High Contracting Parties and the Parties to the Conventions. The amendment shall be considered to have been accepted at the end of a period of one year after it has been so communicated, unless within that period a declaration of non-acceptance to the amendment has been communicated to the depositary State by not less than one third of the High Contracting Parties.

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\* Adopted by consensus at the seventy-ninth meeting on 4 June 1976 in the following languages: English, French, Russian, Spanish. The number and title of this article remain within square brackets to indicate that the Drafting Committee of the Conference will have to decide on the placing of the article. See paragraphs 55 and 56 of the present report.

5. An amendment considered to have been accepted in accordance with paragraph 4 above shall enter into force three months after its acceptance for all High Contracting Parties other than those which have made a declaration of non-acceptance in accordance with that paragraph. Any Party making such a declaration may at any time withdraw it and the amendment will then enter into force for that Party three months thereafter.

6. The depositary State shall notify the High Contracting Parties and the Parties to the Conventions of the entry into force of any amendment, the Parties bound thereby, the date of entry into force in relation to each Party, declarations of non-acceptance made in accordance with paragraph 4, and withdrawals of such declarations.

Draft Protocol I  
Part II, Section I bis

Section I bis - Information on the victims of a  
conflict and remains of deceased\*

Article 20 bis - Purpose

In the implementation of this Section, the activities of the High Contracting Parties, of the parties to the conflict and of the international humanitarian organizations mentioned in the Conventions and this Protocol shall be mainly prompted by the right of families to know the fate of their relatives.

Article 20 ter - Missing persons

1. As soon as circumstances permit, and at the latest from the end of active hostilities, each party to the conflict shall search for the persons who have been reported missing by an adverse party. This adverse party shall transmit all relevant information on such persons in order to facilitate such searches.
2. In order to facilitate the gathering of information pursuant to the preceding paragraph, each party to the conflict shall, with respect to persons who would not receive more favourable consideration under the Conventions and this Protocol,
  - (a) record information as provided in Article 138 of the fourth Convention in respect of such persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who died during any period of detention;
  - (b) to the fullest extent possible, facilitate and, if need be, carry out the search for and recording of information on such persons if they have died in other circumstances as a result of hostilities or occupation.

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\* Adopted by consensus at the seventy-eighth meeting on 2 June 1976 and at the seventy-ninth meeting on 4 June 1976, in the following languages: English, French, Russian, Spanish. See paragraph 29 of the present report.

3. Information on persons reported missing pursuant to paragraph 1 of this article and the requests for such information shall either be transmitted directly or through the Protecting Power or the Central Tracing Agency of the International Committee of the Red Cross or the national Red Cross (Red Crescent, Red Lion and Sun) Societies. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each party to the conflict shall ensure that such information is also supplied to the Central Tracing Agency.

4. The parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify, and recover the dead from battlefield areas including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse party while carrying out these missions in areas controlled by the adverse party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.

Article 20 quater - Remains of deceased

1. The remains of persons who have died as a result of occupation or in detention resulting from occupation or hostilities, those of persons who are not nationals of the country in which they die as a result of hostilities, and the gravesites of all such persons where such remains or gravesites would not receive more favourable consideration under the Conventions and the Protocol, shall be respected, maintained and marked as provided for in Article 130 of the fourth Convention.

2. As soon as circumstances and the relations between the adverse parties permit, the High Contracting Parties, on whose territories graves and, where appropriate, other locations of the remains of persons who have died as a result of hostilities or during occupation or in detention are situated, shall conclude agreements in order to:

(a) facilitate access to the gravesites by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access;

(b) permanently protect and maintain such gravesites;

(c) facilitate the return of the remains of the deceased and of personal effects to the home country upon its request or unless that country objects, upon the request of the next of kin.

3. In the absence of agreements as provided for in paragraph 2. (b) or (c) of this article and if the home country of such deceased is not willing to arrange at its expense for the maintenance of such gravesites, the High Contracting Party on whose territory such gravesites are situated may offer to facilitate the return of the remains of such deceased to the home country. Where such an offer has not been accepted the High Contracting Party, after five years from the date of this offer and upon due notice to the home country, may adopt the arrangements laid down in its own laws on cemeteries and graves.

4. A High Contracting Party in whose territory the gravesites described in this article are situated shall be permitted to exhume only:

(a) in accordance with paragraphs 2 (c) and 3 of this article,  
or

(b) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume together with details of the intended place of reinterment.

5. /This section does not impose on any High Contracting Party or Party to a conflict obligations with regard to its own nationals. <sup>1/</sup>

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<sup>1/</sup>Subject to review by the Drafting Committee of the Conference.

Draft Protocol I  
Part II, Section II

Article 23 - Hospital ships and coastal rescue craft\*

1. The provisions of the Conventions with respect:

- (a) to vessels described in Articles 22, 24, 25 and 27 of the second Convention,
- (b) to their lifeboats and their small craft,
- (c) to their personnel and crews, and
- (d) to the wounded and sick and the shipwrecked on board

shall also apply where these vessels carry civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the second Convention /and in Article 42 of the present Protocol/. Such civilians are, however, not subject to surrender to any party which is not their own, or to capture at sea. If they find themselves in the hands of a party to a conflict other than their own they shall be covered by the fourth Convention and the present Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the second Convention shall extend to hospital ships lent for humanitarian purposes to a party to a conflict:

- (a) by a neutral or other State which is not a party to that conflict; or
- (b) by an impartial international humanitarian organization, such as the International Committee of the Red Cross or the League of Red Cross Societies,

provided that the requirements set out in that Article are complied with.

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\* Adopted at the forty-ninth meeting on 8 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 1 was reconsidered at the fifty-ninth meeting on 29 April 1976; it was amended and adopted by consensus in the following languages: English, French, Russian and Spanish. See paragraphs 30 and 31 of the present report.

3. Craft described in Article 27 of the second Convention shall be protected even if notification is not made. Parties to a conflict are, nevertheless, invited to inform other parties to that conflict of any details of such craft which will facilitate their identification and recognition.

Draft Protocol I  
Part II, Section II

Article 24 - Other medical ships and craft\*

1. Medical ships and craft other than those referred to in article 23 of this Protocol and Article 38 of the second Convention shall, whether at sea or on other waters, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. This protection can only be effective if they can be identified and recognized as medical ships or craft. Such vessels should therefore be marked with the distinctive emblem, and as far as possible comply with the second paragraph of Article 43 of the second Convention.

2. The ships and craft referred to in paragraph 1 shall remain subject to the laws of war. Any warship on the surface able immediately to enforce her command may order them to stop, order them off, or make them take a certain course, and they shall obey every such command. Such ships and craft may not in any other way be diverted from their medical mission so long as they are required for the wounded and sick and the shipwrecked on board.

3. The protection provided in paragraph 1 of this article shall only cease under the conditions set out in Articles 34 and 35 of the second Convention. A clear refusal to obey a command given in accordance with paragraph 2 of this article shall be an act harmful to the enemy under Article 34 of the second Convention.

4. A party to the conflict, particularly in the case of ships of over 2000 tons gross, may notify any adverse party as far in advance of sailing as possible of the name, description, expected time of sailing, course and estimated speed of the ship or craft, and may provide any other information which would facilitate identification and recognition. An adverse party shall acknowledge receipt of such information.

5. The provisions of Article 37 of the second Convention shall apply to medical and religious personnel in such ships and craft.

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\* Adopted by consensus at the fifty-ninth meeting, on 29 April 1976, in the following languages: English, French, Russian and Spanish. See paragraph 32 of the present report.



6. The provisions of the second Convention shall apply to the wounded and sick and the shipwrecked described in article 13 of the second Convention and in article 42 of the present Protocol who may be on board such medical ships and craft. Wounded, sick and shipwrecked civilians who do not belong to any of the categories mentioned in Article 13 of the second Convention and in article 42 of the present Protocol shall not be subject, at sea, either to surrender to any party which is not their own, or to removal from such ships or craft: if they do find themselves in the hands of a party to a conflict other than their own they shall be covered by the fourth Convention and this Protocol.

Draft Protocol I  
Part II, Section II

Article 31 - Landing and inspection\*

1. Medical aircraft flying over land or water under the physical control of an adverse party, or over those areas the physical control of which is not clearly established, may be ordered to land, or to alight on water, as appropriate, to permit inspection in accordance with the following paragraphs of this article. Medical aircraft shall obey any such order.

2. If such an aircraft lands or alights on water, whether ordered or otherwise, it may be subjected to inspection solely to determine the matters referred to in paragraphs 3 and 4 of this article. Any such inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick to be removed from the aircraft unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or by such removal.

3. If such inspection discloses that the aircraft:

- (a) is a medical aircraft within the meaning of article 21 (e) of the present Protocol, and
- (b) is not in violation of the conditions prescribed in article 29 of the present Protocol, and
- (c) has not flown without or in breach of a prior agreement where such agreement is required,

the aircraft and those of its occupants belonging to an adverse party or to a neutral or other State not a party to the conflict shall be free to continue the flight without delay.

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\* Paragraphs 1, 2, 3 and 4 were adopted by consensus at the fifty-seventh meeting, on 26 April 1976, in the following languages: English, French, Russian and Spanish. Paragraph 4 was reconsidered at the fifty-eighth meeting on 27 April 1976. Paragraphs 4, 5 and 6, combined to form a single paragraph 4 were adopted by consensus at the fifty-ninth meeting on 29 April 1976. See paragraphs 34 to 36 of the present report.

4. If such inspection discloses that the aircraft:
- (a) is not a medical aircraft within the meaning of article 21 (e) of the present Protocol, or
  - (b) is in violation of the conditions prescribed in article 29 of the present Protocol, or
  - (c) has flown without or in breach of a prior agreement where such agreement is required,

the aircraft may be seized. Its occupants shall be treated in conformity with the provisions of the Conventions and the present Protocol. Any aircraft seized which had been assigned as a permanent medical aircraft may be used thereafter only as a medical aircraft.

Draft Protocol I  
Part II, Section II

Article 32 - Neutral or other States not parties  
to the conflict\*

1. Except by prior agreement, medical aircraft shall not fly over or land on the territory of a neutral or other State not party to the conflict. However, with such an agreement they shall be respected throughout their flight and also for the duration of any calls in the territory. Nevertheless, they shall obey any summons to land, or to alight on water as appropriate.
2. Should a medical aircraft, in the absence of an agreement or in deviation from its terms, fly over the territory of a neutral or other State not party to the conflict, either through navigational error or because of an emergency affecting the safety of the flight, it shall make every effort to give notice of the flight and to identify itself. As soon as such medical aircraft is recognized, every reasonable effort shall be made to give the order referred to in article 31, paragraph 1 of the present Protocol or to take other measures to safeguard the interest of the neutral or other State not party to the conflict, and to allow the aircraft time for compliance, before attacking it.
3. If a medical aircraft, either by agreement or in the circumstances mentioned in paragraph 2, lands or alights on water in the territory of a neutral or other State not party to the conflict, whether ordered or otherwise, the aircraft shall be subject to inspection to determine that it is a medical aircraft. Inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick of the party operating the aircraft to be removed from it unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or such removal. If inspection discloses that the aircraft is a medical aircraft, such aircraft with its occupants, other than those who must be detained in accordance with international law, shall be allowed to resume its

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\* Paragraphs 1, 3, 4 and 5 were adopted by consensus at the fifty-eighth meeting, on 27 April 1976, in the following languages: English, French, Russian and Spanish. Paragraph 2 was adopted by 40 votes to 3 with 6 abstentions, at the same meeting and in the same languages. See paragraph 37 of the present report.

flight, and reasonable facilities shall be given for the continuation of flight. If inspection discloses that the aircraft is not a medical aircraft, it shall be seized and the occupants treated in accordance with paragraph 4.

4. The wounded and sick disembarked, other than temporarily, from a medical aircraft with the consent of the local authorities on the territory of a neutral or other State not party to the conflict shall, unless agreed otherwise between that State and the parties to the conflict, be detained by that State where so required by international law, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the State to which those persons belong.

5. Neutral or other States not parties to the conflict shall apply any conditions and restrictions on the passage of medical aircraft over, or landing on their territory equally to all parties to the conflict.

## ARTICLES OF THE ANNEX TO DRAFT PROTOCOL I\*

Regulations concerning the identification, recognition  
and marking of medical personnel, units of  
transports and civil defence personnel,  
equipment of transports

Chapter I

Identity cards

Article 1 - Identity card for permanent civilian medical and  
religious personnel

1. The identity card for permanent civilian medical and religious personnel referred to in article 18 (3) of the Protocol should:

- (a) bear the distinctive emblem and be of such size that it can be carried in the pocket
- (b) be as durable as practicable
- (c) be worded in the national or official language (and may also be worded in other languages)
- (d) mention the name, the date of birth (or, if not available, age at the time of issue) and the identity number, if any, of the holder
- (e) state in what capacity the holder is entitled to the protection of the Conventions and the Protocol

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\* Chapters II, III and IV were adopted by consensus at the seventieth meeting, on 19 May 1976, in the following languages: English, French, Russian and Spanish. At the same meeting it was decided that consideration of Chapter V should be deferred until Committee II had completed its study of articles 54 to 59 of draft Protocol I. Consideration of Chapter VI was also deferred. Chapter I was adopted by consensus at the seventy-second meeting, on 21 May 1976, in the following languages: English, French, Russian and Spanish, with the words "and religious" in article 2 left in square brackets. The adoption of those words was decided upon by consensus at the seventy-fifth meeting, on 31 May 1976. The model identity card in Chapter I was then adopted by consensus, at the seventy-ninth meeting, on 4 June 1976, in the following languages: English, French, Russian and Spanish. See paragraphs 50 to 66 of the present report and annex III.

- (f) bear the photograph of the holder as well as his signature or his thumbprint, or both
- (g) bear the stamp and signature of the competent authority.

2. The identity card should be uniform throughout the territory of each High Contracting Party and, as far as possible, of the same type for all parties to the conflict. The parties to the conflict may be guided by the single language model shown in Fig. 1. At the outbreak of hostilities, they shall transmit to each other a specimen of the model they are using, if such model differs from the one shown in Fig. 1. Identity cards shall be made out, if possible, in duplicate, one copy being kept by the issuing authority which should keep a system of control of the cards which it has issued.



3. In no circumstances may permanent civilian medical and religious personnel be deprived of their identity cards. In the event of loss, they shall be entitled to obtain a duplicate copy.

Article 2 - Identity card for temporary civilian medical and religious personnel

1. The identity card for temporary civilian medical and religious personnel should, whenever possible, be similar to that provided for in article 1 of this annex. The parties to the conflict may be guided by the model shown in Fig. 1.

2. When circumstances preclude the provision to temporary civilian medical and religious personnel of identity cards similar to those described in article 1 of this annex, they may be provided with a certificate signed by the competent authority certifying that the person to whom it is issued is assigned to duty as temporary personnel and showing, if possible, the duration of such assignment and his right to wear the distinctive emblem. The certificate should include the holder's name and date of birth (or if that is not available, age at the time the card was issued), his function and identity number, if available. It shall bear his signature or his thumbprint, or both.

FRONT

	(space reserved for the name of the country and authority issuing this card)	
<b>IDENTITY CARD</b>		
for PERMANENT civilian medical TEMPORARY religious personnel		
<hr style="width: 20%; margin: 0 auto;"/>		
Name .....		
Date of birth (or age) .....		
Identity No. (if any) .....		
The bearer of this card is protected by the Additional Protocol to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of interna- tional armed conflicts* in his capacity, as ..... .....		
Date of issue .....	No. of card .....	
	Signature of issuing authority	
Date of expiry .....	.....	

\* this part of the text should be brought into line with the ultimate title of the Protocol.

N.B. The final presentation of the above-mentioned model will be the same as for the one in document CDDH/II/371, dimensions: 74 x 105 mm.



REVERSE SIDE

Height .....	Eyes .....	Hair .....
Other distinguishing marks or information: ..... ..... .....		
PHOTO OF BEARER		
Stamp	Signature of bearer or thumbprint or both	

- Note:
1. Format: A7 (74mm x 105mm)
  2. The reverse side is the same on all cards
  3. On the card for temporary personnel the time of expiry, if relevant, should be shown.
  4. The card is the same for civil defence personnel except that it bears the appropriate emblem, the words "civil defence personnel" appear instead of the words "civilian medical and religious personnel" and the words PERMANENT/TEMPORARY do not appear.

Fig. 1 Model of identity card

Chapter IIThe distinctive emblemArticle 3 - Shape and nature

1. The distinctive emblem (red on a white ground), shall be as large as appropriate under the circumstances. For the shapes of the cross, the crescent or the lion and sun, the High Contracting Parties may be guided by the models shown in Fig. 2.
2. At night or when visibility is reduced, the distinctive emblem may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.



Fig. 2: Emblem in red on a white ground

Article 4 - Use

1. The distinctive emblem shall, whenever possible, be marked on a flat surface or on flags visible from as many directions and from as far as possible.
2. Subject to the instructions of the competent authority, medical personnel removing casualties from the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

Chapter III

Distinctive signals

Article 5 - Optional use

1. Subject to the provisions of article 6, the signals designated in the present chapter for exclusive use by medical units and transports shall not be used for any other purpose. The use of all signals referred to in this chapter is optional.
2. Temporary medical aircraft which cannot, either for lack of time or because of their characteristics, be marked with the distinctive emblem, may use the distinctive signals authorized in the present chapter. The best method of effective identification and recognition of medical aircraft is, however, the use of a visual signal, either the distinctive emblem or the light signal designated in article 6, or both, supplemented by the other signals referred to in articles 7 and 8 of this annex.

Article 6 - Light signal

1. The light signal, consisting of a flashing blue light, is established for the use of medical aircraft to signal their identity. No other aircraft shall use this signal. The recommended blue colour is obtained by using, as trichromatic co-ordinates, a green boundary represented by  $y = 0.065 + 0.805x$ , a white boundary by  $y = 0.400 - x$ , and a purple boundary by  $x = 0.133 + 0.600y$ . The recommended flashing rate of the blue light is between sixty and one hundred flashes per minute.
2. Medical aircraft should be equipped with the necessary lights to make the light signal visible in as many directions as possible.
3. In the absence of a special agreement concluded between the parties to the conflict, reserving the use of flashing blue lights for the identification of medical vehicles and ships and craft, the use of such signals for other vehicles or ships is not forbidden.

Article 7 - Radio signal

1. The radio signal shall consist of a radiotelephonic or radiotelegraphic message preceded by a distinctive priority signal to be designated and approved by a World Administrative Radio Conference of the International Telecommunication Union. It shall be transmitted three times before the call sign of the medical transport involved. This message shall be transmitted in English at appropriate intervals on a frequency or frequencies specified pursuant to paragraph 3. The use of the priority signal shall be restricted exclusively to medical units and transports.

2. The radio message preceded by the distinctive priority signal mentioned in paragraph 1 shall convey the following data:

- (a) the call sign of the medical transport;
- (b) position of the transport;
- (c) number and type of medical transports;
- (d) intended route;
- (e) estimated time en route and of departure and arrival, as appropriate;
- (f) any other information such as flight altitude, radio frequencies guarded, languages and secondary surveillance radar modes and codes.

3. In order to facilitate the communications referred to in paragraphs 1 and 2, as well as the communications referred to in articles /23 to 32 inclusive/ of the Protocol, the High Contracting Parties, the parties to a conflict, or one of the parties to a conflict, acting in agreement or alone, may designate, in accordance with the Table of Frequency Allocations in the Radio Regulations annexed to the International Telecommunication Convention, and publish selected national frequencies to be used by them for such communications. These frequencies shall be notified to the International Telecommunication Union in accordance with procedures to be approved by a general World Administrative Radio Conference.

#### Article 8 - Electronic identification

1. The secondary surveillance radar (SSR) system, as specified in Annex 10 to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used to identify and to follow the course of medical aircraft. The SSR mode and code to be reserved for the exclusive use of medical aircraft shall be established by the High Contracting Parties, the parties to a conflict, or one of the parties to a conflict, acting in agreement or alone, in accordance with procedures to be recommended by the International Civil Aviation Organization.

2. Parties to a conflict may, by special agreement between them, establish for their use a similar electronic system for the identification of medical vehicles, and medical ships and craft.

Chapter IV

Communications

Article 9 - Radio communications

In application of the procedures referred to in articles 23 to 32 inclusive of the Protocol, appropriate radio communications by medical units and transports may be preceded by the priority signal referred to in article 7 of the present annex.

Article 10 - Use of international codes

Medical units and transports may also use the codes and signals laid down by the International Telecommunication Union, the International Civil Aviation Organization and the Inter-Governmental Maritime Consultative Organization. These codes and signals shall be used in accordance with the standards, practices and procedures established by these organizations.

Article 11 - Other means of communication

When two-way radio communications are not possible, the signals provided for in the International Code of Signals adopted by the Inter-Governmental Maritime Consultative Organization or in the appropriate annex to the Chicago Convention on International Civil Aviation of 7 December 1944, as amended from time to time, may be used.

Article 12 - Flight plans

The agreements and notifications relating to flight plans provided for in article 30 of the Protocol shall be established as far as possible in accordance with procedures laid down by the International Civil Aviation Organization.

Article 13 - Signals and procedures for the interception  
of medical aircraft

If an intercepting aircraft is used to verify the identity of a medical aircraft in flight or to require it to land in accordance with articles 31 and 32 of this Protocol, the standard visual and radio interception procedures prescribed by annex 2 to the Convention of Chicago of 7 December 1944 on International Civil Aviation should be used by the intercepting and the medical aircraft.

ARTICLES OF DRAFT PROTOCOL II

Draft Protocol II  
Part III

Article 11 - Definitions\*

For the purposes of this Protocol,

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new-born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons shall also be considered shipwrecked during their rescue until they acquire another status under this Protocol, provided that they continue to refrain from any act of hostility.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease, which belong to or are recognized and authorized by a party to the conflict. Medical units may be fixed or mobile, permanent or temporary.

(d) "Medical transportation" means the conveyance by land, water or air of the wounded, sick and shipwrecked, medical and religious personnel and medical equipment and supplies protected by this Protocol.

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\* Adopted by consensus at the eightieth meeting on 4 June 1976, in the following languages: English, French, Russian and Spanish. See paragraphs 68 and 69 of the present report.

(e) "Medical transport" is a means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a party to the conflict.

(f)<sup>1/</sup> "Medical personnel" means those persons assigned exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

- (i) medical personnel of a party to the conflict, whether military or civilian, /including those assigned to medical tasks of civil defence/;
- (ii) medical personnel of Red Cross (Red Crescent, Red Lion and Sun) organizations recognized and authorized by a party to the conflict;
- (iii) medical personnel of other aid societies recognized and authorized by a party to the conflict and located within the territory of the High Contracting Party in whose territory an armed conflict is taking place.

(g) "Permanent medical units", "permanent medical personnel" and "permanent medical transport" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units", "temporary medical personnel" and "temporary medical transport" are those devoted exclusively to medical purposes for limited periods during the whole of such period. Unless otherwise specified, the terms "medical units", "medical personnel" and "medical transport" respectively cover both permanent and temporary categories.

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<sup>1/</sup> This sub-paragraph will have to be re-examined in the light of decisions taken with respect to article 35.



(h) "Religious personnel" means persons such as chaplains, whether military or civilian, engaged in the work of their ministry and attached either to:

- (i) the armed forces or other armed groups of a party to the conflict, or to
- (ii) medical units of a party to the conflict, or to
- (iii) medical units of the aid societies referred to in sub-paragraph (f).

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of paragraph (g) apply to them.

(i) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.

Draft Protocol II  
Part III

Article 14 - Role of the civilian population  
and of relief societies\*

1. The civilian population shall respect the wounded and sick, and the shipwrecked, to whichever party they belong, and whether or not they have taken part in the armed conflict, and shall commit no act of violence against them.\*\*The civilian population and relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, shall be permitted, even on their own initiative, to care for the wounded and sick, and the shipwrecked, and no one shall be harmed, prosecuted, convicted or punished for having done so.
2. The parties to the conflict may appeal to the civilian population and the relief societies referred to in paragraph 1 of this article to care for the wounded and sick, and the shipwrecked, and to collect the dead and shall grant both protection and the necessary facilities to those who respond to this appeal. If the adverse party gains or regains control of the area, that party shall also afford the same protection and facilities for so long as they are needed.
3. Persons in charge of civilian transports who, in response to an appeal from a party to a conflict, or on their own initiative, take on board and care for /the wounded and sick, or the shipwrecked, / or collect the dead, shall be given all reasonable assistance to perform these tasks.

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\* Paragraphs 1 and 2 were adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. At the seventy-third meeting on 25 May 1976, it was decided by consensus to adopt the words "and the shipwrecked" which appear in paragraph 2. Paragraph 3 was adopted at the seventy-third meeting by consensus in the following languages: English, French, Russian and Spanish. See paragraph 70 of the present report.

\*\*This paragraph incorporates CDDH/235/Rev.1/Corr.1.

Draft Protocol II  
Part III

Article 15 - Protection of medical and  
religious personnel\*

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.
2. The parties to the conflict may not require that medical personnel give priority to any person, in the performance of their duties, except on medical grounds.

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\* Adopted at the forty-fourth meeting on 2 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. Paragraph 1 was reconsidered at the eighty-first meeting on 9 June 1976 and modified and adopted by consensus. See paragraph 71 of the present report.



ANNEX II

INTERIM REPORT OF THE DRAFTING COMMITTEE/  
WORKING GROUP ON CIVIL DEFENCE\*

1. Committee II decided to refer articles 54 to 59 of draft Protocol I to the Drafting Committee acting also as a Working Group. For this purpose, the membership of the Drafting Committee was open-ended. The officers of the Drafting Committee acted as officers of the Working Group.
2. The Drafting Committee/Working Group held seven meetings. The problems of the protection of military elements of civil defence have been examined by a restricted Sub-Group consisting of members of the following delegations: Denmark, Indonesia, Mexico, Netherlands, Nigeria, Switzerland, Ukrainian Soviet Socialist Republic, United States of America, and of a representative of the ICRC, and under the chairmanship of Mr. E. Schultz (Denmark). The report of the Sub-Group appears in the appendix to this report together with an introductory note.
3. The Drafting Committee/Working Group concentrated first on civil defence tasks. It adopted a proposal for article 54, paragraph 1. As any decision on the protection of military elements of civil defence might have an influence on the question of other definitions to be included in that article, concerning civil defence units or bodies, a decision on these matters has been postponed and the words "units" and "bodies" are shown as alternatives in brackets. A possible wording for an additional paragraph of article 54 appears in the appendix to this report. For similar reasons, the consideration of article 55 has been postponed. The Drafting Committee/Working Group adopted, however, a new draft for article 56. Consideration of other articles has not been possible for lack of time. As it has not been possible to agree on all points, alternative phrases or words are submitted in brackets.
4. The following notes concerning specific provisions are added at the request of the Drafting Committee/Working Group or some of its members:

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\* See paragraphs 38 to 49 of the report of Committee II.

General questions

5. One member suggested the use of the words "civil protection" in English, which corresponded better to the French and Spanish terms and was more appropriate as it avoided any military connotation. On the other hand, it was pointed out that the expression "civil defence" was currently used in many national systems to designate the kind of activities envisaged by the articles under discussion.

Article 54, introductory phrase

6. The words in brackets were supported by two delegations.

Article 54, sub-paragraph (d)

7. Two delegations expressed the wish that this sub-paragraph be maintained if the list is to be exhaustive.

Article 54, sub-paragraph (g)

8. This sub-paragraph does not cover the detection, marking or removal of minefields during combat operations.

Article 54, sub-paragraph (m)

9. The question whether the list of civil defence tasks should be illustrative or exhaustive was debated at length. No agreement was reached on this question. It was agreed, however, that the existing differences of view could most simply be expressed by alternative endings in the final task enumerated in the list. The alternatives are given in brackets.

Article 56, paragraph 1

10. The word "civilian" has been placed in brackets pending a decision on the question of protection of military elements in civil defence. One delegation wished the last sentence of paragraph 1 to be deleted.

Article 56, paragraph 2

11. There was a lengthy debate on the question of requisition. Some delegations advocated the deletion of the word "requisition" in that paragraph. Others felt that the Occupying Power should at least have rights similar to those that the Committee had already accepted in respect of the requisition of medical items in article 14 of draft Protocol I. The last part of the first sentence was placed in brackets because no agreement was reached whether the prohibition contained in that sentence was to be absolute or subject to conditions.

Article 56, paragraph 3

12. This paragraph is a new formulation of amendment CDDH/II/346, submitted by the United States of America. The brackets round the whole paragraph indicate that there is no unanimity as to the substance of the paragraph. Sub-paragraph (b) might have to be brought into line with article 55, as a similar restriction in case of imperative military necessity might appear there also.

Article 56, paragraph 4

13. The brackets indicate that one delegation only supports this paragraph.

Article 57, paragraph 1

14. The word "transports" in the first sentence is in brackets to indicate as a possible alternative the inclusion of air transport.

15. The question of the inclusion of international bodies and organizations requires further study.

16. The second sentence, which is in brackets, constitutes an alternative to the end of the first phrase which is also in brackets.

Article 57, paragraph 2

17. The whole paragraph is in brackets because the Drafting Committee/Working Group was unable to conclude its deliberations on this item. The brackets in the text follow from prior decisions, they do not reflect any discussion on the paragraph.

18. The following is the text of the proposed articles:

Article 54 - Definition

1. For the purposes of this Protocol, civil defence is the performance of some or all of the following humanitarian tasks intended to help /protect/ the civilian population to avoid the dangers and recover from the effects /against the dangers and effects/ of hostilities or disasters and to provide the conditions necessary for its survival.

- (a) warning;
- (b) evacuation;
- (c) management of shelters;
- (d) blackout measures;
- (e) rescue;
- (f) fire-fighting;
- (g) detection and marking decontamination and other protective measures of danger areas;
- (h) provision of emergency accommodation and supplies;
- (i) assistance in the restoration and maintenance of order in distressed areas;
- (j) emergency repair of indispensable public utilities including water control works;
- (k) emergency disposal of the dead;
- (l) conservation of supplies essential for survival objects indispensable for survival;
- (m) complementary or incidental activities necessary to carry out the humanitarian task mentioned in the introductory clause of this paragraph any of the tasks enumerated above.

2. Medical services and assistance including first-aid rendered by civil defence bodies and personnel are covered by Part II of Protocol I.

#### Article 56 - Occupied territories

1. In occupied territories, the civilian civil defence units bodies shall to the extent feasible receive from the authorities the facilities necessary for the discharge of their tasks. In no circumstances shall their personnel be compelled to perform activities which will make it difficult for them to perform their civil defence tasks. The Occupying Power shall not change the structure or personnel of such units bodies in any way which might jeopardize the efficient discharge of their mission. The Occupying Power may disarm civil defence personnel for reasons of security. Civil defence units bodies, which also remain



governed by Article 63 of the fourth Convention<sup>7</sup>, shall not be required to give priority to the nationals or interests of that power.

2. The Occupying Power shall not divert from their assignment nor requisition buildings, equipment, supplies and transports belonging to, or in use by civil defence /units/ /bodies/ /if that diversion or requisition would prejudice the protection or needs of the civilian population<sup>7</sup>.

It shall not divert or requisition shelters /so long as they are needed by the civilian population<sup>7</sup>.

/3. In any portion of occupied territory which becomes /an area where land fighting is taking place<sup>7</sup>:

- (a) the provisions of article 55 of this Protocol shall apply without derogation;
- (b) the provisions of this article shall continue to apply subject to such temporary and exceptional measures in derogation as may be necessary for urgent reasons of the security of the Occupying Power.<sup>7</sup>

/4. The Occupying Power shall not compel civil defence bodies to perform their activities.<sup>7</sup>

Article 57 - /Civilian/ civil defence /units/  
/bodies/ of neutral or other States not  
parties to the conflict /and inter-  
national bodies/

1. Articles /55<sup>7</sup>, 56, 58 and 59 of this Protocol also apply to the personnel, equipment, supplies, vehicles and watercraft /transports<sup>7</sup> of established or recognized /civilian /units/ /bodies/ of neutral or other States not parties to the conflict /and of international civilian bodies<sup>7</sup> which carry out civil defence activities as defined in article 54 of this Protocol, on the territory of a party to the conflict and under its control /with the

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1/ The words "established or recognized" could be deleted if an appropriate definition of civil defence /units/ /bodies/ was adopted.

consent of any adverse party concerned<sup>7</sup>. <sup>7</sup>In this case, notification shall be given to any adverse party concerned.<sup>7</sup> In no circumstances shall such activity be deemed to be interference in the conflict.

<sup>7</sup>2. In occupied territories, the Occupying Power may exclude or restrict the activities of civilian <sup>7</sup>bodies<sup>7</sup> <sup>7</sup>units<sup>7</sup> of neutral or other States not parties to the conflict and of international civilian bodies only if it can assure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.<sup>7</sup>

APPENDIX

1. The Drafting Committee/Working Group has taken note of the report of the restricted Sub-Group on military elements in civil defence, without discussing its substance.

2. In introducing the report to the Drafting Committee/Working Group, the Chairman of the restricted Sub-Group stated that besides the two alternative versions proposed for article 58 bis, there exists, in addition, the alternative of not having an article 58 bis, i.e. not to have an article on military units of civil defence. The members of the Sub-Group were, however, not unanimous in favour of any of the three solutions.

Proposals by the restricted Sub-Group of the  
Working Group on Civil Defence

Article 55

Civil defence in fighting areas

/In zones of military operations/

/In areas, on land, where by reason of combat activity normal  
civilian services are disrupted and civilian movement is restricted/

1. Civilian units of civil defence and their personnel shall be allowed, except in case of imperative military necessity to carry out their civil defence duties. Article 46 of this Protocol shall apply to the personnel of such units. The immunity from attack provided under article 46 can be effective in these areas only if such personnel /are unarmed/ /carry only light individual weapons/.

2. The provisions of paragraph 1 shall also apply to civilians who, although not members of units of civil defence, respond to an appeal from the competent authorities and carry out any civil defence task under the control of those authorities.

3. Buildings, or parts of buildings, equipment, supplies /and transports/ /vehicles and watercraft/ used for civil defence purposes are covered by article 47 of this Protocol. Such civil defence objects may not be destroyed or diverted from their assignment except when rendered absolutely necessary by military operations.

Article 57 bisGeneral protection

Civilians and civilian objects shall suffer no diminution in the protection to which they are entitled under the fourth Convention and the present Protocol by virtue of their performance of civil defence tasks or their use for civil defence purposes.7

Article 58 bisAlternative 1Military units of civil defence

1. (a) This article applies in areas, on land, where by reason of combat activity, normal civilian services are disrupted and civilian movement is restricted /zones of military operations7. The military units of civil defence of a party to the conflict, and their military personnel shall, while they are assigned to, and while they are exclusively devoted to, the performance of the tasks mentioned in article 54, not be made the object of attack. Except in case of imperative military necessity they shall be allowed to perform their civil defence duties.

(b) This article also applies in occupied territory. In such territory military units of civil defence and their personnel shall, to the extent feasible, receive from the Occupying Power the facilities necessary to carry out civil defence tasks. The Occupying Power may disarm such personnel for reasons of security7

(c) The protection described in sub-paragraphs (a) and (b) can only be effective if such military units of civil defence and their personnel:

- (i) are clearly distinguishable from combat units of that party to the conflict;
- (ii) do not bear arms /carry only light individual weapons7;
- (iii) refrain from any act, which is hostile /harmful to the enemy.

(d) It is prohibited for military personnel of civil defence, while they are assigned to, and while they are exclusively devoted to, civil defence tasks to take a direct part in the hostilities.

2. Respect and protection of military units of civil defence is not dependent on any agreement with an adverse party. For greater safety, however, a party to the conflict may notify any adverse party on the assignment of military units to civil defence tasks as well as the transfer of military units of civil defence to other functions.

3. The relevant provisions of paragraph 1 shall also apply to military personnel, who as individuals are assigned to civilian units of civil defence.

4. (a) If military personnel of civil defence have fallen into the hands of the adverse party they shall be retained only in so far as the needs of the civilian population of the party to the conflict to whom they belong require. Personnel thus retained shall not be deemed prisoners of war. Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, and of this Protocol. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent services, they shall continue to carry out their civil defence duties.

Personnel whose retention is not indispensable shall be returned to the party to the conflict to whom they belong as soon as a road is open for their return and military requirements permit, but they shall not thereafter be employed for active military service, not including civil defence tasks.

(b) Members of the armed forces, who in an emergency situation are temporarily engaged in the performance of civil defence tasks, shall not be made the object of attack if they are carrying out these tasks at the time when they come into contact with the enemy or fall into his hands.

If they have fallen into the hands of an adverse party, they shall be prisoners of war, but shall be employed for civil defence functions in so far as the need arises.

5. (a) The equipment, supplies /and transports/ /vehicles and watercraft/ of fixed and mobile military units of civil defence exclusively assigned to civil defence tasks shall not be made the object of attack and shall, if they have fallen into the hands of the enemy, not be diverted from their assignment and shall be reserved for civil defence use.

(b) The buildings, or parts of buildings of fixed military units of civil defence exclusively assigned to civil defence tasks shall not be made the object of attack and shall, if they have fallen into the hands of the enemy, remain subject to the laws of war, but may not be diverted from that purpose as long as they are required for the performance of civil defence tasks. Nevertheless, the commander of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for adequate provisions for the civilian population of the adverse party to the conflict.

(c) The buildings, or parts of buildings, equipment, supplies and transports vehicles and watercraft defined in this paragraph shall not be intentionally destroyed.

Article 58 bis

Alternative 2

Military units of civil defence

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the parties to the conflict, may agree that military units of civil defence and their military personnel of civil defence as well as military personnel of civil defence who, as individuals, are assigned to civilian units of civil defence, while they are assigned and devoted exclusively to civil defence tasks, shall not be made the object of attack, and shall be allowed to discharge their civil defence tasks. They shall not have the right to take a direct part in the hostilities. Such an agreement should define and describe:

- (i) the military units of civil defence and their personnel, buildings and equipment,
- (ii) the means they are using clearly to distinguish themselves from the combat units of that party,
- (iii) the civil defence tasks which they are to perform,
- (iv) the status and treatment of their personnel, and the status of their buildings, or parts of buildings, equipment, supplies vehicles and watercraft and transports, in the event such fall into the hands of the adverse party.

The foregoing protection shall cease in accordance with the provisions of the agreement including any required notices, or if such units, or their personnel engage, outside their civil defence tasks, in acts harmful hostile to the enemy.

In the absence of such an agreement military units of civil defence and military personnel of civil defence are members of the armed forces.

Article 54

Definition

2. "Units of Civil Defence" are those units which are established or recognized by their government and are assigned to the discharge of any of the tasks defined in paragraph 1 of this article.





ANNEX III

REPORT OF THE TECHNICAL SUB-COMMITTEE TO COMMITTEE II

1. The Technical Sub-Committee held ten meetings from 26 April to 7 May 1976 under the chairmanship of Mr. H.A. Kieffer, and of Mr. I.I. Krasnopeev (28 and 29 April). At the first meeting, it was agreed that Mr. F.J. Sanchez del Rio should be appointed Rapporteur, and that Mr. I.A. Marriott and Mr. G. Alba should take part in the drafting work.
2. Taking as a basis for its work the draft annex in document CDDH/49/Rev.1, annex II, appendix I, and after considering amendments CDDH/II/328 to CDDH/II/332 and CDDH/II/359, the Sub-Committee produced the draft contained in this report.
3. The reference to "optional" in paragraph 1 of article 5 means that if a party opts to use the flashing blue light as defined in article 6 (a visual as opposed to an electronic identification) for medical aircraft, this light will provide the same protection as the distinctive emblem and will have to be respected accordingly.
4. So far as radiocommunications and secondary surveillance radar are concerned, the only obligation to recognize these signals is as provided in article 18, paragraph 2 of draft Protocol I which imposes only an obligation to endeavour to do what is reasonable.
5. Paragraph 2 of article 1 was not adopted by consensus, since one of the delegations considered it essential that the identity card should be of the same type for all the High Contracting Parties, and placed on record its desire that that point should be mentioned in the report and in the corresponding records.
6. Final acceptance of Chapter V will depend on the conclusions reached in the consideration of article 59 of draft Protocol I. One delegation officially supported the point of view of the Observer for the International Civil Defence Organization regarding the introduction of an emblem consisting of two red stripes on a yellow background, as a more effective alternative to the sign consisting of a blue triangle on an orange background. After a discussion on the subject, the Sub-Committee decided in favour of the latter.

7. Chapter VI has been examined on the basis of document CDDH/II/359 in order to provide for a complete procedure of revision. Since it might have to be reconsidered in the light of other associated articles of draft Protocol I it appears also in square brackets.

8. In addition to the new draft annex, the Sub-Committee adopted three draft resolutions, appearing in documents CDDH/II/363, CDDH/II/364 and CDDH/II/366. The attention of Committee II is drawn to the particularly urgent need for the adoption of the resolution appearing in document CDDH/II/363 (directed to the International Telecommunication Union).

9. The Technical Sub-Committee submits to Committee II, for approval, the new draft annex<sup>1/</sup> and the three above-mentioned resolutions<sup>2/</sup>, which are appended to this report. All texts have been discussed and adopted in English. The other languages would have to be brought into line with the English original.

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<sup>1/</sup> For the texts of articles 1 to 13 of the new draft annex as adopted by Committee II, see annex I to the report of Committee II.

<sup>2/</sup> For the texts of the three resolutions as adopted by the thirty-third plenary meeting of the Conference, see document CDDH/243.

Geneva, 21 April - 11 June 1976

Protocol I, Part II, Section II  
Articles 31 and 32

REPORT OF THE DRAFTING COMMITTEE

Article 31 - Landing and inspection

1. Medical aircraft flying over land or water under the physical control of an adverse Party, or over those areas the physical control of which is not clearly established, may be ordered to land, or to alight on water, as appropriate, to permit inspection in accordance with the following paragraphs of this article.

Medical aircraft shall obey such an order.

2. If such an aircraft lands or alights on water, whether ordered or otherwise, it may be subjected to inspection solely to determine the matters referred to in paragraphs 3 and 4 of this article. Any such inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick to be removed from the aircraft unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or by such removal.

3. If such inspection discloses that the aircraft:

- (a) is a medical aircraft within the meaning of article 21 (e) of the present Protocol, and

- (b) is not in violation of the conditions prescribed in article 29 of the present Protocol, and
- (c) has not flown without or in breach of a prior agreement where such agreement is required,

the aircraft and /those of its occupants belonging to an adverse Party or to a neutral or other State not a Party to the conflict shall be free to continue the flight without delay.

4. If such inspection discloses that the aircraft:

- (a) is not a medical aircraft within the meaning of article 21 (e) of the present Protocol, or
- (b) is in violation of the conditions prescribed in article 29 of the present Protocol,

the aircraft may be seized. /Those of its occupants belonging to an adverse party or to a neutral or other State not Party to the conflict shall be treated in conformity with the provisions of the conventions and of the present Protocol.

5. If the aircraft has flown without or in breach of a prior agreement where such agreement is required, it may also be seized provided that the Party seizing the aircraft can provide adequate facilities for the necessary medical treatment of the wounded and sick aboard.

6. Any aircraft seized which has been assigned as a permanent medical aircraft may be used thereafter only as medical aircraft.

Article 32 - Neutral or other States not  
Parties to the conflict

1. Except by prior agreement, medical aircraft shall not fly over or land on the territory of a neutral or other State not Party to the conflict. However, with such an agreement they shall be respected throughout their flight and also for the duration of any calls in the territory. Nevertheless they shall obey any summons to alight on land or water as appropriate.
2. Should a medical aircraft, in the absence of an agreement or in deviation from its terms, fly over the territory of a neutral or other State not Party to the conflict, either through navigational

error or because of an emergency affecting the safety of the flight, it shall make every effort to give notice of the flight and to identify itself. As soon as such medical aircraft is recognized, every reasonable effort shall be made to give the order referred to in Article 31, paragraph 1 of the present Protocol or to take other measures to safeguard the interest of the neutral or other State not Party to the conflict, and to allow the aircraft time for compliance, before attacking it.

3. If a medical aircraft, either by agreement or in the circumstances mentioned in paragraph 2, lands or alights on water in the territory of a neutral or other State not Party to the conflict, whether ordered or otherwise, the aircraft shall be subject to inspection to determine that it is a medical aircraft. Inspection shall be commenced without delay and shall be conducted expeditiously. The inspecting party shall not require the wounded and sick of the party operating the aircraft to be removed from it unless such removal is essential for the inspection. The inspecting party shall in any event ensure that the condition of the wounded and sick is not adversely affected by the inspection or such removal. If inspection discloses that the aircraft is a medical aircraft, such aircraft with its occupants, other than those who must be detained in accordance with international law, shall be allowed to resume its flight, and reasonable facilities shall be given for the continuation of flight. If inspection discloses that the aircraft is not a medical aircraft, it shall be seized and the occupants treated in accordance with paragraph 4.

4. The wounded and the sick disembarked, other than temporarily, from a medical aircraft with the consent of the local authorities on the territory of a neutral or other State not Party to the conflict shall, unless agreed otherwise between that State and the Parties to the conflict, be detained by that State where so required by international law, in such a manner that they cannot again take part in the hostilities. The cost of hospital treatment and internment shall be borne by the State to which those persons belong.

5. Neutral or other States not Parties to the conflict shall apply any conditions and restrictions on the passage of medical aircraft over, or landing on their territory equally to all Parties to the conflict.

Geneva, 21 April - 11 June 1976

REPORT OF THE DRAFTING COMMITTEE ON

Articles 25, 17 (Protocol I) and 14 (Protocol II)

With regard to Articles 17 (Protocol I) and 14 (Protocol II), the Drafting Committee considers that the decision of Committee II to reserve the adoption of part of these articles for further study does not mean that they have been referred back once more to this Committee.

The Drafting Committee has therefore no authority to take decisions regarding these articles. It considers that the questions remaining unsettled are matters of substance on which a discussion in Committee II would be needed so as to guide its own work.

In the case of Article 25, the Drafting Committee recommends that Committee II should not adopt any article on notification relating to medical transport by land.

Questions of notification relating to medical transport by other means have been settled in Articles 23, 24 and 30. A general article on notification (Article 25 of the ICRC Draft) is therefore no longer necessary.





Geneva, 21 April - 11 June 1976

Protocol I, Part II, Section II  
Article 31 (4) and article 24

REPORT OF THE DRAFTING COMMITTEE AND OF THE  
WORKING GROUP ON MEDICAL TRANSPORTS

Article 31 - Landing and inspection

4. If such inspection discloses that the aircraft:
- a) is not a medical aircraft within the meaning of article 21 e) of the present Protocol, or
  - b) is in violation of the conditions prescribed in article 29 of the present Protocol, or
  - c) has flown without or in breach of a prior agreement where such agreement is required,

the aircraft may be seized. Its occupants shall be treated in conformity with the provisions of the Conventions and the present Protocol. Any aircraft seized which had been assigned as a permanent medical aircraft may be used thereafter only as a medical aircraft.

Article 24 - Other medical ships and craft

1. Medical ships and craft other than those referred to in article 23 of this Protocol and article 38 of the Second Convention shall, whether at sea or on other waters, be respected and protected in the same way as mobile medical units under the Conventions and this Protocol. This protection can only be effective if they can be identified and recognized as medical ships or craft. Such vessels should therefore be marked with the distinctive emblem, and as far as possible comply with the second paragraph of article 43 of the Second Convention.

2. The ships and craft referred to in paragraph 1 shall remain subject to the laws of war. Any warship on the surface able immediately to enforce her command may order them to stop, order them off, or make them take a certain course, and they shall obey every such command. Such ships and craft may not in any other way be diverted from their medical mission so long as they are required for the wounded and sick and the shipwrecked on board.

3. The protection provided in paragraph 1 of this article shall only cease under the conditions set out in articles 34 and 35 of the Second Convention. A clear refusal to obey an order given in accordance with paragraph 2 of this article shall be an act harmful to the enemy under article 34 of the Second Convention.

4. A Party to the conflict, particularly in the case of ships over 2000 tons gross, may notify any adverse Party as far in advance of sailing as possible of the name, description, expected time of sailing, course and estimated speed of the ship or craft, and may provide any other information which would facilitate identification and recognition. An adverse Party shall acknowledge receipt of such information.

5. The provisions of article 37 of the Second Convention shall apply to medical and religious personnel in such ships and craft.

6. The provisions of the Second Convention shall apply to the wounded and sick and the shipwrecked persons described in article 13 of the Second Convention and in article 42 of the present Protocol who may be on board such medical ships and craft. Civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in article 13 of the Second Convention and in article 42 of the present Protocol shall not be subject, at sea, either to surrender to any Party which is not their own, or to removal from such ships or craft: if they do find themselves in the hands of a Party to the conflict which is not their own they shall be covered by the Fourth Convention and this Protocol.

Geneva, 21 April - 11 June 1976

DRAFT PROTOCOL I,

PART II,

Section I bis

COMMITTEE II

Report of the Working Group  
on Section I bis

Section I bis - Information on the Victims of a Conflict  
and Remains of Deceased

Article 20 bis - Missing Persons

1. In the implementation of this Section, the activities of the High Contracting Parties, of the Parties to the conflict and of the international humanitarian organizations mentioned in the Geneva Conventions and this Protocol shall be mainly prompted by the right of families to know what has happened to their relatives.
2. As soon as circumstances permit, and at the latest from the end of active hostilities, each Party to the conflict shall search for the persons who have been reported missing by an adverse Party. This adverse Party shall transmit the name, special characteristics and other information on such persons in order to facilitate such searches.
3. In order to facilitate the gathering of information pursuant to the preceding paragraph, each Party to the conflict shall, with respect to persons who would not receive more favourable consideration under the Conventions and this Protocol,

(a) record information as provided in article 138 of the Fourth Convention for such persons who have been detained, imprisoned or otherwise held in captivity for more than two weeks as a result of hostilities or occupation, or who died during any period of detention;

(b) to the fullest extent possible, facilitate and, if need be, carry out the search for and recording of information on such persons if they have died otherwise as a result of hostilities or occupation.

4. Information on persons reported missing pursuant to paragraph 2 of this Section and the requests for such information shall either be transmitted directly or through the Protecting Power or the Central Tracing Agency of the International Committee of the Red Cross or the national Red Cross (Red Crescent, Red Lion and Sun) Societies. Where the information is not transmitted through the International Committee of the Red Cross and its Central Tracing Agency, each Party to the conflict shall ensure that such information is also supplied to the Central Tracing Agency.

5. The Parties to the conflict shall endeavour to agree on arrangements for teams to search for, identify, and recover the dead from battlefield areas including arrangements, if appropriate, for such teams to be accompanied by personnel of the adverse Party while carrying out these missions in areas controlled by the adverse Party. Personnel of such teams shall be respected and protected while exclusively carrying out these duties.

#### Article 20 ter - Remains of deceased

1. The remains of persons who have died as a result of occupation or in detention resulting from occupation or hostilities, of persons who are not nationals of the country in which they die as a result of hostilities and the gravesites of all such persons where such remains or gravesites would not receive more favourable consideration under the Conventions and the Protocol shall be respected, maintained and marked as provided for in article 130 of the Fourth Convention.

2. As soon as circumstances permit, the High Contracting Parties, on whose territories graves and, where appropriate, other locations of the remains of persons who have died as a result of hostilities or during occupation or in detention, are situated, shall conclude agreements in order to:

(a) facilitate access to the graves by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access;

(b) permanently protect and maintain such gravesites;

(c) facilitate the return of the remains of the deceased and of personal effects to the country on whom such person depended upon its request or unless that country objects, upon the request of the next of kin.

3. In the absence of agreements as provided for in paragraph 2 (b) or (c) of this article and if the home country of the remains of such deceased is not willing to arrange at its expense for the maintenance of such gravesites, the High Contracting Party on whose territory such graves and other locations are situated may offer to facilitate the return to the home country, and where such an offer has not been accepted the High Contracting Party after five years from the date of this offer and upon due notice to the home country, may adopt the arrangements laid down in its own laws on cemeteries and graves.

4. A High Contracting Party, in whose territory the graves (and other locations) described in this chapter are situated shall be permitted to exhume only:

(a) in accordance with paragraphs 2 (b) and 3 of this article, or

(b) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume together with details of the intended place of reinterment.

5. [This section does not impose on any High Contracting Party or Party to a conflict obligations with regard to its own nationals.] \*

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\* Subject to review by the Drafting Committee of the Conference.



Geneva, 21 April - 11 June 1976

REPORT OF THE DRAFTING COMMITTEE TO THE COMMITTEE

Article 8 - Protocol I

(e bis)

"Religious personnel" means persons such as chaplains, whether military or civilian, exclusively engaged in the work of their ministry and attached to:

- (i) the armed forces of a Party to the conflict, or
- (ii) medical units or medical transports of a Party to the conflict, or
- (iii) medical units or medical transports described in article 9, paragraph 2 of this Protocol.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of paragraph (e) apply to them.7





Geneva, 21 April - 11 June 1976

COMMITTEE II

REPORT OF THE DRAFTING COMMITTEE  
ON ARTICLE 8, DEFINITION (PROTOCOL I)

The Drafting Committee has reviewed the definitions already considered during the first and second sessions of the Conference in the light of the debates on the articles of Part II of Protocol I. The following recommendation for article 8, Protocol I, is the result of this work. It is a development of the definitions contained in CDDH/49/Rev.1 and CDDH/II/240.

One delegation asked to add a note to this report to explain the interpretation of the words "those persons assigned exclusively to the administration of medical units". These words include persons who look after the administration of medical units and establishments, without being directly concerned in the treatment of the wounded and sick. This would include office staff, ambulance drivers, plumbers, cooks, and other skilled workers.

They form an integral part of medical units and establishments which could not function properly without their help. Hence they are entitled to the same protection as medical personnel.

With respect to paragraph (c), it is to be noted that permanent medical units or personnel are "assigned" to medical purposes, whereas temporary units or personnel are "devoted" to such purposes. These different words have been chosen in order to make it clear, that the protection of permanent units or personnel starts at the time of the order, assignment or similar act creating the unit or giving a medical task to the personnel. The protection of temporary units or personnel, however, commences only when they have in fact ceased to do other than medical work.

The words "unless otherwise specified" is a deviation from the language used in the corresponding provision of article 21. Article should be changed accordingly by the Drafting Committee of the Conference.

Sub-paragraph (f) should be re-examined after adoption of the provisions on identification of civil defence in order to avoid any inconsistency or any confusion in relation to the protective sign of civil defence.

#### DRAFT PROTOCOL I

#### PART II

#### Article 8, Definitions

For purposes of this Protocol:

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them, and who refrain from any act of hostility. These persons shall be considered shipwrecked during their rescue until they acquire another status under either the Conventions or this Protocol, provided that they continue to refrain from any act of hostility.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease. The term includes, for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such medical units. Medical units may be fixed or mobile, permanent or temporary.

(d) "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

- i. medical personnel of a Party to the conflict, whether military or civilian, including those described in the First and Second Conventions, and those assigned to civil defence /units/ /bodies/.
- ii. medical personnel of National Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict.
- iii. medical personnel of medical units or medical transports described in article 9, paragraph 2, of this Protocol.

(e) "Permanent medical units" and "permanent medical personnel" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units" and "temporary medical personnel" are those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical units" and "medical personnel" respectively cover both permanent and temporary categories.

(f) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.

(g) "Distinctive signal" means any signal or message specified for the exclusive identification of medical units or transports in Chapter III of the Annex to this Protocol.

Geneva, 21 April - 11 June 1976

COMMITTEE II

Report of the Drafting Committee

PROTOCOL I

PART II

SECTION I

/Article 18 bis/

1. Four years after the coming into force of the Protocol and thereafter at four-year intervals, the International Committee of the Red Cross, with the consent of one third of the High Contracting Parties, shall convene a meeting of technical experts, inviting also observers of appropriate international organizations, to review the Annex and to propose such amendments to it as may appear to be desirable in the light of the development of technology.

/1. Within four years after the coming into force of the Protocol and thereafter at no greater length than every four years, the International Committee of the Red Cross shall communicate to the High Contracting Parties on the status of the Annex and, if necessary, propose a meeting of technical experts to review the Annex and to propose such amendments to it as may appear to be desirable in the light of the development of technology. If the International Committee of the Red Cross does propose such a meeting, it shall, unless objected to, within six months, by one third of the High

Contracting Parties, convene such a meeting, inviting also observers of appropriate international organizations. 1/

Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.

6. The depositary State shall notify the High Contracting Parties and the Parties to the Conventions of the entry into force of any amendment, the Parties bound thereby, the date of entry into force in relation to each Party, declarations of non-acceptance made in accordance with paragraph 4, and withdrawals of such declarations.

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1/ This is an alternative to the first phrase which has been proposed in order to provide for more flexibility in the reviewing process. The concluding phrase of paragraph 1 shall be the same for both alternatives.

Geneva, 21 April - 11 June 1976

COMMITTEE II

Report of the Drafting Committee  
on Article 18 bis

PROTOCOL I

PART II

SECTION I

/Article 18 bis - Revision of the Annex/

1. Not later than four years after the coming into force of the Protocol and thereafter at intervals of not less than four years, the International Committee of the Red Cross shall consult the High Contracting Parties concerning the Annex and, if it considers it necessary, may propose a meeting of technical experts to review the Annex and to propose such amendments to it as may appear to be desirable. Unless, within six months of the communication of a proposal for such a meeting to the High Contracting Parties, one third of them object, the International Committee of the Red Cross shall convene the meeting, inviting also observers of appropriate international organizations. Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.
  
2. The depositary State shall convene a conference of the High Contracting Parties and the Parties to the Conventions to consider amendments proposed by the meeting of technical experts, if, following that meeting, the International Committee of the Red Cross or one third of the High Contracting Parties so request.

3. Amendments to the Annex may be adopted at such a conference by a two-thirds majority of the High Contracting Parties present and voting.

4. The depositary State shall communicate any amendment so adopted to the High Contracting Parties and the Parties to the Conventions. The amendment shall be considered to have been accepted at the end of a period of one year after it has been so communicated, unless within that period a declaration of non-acceptance to the amendment has been communicated to the depositary State by not less than one third of the High Contracting Parties.

5. An amendment considered to have been accepted in accordance with paragraph 4 above shall enter into force three months after its acceptance for all High Contracting Parties other than those which have made a declaration of non-acceptance in accordance with that paragraph. Any Party making such a declaration may at any time withdraw it and the amendment will then enter into force for that Party three months thereafter.

6. The depositary State shall notify the High Contracting Parties and the Parties to the Conventions of the entry into force of any amendment, the Parties bound thereby, the date of entry into force in relation to each Party, declarations of non-acceptance made in accordance with paragraph 4, and withdrawals of such declarations.



Geneva, 21 April - 11 June 1976

PROTOCOL II

PART III

Article 11

COMMITTEE II

Report of the Drafting Committee

Article 11 - Definitions

For the purposes of this Protocol,

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons shall /also/ be considered shipwrecked during their rescue /until they acquire another status/, provided that they continue to refrain from any act of hostility.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease, which belong to or are recognized and authorized by a party to the conflict. Medical units may be fixed or mobile, permanent or temporary.

(d) "Medical transportation" means the conveyance by land, water or air of the wounded, sick and shipwrecked, medical and religious personnel, medical equipment and supplies protected by this Protocol.

(e) "Medical transport" is a means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a party to the conflict.

(f) "Medical personnel" means those persons assigned exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

(i) medical personnel of a party to the conflict, whether military or civilian, including those assigned to medical tasks of civil defence.

(ii) medical personnel of Red Cross (Red Crescent, Red Lion and Sun) organizations 1/ and of other aid societies located within the territory of the High Contracting Party in whose territory an armed conflict is taking place, who are recognized and authorized by one of the parties to the conflict.

(g) "Permanent medical units", "permanent medical personnel" and "permanent medical transport" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units", "temporary medical personnel" and "temporary medical transport" are those devoted exclusively to medical purposes for limited periods during the whole of such period. Unless otherwise specified, the terms "medical units", "medical personnel" and "medical transport" respectively cover both permanent and temporary categories.

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1/ This word may be re-examined in the light of a decision taken with respect to the terminology used in article 35.

(h) "Religious personnel" means persons such as chaplains, whether military or civilian, exclusively engaged in the work of their ministry and attached either to:

- (i) the armed forces or other armed groups of a party to the conflict, or to
- (ii) medical units of a party to the conflict, or to
- (iii) medical units of the aid societies referred to in sub-paragraph (f).

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of paragraph (g) apply to them.

(i) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.



FOURTH SESSION

(Geneva, 17 March - 10 June 1977)

COMMITTEE II

REPORT



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COMMITTEE II

REPORT

INTRODUCTION

I. OFFICERS OF THE COMMITTEE AND OFFICERS AND MEMBERS OF THE DRAFTING COMMITTEE

Officers of the Committee

1. Mr. S-E. Nahlik (Poland) continued to serve as Chairman of the Committee. He was elected to that post on 3 February 1975, at the second session.

2. The two Vice-Chairmen were Mr. O. Salas (Chile), who had served in that capacity at the first two sessions, and Mr. C. K. Hasan (Pakistan), who replaced Mr. K. Saleem.

3. Mr. El Hasseen El Hassan (Sudan) continued to act as Rapporteur. The officers were therefore as follows:

<u>Chairman:</u>	Mr. S-E. Nahlik	(Poland)
<u>Vice-Chairmen:</u>	Mr. O. Salas	(Chile)
	Mr. C.K. Hasan	(Pakistan)
<u>Rapporteur:</u>	Mr. El Hasseen El Hassan	(Sudan)

4. The International Committee of the Red Cross (ICRC) was represented by the following experts: Mr. Y. Sandoz, Mr. C. Pilloud, Mr. P. Eberlin, Mrs. S. Junod and Miss M. Katz. The Secretariat of the Committee consisted of Mrs. H. Tollenaere-Dipla and Mr. J.M. Froidevaux, Legal Secretaries.

Officers and members of the Drafting Committee

5. As some members of the Drafting Committee elected at the first, second and third sessions of the Conference were unable to participate in the work of the fourth session, they had to be replaced by other members of the same delegations. The officers and members of the Drafting Committee were as follows:

<u>Chairman:</u>	Mr. B. Jakovljević	(Yugoslavia)
<u>Vice-Chairman:</u> <u>(Acting Chairman)</u>	Mr. W.A. Solf	(United States of America)
<u>Vice-Chairman:</u>	Mr. V.M. Ruiz-Pérez	(Mexico)

Rapporteur: Mr. M. Bothe (Federal Republic of Germany)

Deputy Rapporteur: Mr. F.J. Sánchez del Río (Spain)

Members:

Mr. C.A. Passalacqua	(Argentina)
Mr. R. Xavier	(Brazil)
Mr. A.E. Khairat	(Egypt)
Mr. G. Alba	(France)
Mr. L. Czank	(Hungary)
Mr. E. Harsana	(Indonesia)
Mr. I. Al-Fallouji	(Iraq)
Mr. T. Shioguchi	(Japan)
Mr. R. Uhumuavbi	(Nigeria)
Mr. P. Iliescu	(Romania)
Mr. I.I. Krasnopeev	(Union of Soviet Socialist Republics)
<u>Absent</u>	(Uganda)

## II. ORGANIZATION OF WORK

### Articles for consideration

6. Committee II was required to consider the following articles of the draft Additional Protocols to the Geneva Conventions of 12 August 1949 (see CDDH/1):

	<u>Draft Protocol I</u>	<u>Draft Protocol II</u>
Wounded, sick and ship-wrecked persons	Articles 8-20	11-16
Medical transports	Articles 21-32	17 and 18
Civil defence	Articles 54-59	30 and 31
Relief in favour of the civilian population	Articles 60-62	33-35
Annex to draft Protocol I (Identification, recognition and marking of medical personnel)	Articles 1-16	

7. The following articles had been adopted by the end of the third session (see the report of Committee II (CDDH/235/Rev.1)):

Draft Protocol I

Articles 8-20

New Articles 20 bis, ter,  
quater

Articles 23-32

New Article 18 bis  
(replacing Article 16 of  
the Annex)

Annex to draft Protocol I

Articles 1-13

Draft Protocol II

Articles 11-16

Articles 17 and 18

8. Consequently, the following articles still had to be considered by Committee II at the fourth session:

Draft Protocol I

Articles 54-59

New Article 59 bis

Articles 60-62

Annex to draft Protocol I

Articles 14 and 15

Note 3 concerning the identity  
card model (Articles 1 and 2)

Draft Protocol II

Articles 30 and 31

Articles 33-35

9. The following programme of work was adopted at the Committee's eighty-third (opening) meeting (see CDDH/II/SR.83):

Between 14 April and 15 May 1977, i.e. within a period of one month, the Committee had to complete its consideration of the above articles and amend some of the articles already adopted;

To accelerate its work, the Committee set up two Working Groups, one to consider the articles relating to civil defence (Working Group A), and the other the articles concerning relief in favour of the civilian population (Working Group B);

In order not to lose time, both Working Groups acted as Drafting Committees.

10. In other respects, the method of work was the same as during the first three sessions (see CDDH/221/Rev.1, paras. 6 et seq.).

Number of meetings

11. Between 14 April and 20 May 1977 the Committee held nineteen meetings (see CDDH/II/SR.83-101).
  12. Working Group A met nineteen times (no summary records) under the chairmanship of Mr. W.A. Solf (United States of America).
  13. The Rapporteurs were Mr. M. Bothe (Federal Republic of Germany) and Mr. F. J. Sánchez del Río (Spain). Working Group A considered Articles 54-59 of draft Protocol I, and Articles 14 and 15 of the Annex to that Protocol.
  14. At the meeting held on 30 April 1977, it was decided to set up a Working Sub-Group to consider Article 58 bis (which later became 59 bis) of draft Protocol I. This Sub-Group met under the chairmanship of Mr. E.L. Gonsalves (Netherlands). It held nine meetings.
  15. Another Working Sub-Group, under the chairmanship of Mr. K. Warras (Finland), was requested to consider the problem of "Requisition", in Article 56 of draft Protocol I. It met twice.
  16. A Working Sub-Group under the chairmanship of Mr. E. Schultz (Denmark) considered the question of the bearing of individual small-arms by civil defence personnel (Article 58, paragraph 2).
  17. It was decided at the ninetieth meeting of the Committee to set up an Ad Hoc Working Group under the chairmanship of Mr. K. Müller (Switzerland) to consider Articles 30 and 31 of draft Protocol II. It met twice.
  18. Working Group B held nine meetings (no summary records). It met under the chairmanship of Mr. B. Jakovljević (Yugoslavia). The Rapporteur was Mr. F.J. Sánchez del Río (Spain).
  19. Two Working Sub-Groups, under the chairmanship of Mr. K. Warras (Finland), were requested to consider certain contentious points of the articles referred to the Working Group.
- Two other Sub-Groups under the chairmanship of Mr. I.I. Krasnopeeov (Union of Soviet Socialist Republics) and Mr. I.A. Marriott (Canada), considered also some other contentious points.

Proceedings of the Committee

20. At the fourth session, Committee II adopted the following articles, the texts of which will be found in the Annex to this report:

Article Documents submitted to the Committee:

Civil defence

Draft Protocol I

54	Definitions and scope	CDDH/II/439/Rev.1
55	General protection	"
56	Civil defence in occupied territories	"
57	Civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations	"
58	Cessation of protection	CDDH/II/439/Rev.1/Add.1
59	Identification	CDDH/II/439/Rev.1
59 bis	Members of the armed forces and military units assigned to civil defence organizations	CDDH/II/442

Annex

	Note 3 on the model of identity card for civil defence	CDDH/II/439/Add.1
14	Identity cards	"
15	International distinctive sign of civil defence	"

Draft Protocol II

30	Civil defence	CDDH/II/441 CDDH/II/443
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Relief in favour of the civilian population

Draft Protocol I

60	Field of application	CDDH/II/430
61	Basic needs in occupied territories	"
62	Relief action	"
62 bis	Relief personnel	"

Draft Protocol II

33	Relief societies and relief actions	CDDH/II/440 and Add.1
34	Recording and information	"

The Committee also modified the following articles already adopted at previous sessions:



22. In order to bring the text of Article 8 into line with that of the articles relating to civil defence, the Committee decided by consensus to delete the word "units" and to replace the word "bodies" by the word "organizations".

23. The Committee also decided by consensus to re-open the discussion on sub-paragraph (f) of Article 8 in view of the amendment submitted by Australia, Austria, France and the Holy See (CDDH/II/436), which proposed the insertion in the article of a reference to religious personnel attached to civil defence bodies. It was decided by consensus to add to sub-paragraph (f), a point reading: "(iv) civil defence organizations of a Party to the conflict."

#### Article 9 - Field of application

##### Proceedings of the Committee

24. At its ninety-eighth meeting the Committee decided by consensus to re-open the discussion on Article 9, paragraph 1, adopted at the second session, in order to consider amendment CDDH/II/435 and Corr.1, submitted by Australia and the United States of America for the purpose of aligning the text on the non-discrimination provisions adopted by the other Main Committees. It adopted the amendment by consensus.

25. The Committee then re-opened the debate on paragraph 2 (c). During the third session, the ICRC delegation and that of the League of Red Cross Societies, in a letter to the Committee (CDDH/II/Inf.266), had requested that the reference to ICRC and the League in that paragraph should be deleted. At its seventy-fifth meeting on 20 May 1976, the Committee had referred consideration of the question to the fourth session of the Conference.

26. At its ninety-eighth meeting on 13 May 1977 the Committee decided, by 38 votes to 4 with 8 abstentions, to delete the reference.

#### Article 11 - Protection of persons

##### Proceedings of the Committee

27. At its ninety-ninth meeting on 13 May 1977, the Committee reconsidered paragraph 4 of Article 11, adopted at the second session. The possibility of reconsidering it had been reserved when Article 11 was adopted. The Committee considered amendment CDDH/II/438 to paragraph 4 proposed by Belgium, France and the Netherlands, in order to align the grave breach provision on Article 74 adopted by Committee I. It decided by consensus to adopt the amendment with some sub-amendments.

Article 12 - Protection of medical unitsProceedings of the Committee

28. At its ninety-ninth meeting the Committee decided by consensus to re-open the discussion on paragraph 2 (b) of Article 12, adopted at the second session, in order to consider amendment CDDH/II/412 and Add.1, submitted by the Federal Republic of Germany, France, the United Kingdom of Great Britain and Northern Ireland and the United States of America in order to align the provision on Article 26 of the first Geneva Convention of 1949. The Committee adopted the amendment by consensus.

Article 15 - Protection of civilian medical and religious personnelProceedings of the Committee

29. At its ninety-ninth meeting the Committee decided by consensus to re-open the discussion on paragraph 5 of Article 15, adopted at the third session, in order to consider amendment CDDH/II/411 and Add.1 proposed by Austria, Federal Republic of Germany, France, Holy See, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America, in order to align the text on the definition of religious personnel. The amendment was adopted by consensus.

Article 17 - Role of the civilian population and of relief societiesProceedings of the Committee

30. In its report on the third session (CDDH/236/Rev.1, p. 12, para. 25), Committee III, after having adopted Articles 38 and 38 bis, requested Committee II to amend Article 17, which it had already adopted at the second session, by adding a reference to the protection of persons hors de combat.

31. At its ninety-ninth meeting Committee II decided by consensus not to take up that question and not to amend Article 17 of draft Protocol I.

Section I bis - Information on the victims of a conflict and remains of deceasedArticle 20 quater - Remains of deceasedProceedings of the Committee

32. At the seventy-sixth meeting on 31 May 1976 (see CDDH/II/SR.76, para. 14) the Rapporteur, Mr. M. Bothe, introduced the text of Article 20 quater, paragraph 5 within square brackets, with the request that the Committee refer it to the Drafting Committee for a decision on the removal of the brackets. The Drafting Committee did not pronounce on the question. At its ninety-ninth meeting the



Committee decided by consensus to delete the paragraph, because it was self-evident that the article did not apply to a Party's own nationals.

Section II - Medical transports

Chapter I - Joint provisions

Article 23 - Hospital ships and coastal rescue craft

Proceedings of the Committee

33. Article 23, paragraph 2 (b), adopted at the second session, was modified in the same way as Article 9, paragraph 2 (c) (see paragraphs 24-26 of this report).

Part IV - Civilian population

Section I - General protection against effects of hostilities

Chapter VI - Civil defence

Articles 54 to 59 ter

Technical annex - Note 3 on the model identity card

Articles 14 and 15

Draft Protocol II - Part V - Civilian population

Chapter II - Civil defence

Articles 30 and 31

Introduction

34. The articles on civil defence had already been discussed at the third session, at the sixtieth to seventy-seventh meetings of Committee II. All the amendments to those articles had been referred to the Working Group attached to the Drafting Committee of Committee II. The Drafting Committee had held seven meetings and had set up a Working Sub-Group to consider Article 58 bis (subsequently Article 59 bis) (see report on the third session, CDDH/235/Rev.1, p. 23, Annex II, p. 67, and the Appendix, p. 73). Further amendments were submitted between the third and fourth sessions.

35. At its eighty-third meeting on 14 April 1977, the Committee set a new deadline - 18 April 1977 - for the submission of amendments. At that meeting, the Committee held a further general debate on Articles 54 to 59, during which the amendments submitted between the third and fourth sessions were introduced by their sponsors.

At its eighty-fourth meeting on 15 April 1977, the Committee agreed to take note of a memorandum (CDDH/II/Inf.275) submitted by the observer for the International Civil Defence Organization.

36. At its eighty-fifth meeting, on 19 April 1977, and its eighty-sixth meeting, on 21 April 1977, the Committee considered the new amendments to Articles 54 to 59.

37. At its eighty-ninth meeting, on 6 May 1977, the Committee held a general debate on Articles 30 and 31 of draft Protocol II, and considered the amendments to them. It studied them further at its ninetieth meeting, on 6 May, at the end of which the Committee decided to set up an Ad Hoc Working Group under the chairmanship of Mr. K. Müller (Switzerland) to study Articles 30 and 31 and to submit his report directly to the Committee.

38. At its ninety-first meeting on 11 May 1977, the Committee took note of the report by Working Group A (CDDH/II/439/Rev.1) on Articles 54, 55, 56, 57 and 59. At its ninety-second meeting on 11 May 1977, the Committee considered the report by its Working Group A on Articles 14 and 15 of the Annex (CDDH/II/439/Add.1). At its ninety-third meeting, on 11 May the Committee considered the first report by the Ad Hoc Working Group on Articles 30 and 31 of draft Protocol II (CDDH/II/441). At its ninety-fifth meeting, the Committee considered the report by Working Group A on Article 58 of draft Protocol I (CDDH/II/439/Rev.1/Add.1). At its ninety-sixth meeting, the Committee considered the report by Working Group A on Article 59 bis of draft Protocol I (CDDH/II/442); it considered that report further at its ninety-seventh meeting on 13 May 1977. At its ninety-eighth meeting on the same date, the Committee considered the second report by the Ad Hoc Working Group on Articles 30 and 31 of Protocol II (CDDH/II/443) (for the action taken, see paragraphs 91 and 92).

#### Part IV - Civilian population

##### Section I - General protection against effects of hostilities

##### Chapter VI - Civil defence

##### Article 54 - Definitions and scope

39. The following amendments were submitted:

##### Up to the end of the third session:

CDDH/II/44

Philippines

(Paragraph 1 was rejected by 43 votes to 1, with 12 abstentions, at the sixty-second meeting, on 4 May 1976)

CDDH/II/318

Denmark, Federal Republic  
of Germany, Uganda, United  
Kingdom of Great Britain  
and Northern Ireland,  
United States of America

(Replaced by amendment CDDH/II/321 submitted at the sixty-  
first meeting, on 3 May 1976)

CDDH/II/321

Denmark

(Referred to the Drafting Committee/Working Group at the  
sixty-third meeting, on 5 May 1976, then replaced by amendment  
CDDH/II/402 and Add.1)

CDDH/II/336

Australia

(Referred to the Drafting Committee/Working Group at the  
sixty-third meeting, on 5 May 1976)

CDDH/II/344

Finland, Norway, Sweden

(Referred to the Drafting Committee/Working Group at the  
sixty-third meeting, on 5 May 1976)

After the third session:

CDDH/II/402 and Add.1

Denmark, Finland, Iceland,  
Norway, Sweden

(Referred to Working Group A at the eighty-third meeting,  
on 14 April 1977)

CDDH/II/413

Holy See (Austria and  
Colombia became co-sponsors  
at the eighty-fifth meeting)

CDDH/II/414

Zaire

CDDH/II/416

Indonesia

CDDH/II/423

Romania

(These four amendments were referred to Working Group A at  
the eighty-fifth meeting, on 19 April 1977)

Proceedings of the Committee

40. After nineteen meetings devoted to preparatory work, Working Group A submitted its report on Articles 54, 55, 56, 57 and 59 (CDDH/II/439/Rev.1) at the ninety-first meeting of the Committee on 11 May, 1977. It was decided at that meeting that the Rapporteur's notes on the articles should be attached to the Committee's report. Article 54 was adopted by consensus at that meeting.

41. In adopting its report, Committee II also adopted the following comments on Article 54:

Article 54, paragraph 1

"The term 'disasters' in the introductory sentence has to be broadly construed. It covers natural disasters as well as any other calamity not caused by hostilities.

The list of civil defence tasks has to be read in conjunction with the introductory sentence; that is to say, all these activities are intended to protect the civilian population, etc. Thus, the term 'warning', item (a), means warning of the civilian population, in particular with respect to forthcoming attacks or natural disasters.

With particular reference to item (k), it should be pointed out that nothing in the definition of civil defence alters the position of the civil police, who are protected as civilians. Ordinary police functions are not civil defence functions. But in distressed areas, that is areas stricken by hostilities or disasters, where the normal functioning of public administration has broken down, civil defence organizations may, as an exceptional measure, assist also in the maintenance of order. Such assistance may include the direction of movements of refugees within or from distressed areas.

In item (l), the term 'public utilities' means services and commodities supplied to the general public, e.g. water, gas, electricity, communications. In this article, it relates in particular to installations and equipment used for supplying such services and commodities. It thus includes, inter alia, water control works (e.g. dams, dikes, drainage and discharge canals, outlets, sluices, locks, flood gates and pumping installations).

In item (n), the term 'essential' has been chosen in order to avoid confusion with the term 'objects indispensable to the survival' used in Article 48, and because it has a broader scope than the term 'indispensable'. It was agreed that the assistance referred to does not involve guard duties or require the use of weapons. An illustration of the kind of assistance intended is the temporary repair of an agricultural silo which might have been damaged.

The expression 'mentioned above' in item (o) relates not only to the list of civil defence tasks, but also to the introductory sentence of paragraph 1.

Civil defence organizations may, on the order of their authorities, perform other tasks not included in Article 54, provided that these tasks do not constitute acts harmful to the enemy under Article 58. During the performance of such tasks, however, the protection granted by this Chapter does not apply to them.

With respect to paragraph 2, organizations 'which are assigned and devoted exclusively' to civil defence tasks include those which are assigned and devoted to such tasks only for a limited period, even if that period is a relatively short one, provided, however, that they are assigned or devoted exclusively to those tasks, during that period.

The definition of 'civil defence organizations' in this article in no way deprives individuals carrying out civil defence tasks of their rights under this Chapter, so long as they are part of, or under contract to, an organization of the type referred to in Article 63 of the fourth Geneva Convention of 1949; and there is no need for them to belong to or be embodied in a formal unit.

Article 54, paragraph 3

In the definition of 'personnel', the word 'exclusively' is used in order to indicate that these personnel, while assigned to civil defence tasks, must not exercise any other functions."

Article 55 - General protection

42. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/234

Spain

CDDH/II/236

Denmark

(Replaced by amendment CDDH/II/325/Rev.1 at the sixty-third meeting, on 5 May 1976)

CDDH/II/307

Denmark, Finland, Norway,  
Sweden, United Republic of  
Tanzania, Yugoslavia(Denmark and Sweden withdrew their sponsorship at the sixty-third meeting)

CDDH/II/319

Denmark, Federal Republic of  
Germany, Uganda, United  
Kingdom of Great Britain and  
Northern Ireland(Denmark withdrew its sponsorship at the sixty-third meeting)

CDDH/II/322

Denmark

(Referred to the Drafting Committee/Working Group: later replaced by CDDH/II/403 and Add.1)

CDDH/II/341

Netherlands

(Referred to the Drafting Committee/Working Group)

CDDH/II/358

Yugoslavia

(Referred to the Drafting Committee/Working Group)After the third session:

CDDH/II/403 and Add.1

Denmark, Finland, Iceland,  
Norway, Sweden(Referred to Working Group A at the eighty-third meeting, on 14 April 1977)Proceedings of the Committee

43. The Committee noted the report of Working Group A on Article 55 (CDDH/II/439/Rev.1) at the ninety-first meeting, on 11 May 1977. Several delegations (German Democratic Republic, Greece, Holy See, Switzerland, Zaire) requested the deletion of the words "in the case of imperative military necessity", in paragraph 3. The Rapporteur also confirmed that in so far as civil defence objects were civilian objects within the meaning of Article 47 of Protocol I, they could not be made the object of attack or reprisals by the enemy. Therefore, only the party to which such objects belonged could destroy them, or use them for other purposes, and that only in the case of imperative military necessity. To avoid any confusion, the words "by the party to which they belong" had been added at the end of paragraph 3.

44. Article 55 was adopted by consensus at the ninety-first meeting on 11 May 1977.

45. Working Group A decided not to adopt paragraph 4 in amendment CDDH/II/403 and Add.1, on the ground that the questions there dealt with were already governed by other provisions in the Protocol. The text in question read as follows:

"Civilians and civilian objects shall suffer no diminution in the protection to which they are entitled under the Fourth Convention and this Protocol owing to their having performed civil defence tasks or having been used for civil defence purposes, respectively."

46. In adopting its report, Committee II also adopted the following comments on Article 55:

Article 55

"Civil defence personnel are protected as civilians under this Protocol. The most important provisions concerning the protection of civilians and the civilian population are to be found in Part IV, Section I. This is the meaning of the reference to 'this Protocol, particularly this Section' in paragraph 1, which includes also a reference to certain conditions and limitations of protection."

Article 56 - Civil defence in occupied territories

47. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/70

Egypt, Iraq, Jordan, Kuwait,  
Lebanon, Mauritania, Oman, Saudi  
Arabia, Socialist People's Libya:  
Arab Jamahiriya, Syrian Arab  
Republic, Tunisia, United  
Arab Emirates, Palestine  
Liberation Organization

CDDH/II/234

Spain

(Withdrawn provisionally at the sixty-fifth meeting, on  
7 May 1976)

CDDH/II/307

Denmark, Finland, Norway,  
Sweden, United Republic of  
Tanzania, Yugoslavia

(Denmark and Yugoslavia withdrew their sponsorship at the  
sixty-fifth meeting, on 7 May 1976)

CDDH/II/323

Denmark

(Referred to the Drafting Committee/Working Group, then replaced by amendment CDDH/II/404 and Add.1)

CDDH/II/358

Yugoslavia

(Referred to the Drafting Committee/Working Group)

CDDH/II/340

Yugoslavia

(Referred to the Drafting Committee/Working Group)

CDDH/II/346

United States of America

(Referred to the Drafting Committee/Working Group)

CDDH/II/352

Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics

(Referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/404 and Add.1

Denmark, Finland, Iceland, Norway, Sweden

(Referred to Working Group A at the eighty-third meeting, on 14 April 1977)

CDDH/II/424

Romania

CDDH/II/425

Algeria, Cyprus, Egypt, Iraq, Jordan, Kuwait, Lebanon, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, Zaire

(These two amendments were referred to Working Group A at the eighty-sixth meeting, on 21 April 1977)

Proceedings of the Committee

48. At its ninety-first meeting on 11 May 1977, the Committee took note of the report of Working Group A on Article 56 (CDDH/II/439/Rev.1).



49. The Committee adopted Article 56 by consensus. In adopting its report the Committee also adopted the following comments on Article 56:

Article 56

"Article 55 applies to both occupied and non-occupied territory. Article 56 is thus supplementary to Article 55 as far as occupied territories are concerned. Article 63 of the fourth Geneva Convention of 1949 is also applicable. It was emphasized in the debate that this article is not intended to strengthen the position of an Occupying Power."

Article 57 - Civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations

50. The following amendments were submitted:

Up to the end of the third session:

CDDH/45	Austria, Finland, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland
CDDH/II/234	Spain
CDDH/II/324	Denmark (replaced by amendment CDDH/II/405 and Add.1)
CDDH/II/337	Australia
CDDH/II/345	Finland, Norway, Sweden
CDDH/II/349	Indonesia

(All referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/405 and Add.1	Denmark, Finland, Iceland, Norway, Sweden
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(Referred to Working Group A at the eighty-third meeting, on 14 April 1977)

CDDH/II/426 and Add.1

Algeria, Egypt, Lebanon,  
Mauritania, Morocco, Saudi  
Arabia, Socialist People's  
Libyan Arab Jamahiriya,  
Syrian Arab Republic,  
Tunisia, Zaire

(Referred to Working Group A at the eighty-sixth meeting, on  
21 April 1977)

Proceedings of the Committee

51. The Committee considered the report of Working Group A on Article 57 (CDDH/II/439/Rev.1) at its ninety-second meeting on 11 May 1977. The delegations of the Ukrainian Soviet Socialist Republic and of the Union of Soviet Socialist Republics proposed that the last sentence of paragraph 1 should be amended to read: "In no circumstances shall this activity be of such a nature as to constitute interference in the conflict." The USSR representative pointed out that the amendment was a substantive one reflecting his Government's views on civil defence (CDDH/II/SR.92). As a compromise, the Committee agreed that instead of amending the sentence a new sentence should be inserted to read "This activity should however be performed with due regard to the security interests of the Parties to the conflict concerned." Similarly the first sentence of paragraph 2 was amended to read as follows: "The Parties to the conflict receiving assistance referred to in paragraph 1 and the High Contracting Parties granting it should facilitate international co-ordination of such civil defence actions when appropriate".

52. Article 57 as thus amended was adopted by consensus at the ninety-second meeting.

53. In adopting its report, Committee II also adopted the following comments on Article 57:

Article 57

"It is understood that the activities of civil defence bodies of neutral or other States not Parties to the conflict or of international co-ordinating organizations in occupied territories are subject to the consent and control of the Occupying Power."

Article 58 - Cessation of protection

54. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/70	Egypt, Iraq, Jordan, Kuwait, Lebanon, Mauritania, Oman, Saudi Arabia, Socialist People's Libyan Arab Jamahiriya, Syrian Arab Republic, Tunisia, United Arab Emirates, Palestine Liberation Organization
CDDH/II/320	Denmark, Federal Republic of Germany, Uganda, United Kingdom of Great Britain and Northern Ireland
CDDH/II/326	Denmark (Replaced by amendment CDDH/II/406 and Add.1)
CDDH/II/338	Australia
CDDH/II/343	Finland, Norway, Sweden
CDDH/II/347	Belgium
CDDH/II/353	Byelorussian Soviet Socialist Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics

(All referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/406 and Add.1	Denmark, Finland, Iceland, Norway, Sweden
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(Referred to Working Group A at the eighty-third meeting, on 14 April 1977)

CDDH/II/418	Indonesia
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(Referred to Working Group A at the eighty-fifth meeting, on 19 April 1977)

Proceedings of the Committee

55. At its ninety-fifth meeting, the Committee considered the report of Working Group A on this article (CDDH/II/439/Rev.1/Add.1).

56. The United Kingdom representative explained that Working Group A had considered the possibility of defining light individual weapons but had abandoned the attempt in the light of the difficulties encountered. Nevertheless his delegation proposed the following explanation, which was agreeable to a number of military experts of other delegations: "The term 'light individual weapons' excludes fragmentation grenades and similar devices, as well as weapons which cannot be fully handled or fired by a single individual and those basically intended for non-human targets". The following delegations made statements agreeing with this explanation: Egypt, Ghana, Mexico and the Netherlands.

57. With reference to paragraph 2 (b), Indonesia and the Syrian Arab Republic requested that the words "or military units" in square brackets after the words "some military personnel" should be retained. The request was rejected by 40 votes to 3, with 17 abstentions. The article was then adopted by consensus at the ninety-fifth meeting on 12 May 1977. At the ninety-sixth meeting, on the same date, several delegations made statements explaining their attitude with respect to Article 58 (see CDDH/II/SR.96).

58. In adopting its report, Committee II also adopted the following comments on Article 58:

#### Article 58

"The provisions in paragraph 3 are valid for all civil defence personnel, civilian as well as military. To this effect a cross-reference has been made in Article 59 bis on military personnel assigned to civil defence organizations, paragraph 1 (c).

The words 'light individual weapons' should be interpreted in the same way as in Article 13, paragraph 2 (a) on civilian medical personnel.

On the question of self-defence, it is understood that civil defence personnel may be armed for self-defence against marauders or other criminal individuals or groups. They may not engage in combat against the adverse party and may not use force to resist capture. If, however, they are unlawfully attacked by individual members of the adverse party's forces, they may use their weapons in self-defence after having made a reasonable effort to identify themselves as civil defence personnel.

The expression 'respected and protected' means that the personnel must not knowingly be attacked or unnecessarily prevented from discharging their proper functions.

For members of the armed forces assigned to civil defence organizations, the last provision of paragraph 3 does not imply any change in their status as prisoners of war, if they fall into the hands of the adverse party.

Article 58, paragraph 2 (b)

'Some military personnel' does not refer to large numbers of members of the armed forces, but to a relatively small number.

Article 58

The Working Group decided not to adopt paragraph 4 of amendment CDDH/II/406 and Add.1, because the matters dealt with in that amendment were already covered by other provisions, e.g. Articles 58, paragraph 1; 35 paragraph 1; 36 paragraph 1; 46 paragraph 3; 47 paragraph 2. The relevant text of amendment CDDH/II/406 and Add.1 is as follows:

'4. Whenever civilian units or personnel of civil defence perform any of those tasks enumerated in Article 54 (a) in direct support of military operations or objectives, the protection to which they are otherwise entitled under this Chapter shall cease for the duration of such performance. Their entitlement to display the distinctive sign of civil defence, described in Article 59, shall also cease for the duration of the performance of such tasks.' "

Article 59 - Identification

59. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/237

Denmark

(Replaced by amendment CDDH/II/327 at the sixty-seventh meeting, on 11 May 1976)

CDDH/II/327

Denmark

(Replaced by amendment  
CDDH/II/408 and Add.1)

(Referred to the Drafting Committee/Working Group)

CDDH/II/339

Australia

(Referred to the Drafting Committee/Working Group)

CDDH/II/348 and Corr.1 Indonesia

(Referred to the Drafting Committee/Working Group at the sixty-seventh meeting)After the third session:CDDH/II/408 and Add.1 Denmark, Finland, Iceland,  
Norway and Sweden(Referred to Working Group A at the eighty-third meeting on 14 April 1977)CDDH/II/427 and Add.1 Algeria, Egypt, Lebanon,  
Mauritania, Morocco, Saudi  
Arabia, Socialist People's  
Libyan Arab Jamahiriya,  
Syrian Arab Republic, Tunisia,  
Zaire(Amendment rejected by 31 votes to 28, with 8 abstentions, at the eighty-ninth meeting, on 6 May 1977 by roll-call vote)Proceedings of the Committee

60. At the eighty-sixth meeting on 21 April 1977, Zaire submitted a new amendment (CDDH/II/427 and Add.1) proposing as a distinctive international sign for civil defence two oblique red bands on a yellow background. The Federal Republic of Germany suggested that the proposal should not be referred to Working Group A since it had been sufficiently discussed by the Technical Sub-Committee at the third session. The Committee agreed to postpone the question to one of its later meetings. At the eighty-ninth meeting, the Committee, after a debate on the advantages and disadvantages of the two signs proposed (two oblique red bands on a yellow background and a blue triangle on an orange ground) held a roll-call vote with the following results: the amendment by Zaire was rejected by 31 votes to 28, with 8 abstentions. That decision implied ipso facto the choice of the other sign. The point was made clear at the ninetieth meeting and accepted by consensus by the Committee.

61. At the ninety-second meeting, the Committee took note of the report of Working Group A on Article 59 (CDDH/II/439/Rev.1) and adopted that article without discussion by consensus.

62. In adopting its report, Committee II also adopted the following comments on Article 59:

Article 59, paragraphs 5 and 7

" 'Civil defence identification' means the identification of shelters for the civilian population and of civil defence personnel, buildings and matériel.

Article 59, paragraphs 7 and 8

It is understood that these paragraphs do not deal with other than protective uses of the distinctive sign of civil defence.

Article 59, paragraph 9

Medical and religious personnel as well as medical units and transports of civil defence organizations are covered by Part II of Protocol I. Such personnel may be assisted or even replaced by other civil defence personnel who are able to perform medical functions, but who are primarily assigned to other civil defence tasks. The reference to Part II of the Protocol in the first sentence does not, however, carry any implications with regard to organizational or command structure. Medical functions may also be performed on a temporary basis by civil defence personnel in cases of emergency where the necessary formalities have not been fulfilled in order to enable them to use the red cross as a distinctive emblem. In such cases, it is desirable that personnel and units performing medical tasks are protected by the international sign of civil defence. This idea is conveyed by the inclusion of the word 'also' in this paragraph."

Article 59 bis - Members of the armed forces  
and military units assigned to civil defence organizations  
(formerly 58 bis or 59 ter)

63. The following amendments have been submitted:

Up to the end of the third session:

CDDH/II/335

Switzerland (59 ter)

(Referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/407 and Add.1      Denmark, Finland, Iceland,  
Norway, Sweden (58 bis)

(Referred to Working Group A at the eighty-third meeting,  
on 14 April 1977; then referred by Working Group A to a special  
sub-group on 30 April 1977)

CDDH/II/419                      Indonesia

(Referred to Working Group A at the eighty-fifth meeting,  
on 19 April 1977)

Proceedings of the Committee

64. Working Group A spent one meeting considering this article (30 April 1977) and instructed a Working Sub-Group under the chairmanship of Mr. E.L. Gonsalves (Netherlands) to continue its consideration. The group spent nine meetings on reaching a compromise, as opinions on Article 59 bis were very divergent and divided.

65. At the ninety-sixth meeting on 12 May 1977, the Committee considered the report of the Working Sub-Group (CDDH/II/442). At that meeting, the introductory sentence of paragraph 1 was amended by consensus. A number of delegations proposed that the second sentence of paragraph 2 be deleted, while others requested that it be retained. It was decided to retain the sentence by 28 votes to 11, with 17 abstentions.

66. One delegation proposed the deletion of paragraph 1 (b). Paragraphs 1 (a), (b) and (c) were then, however, adopted by consensus at the ninety-sixth meeting, paragraphs 1 (d), (e) and (f), the end of paragraph 1, and paragraphs 2, 3 and 4 were adopted by consensus at the ninety-seventh meeting of the Committee on 13 May 1977. Several delegations made statements explaining their attitude with respect to Article 59 bis.

67. In adopting its report, Committee II also adopted the following comments:

Article 59 bis, paragraph 1

"The present wording of the introductory sentence was preferred to the proposal made by the Working Group, which read as follows: 'Members of the armed forces and military units assigned to civil defence organizations shall not be the object of attack and shall, except in case of imperative military necessity, be entitled to carry out their civil defence tasks, provided that:'



The reason for that change was the desire, without changing the substance of the Working Group's proposal to bring the language of Article 59 bis into line with that of Article 55 and Article 58, paragraph 3. As explained in the note attached to Article 58, paragraph 3, the words 'respected and protected' mean that the personnel must not knowingly be attacked or unnecessarily prevented from discharging their proper functions.

In sub-paragraph (b), the term 'any other military duties' covers any military duty except civil defence duties. It includes in particular combat duties. The sub-paragraph, however, does not exclude the performance of purely administrative duties. Sub-paragraph (b) must be understood as prohibiting, during the conflict, the switching of military civil defence personnel to other military, especially combat and combat support, duties. It thus does not prevent the return of military civil defence personnel to a civilian occupation.

With regard to the display of the international distinctive sign of civil defence in sub-paragraph (c), it was suggested that a sign of a minimum size on a tabard of about 30 cm x 30 cm might be appropriate. The identity card referred to in sub-paragraph (c) will have to be carried in addition to the military identity card provided for in the third Geneva Convention of 1949.

The note in this report relating to Article 58, paragraph 3, applies also to Article 59 bis, paragraph 1 (d)."

#### Part IV - Civilian population

#### Section II - Relief in favour of the civilian population

#### Articles 60 - 62 bis

#### Proceedings of the Committee

68. At its eighty-third meeting, 14 April 1977, Committee II decided to establish a Working Group B, under the chairmanship of Mr. B. Jakovljević (Yugoslavia), to study Articles 60 to 62 of draft Protocol I, relating to relief in favour of the civilian population, and to submit a draft text to Committee II. Mr. F. J. Sánchez del Río was appointed Rapporteur of this Working Group. It held five meetings, and submitted its report (CDDH/II/430) to Committee II at the latter's eighty-seventh meeting, on 28 April 1977. A new Article 62 bis was added by the Working Group.

69. The Committee adopted this report by consensus. Articles 60, 61 and 62 were adopted with some slight drafting amendments by consensus at the eighty-seventh meeting. Article 62 bis was adopted by consensus at the eighty-eighth meeting.

Article 60 - Field of application

70. The following amendment has been submitted:

CDDH/II/398 and Add.1      Austria, Canada, Denmark,  
Finland, France, Greece,  
Indonesia, Monaco, Netherlands,  
Norway, Sweden, United Kingdom  
of Great Britain and Northern  
Ireland, United States of  
America

(Referred to Working Group B at the eighty-fourth meeting  
of the Committee)

Article 61 - Basic needs in occupied territories  
(ICRC title Supplies)

71. The following amendments have been submitted:

CDDH/II/70      Egypt, Iraq, Jordan, Kuwait,  
Lebanon, Mauritania, Oman,  
Saudi Arabia, Socialist People's  
Libyan Arab Jamahiriya, Syrian  
Arab Republic, Tunisia,  
United Arab Emirates, Palestine  
Liberation Organization

CDDH/II/398 and Add.1      Austria, Canada, Denmark,  
Finland, France, Greece,  
Indonesia, Monaco, Netherlands,  
Norway, Sweden, United Kingdom  
of Great Britain and Northern  
Ireland, United States of  
America

(Referred to Working Group B at the eighty-fourth meeting  
of the Committee)



(c) The field of application of both articles should be more clearly delimited: Article 61 applies to occupied territories and Article 62 to unoccupied territories.

77. One delegation proposed that the words "by international bodies such as the United Nations agencies or the International Red Cross" should be inserted in paragraph 5 of Article 62. Most members of the group took the opposite view, however, and the proposal was withdrawn although it was agreed that if the Red Cross group of delegates examined the matter in greater detail and decided that it would be desirable to mention that body, the proposal could be revived before the Committee.

78. In order to obviate problems arising from the presence of certain persons required for relief actions, a new Article 62 bis was proposed: this relates to the requirements for the admission and service of such personnel.

79. The words "to the fullest extent of the means available to it" were adopted on the understanding, explained by one delegation and confirmed by others, that this implied the highest possible degree of obligation.

80. Since the Working Group examined not only the content but also the form of these articles, the Drafting Committee of Committee II, set up at the first session of the Conference, decided that there was no need for it to meet and that the Working Group could submit the text directly to the Committee.

#### Annex to draft Protocol I

#### Regulations concerning the identification, recognition and marking of medical personnel, units of transports and civil defence personnel, equipment of transports

#### Chapter I - Identity cards

#### Model of identity card

(given after Article 2, see CDDH/235/Rev.1, pp. 54 and 55)

#### Proceedings of the Committee

81. At its ninety-second meeting on 11 May 1977, the Committee took note of the supplement to the report of Working Group A (CDDH/II/439/Add.1). It adopted by consensus Note 3 which is to appear on the identity card model (see annex to this report).

Chapter V - Civil defence

Article 14 - Identity card

Proceedings of the Committee

82. At its ninety-second meeting, the Committee studied the supplement to the report of Working Group A (CDDH/II/439/Add.1). It adopted Article 14 by consensus, save for the last sentence of paragraph 2, which was adopted by consensus at the ninety-seventh meeting on 13 May 1977.

Article 15 - International distinctive sign  
of civil defence

83. At its ninety-second meeting, the Committee took note of the supplement to the report of Working Group A (CDDH/II/439/Add.1). It adopted Article 15 by consensus.

Chapter II - The distinctive emblem

Article 4 - Use

Proceedings of the Committee

84. At its ninety-ninth meeting on 13 May 1977, Committee II decided by consensus to re-open discussion of Article 4, previously adopted, in order to consider amendment CDDH/II/437 to Article 4, paragraph 2, sponsored by France and the Holy See. It adopted the article by consensus after slightly modifying the text.

Draft resolution concerning the use of radiocommunications for  
announcing and identifying medical transports protected under the  
Geneva Conventions of 1949 and any additional instrument thereto

Proceedings of the Committee

85. This resolution (CDDH/II/391) was adopted at the third session (Resolution 14 (III)). On the basis of information given by Mr. Matthey, the ITU Observer, three States (Canada, Switzerland, United States of America) submitted to the Committee a proposal (CDDH/II/391/Rev.1) to amend the resolution in order to take account of the decision taken by ITU to put the question on the agenda of the World Administrative Radio Conference (WARC) to be held at Geneva in 1979. The amendment was adopted by consensus at the ninety-ninth meeting of the Committee (for this resolution as amended, as adopted, see document CDDH/446, resolution 17 (IV)).

Draft Protocol IIPart III - Wounded, sick and shipwrecked personsArticle 11 - DefinitionsProceedings of the Committee

86. At its ninety-ninth meeting, the Committee decided by consensus to re-open the discussion on Article 11, already adopted at the third session. It decided by consensus not to introduce any amendment to sub-paragraph (f) (see foot-note to document CDDH/242, p.263) and to delete the square brackets in sub-paragraph (f), (i), p.264. It also decided by consensus to add an item (iv) to sub-paragraph (h) (see summary record CDDH/II/SR.99).

Article 13 - Search and evacuationProceedings of the Committee

87. At its forty-fourth meeting, on 2 April 1975, the Committee decided, upon the recommendation of Mr. M. Bothe, Rapporteur of the Drafting Committee, to add a note to Article 13 to the effect that the expression "aged persons and children" in paragraph 3 should be reconsidered after the discussion on the definitions and of Article 32 of draft Protocol II (see CDDH/II/SR.44, para. 12).

88. At its ninety-ninth meeting, on 13 May 1977, the Committee decided by consensus not to re-open the discussion on Article 13, paragraph 3.

Part V - Civilian populationChapter II - Civil defenceArticle 30 - Civil defence

89. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/368

Denmark

(Referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/415                      Indonesia (deletion of article)

(Rejected by 23 votes to 14, with 17 abstentions, at the ninety-eighth meeting, on 13 May 1977)

CDDH/II/421                      Canada, France, United Kingdom  
of Great Britain and Northern  
Ireland (deletion of article)  
(Canada withdrew its sponsorship  
at the ninety-eighth meeting,  
13 May 1977)

(Rejected by the same vote, since the two amendments proposed the same thing, namely, the deletion of Article 30)

Article 31 - Definition

90. The following amendments were submitted:

Up to the end of the third session:

CDDH/II/51                      Philippines

CDDH/II/369                      Denmark

(Referred to the Drafting Committee/Working Group)

After the third session:

CDDH/II/417                      Indonesia (deletion of article)

CDDH/II/420                      Canada, France, United Kingdom  
of Great Britain and Northern  
Ireland (deletion of article)

(The two amendments were adopted by consensus at the ninety-eighth meeting, on 13 May 1977. Consequently, Article 31 is deleted)

Proceedings of the Committee

Articles 30 and 31

91. At its eighty-fifth meeting on 19 April 1977, the Committee decided to defer consideration of Articles 30 and 31 of draft Protocol II until Working Group A had completed its study of Articles 54 to 59 of draft Protocol I.

92. The Committee entered into a general discussion of Articles 30 and 31 at its eighty-ninth and ninetieth meetings on 6 May 1977. The amendments were submitted during that discussion. Some delegations called for the deletion of the two articles, while others proposed that civil defence should also be mentioned in draft Protocol II. It was decided, at the ninetieth meeting, to establish an Ad Hoc Working Group with Mr. K. Müller (Switzerland) as Chairman, to study them. The Group met twice and submitted its report (CDDH/II/441) on the two articles at the ninety-third meeting of the Committee: a fresh formulation of Article 30 and the deletion of Article 31 were proposed. After a lengthy discussion between those who wished to delete Articles 30 and 31 and those who felt that it was necessary to mention civil defence, Canada moved the closure of the debate, in accordance with rule 25 of the rules of procedure. This motion was carried by 27 votes to 2, with 19 abstentions. The Ad Hoc Working Group met again and proposed a fresh text for Article 30. It submitted its second report (CDDH/II/443) at the ninety-eighth meeting of the Committee. Amendment CDDH/II/420 was withdrawn. Amendment CDDH/II/417, proposing the deletion of Article 30, was rejected. Article 30 was adopted at the ninety-eighth meeting on 13 May 1977, by 24 votes to none with 32 abstentions.

#### Part VI - Relief

##### Articles 33 - 35

##### Proceedings of the Committee

93. Committee II considered these articles at its eighty-eighth meeting, on 28 April 1977. The amendments mentioned hereunder were submitted. The Committee established Working Group B, under the chairmanship of Mr. B. Jakovljević (Yugoslavia), to consider these articles and amendments and submit a text to the Committee. Mr. F. J. Sánchez del Río (Spain) was appointed Rapporteur.

94. In order to consider in greater depth some of the questions raised, more particularly with regard to Article 33, a Sub-Group was set up which, under the chairmanship of Mr. K. Warras (Finland), drew up the text which was considered by the Group.

95. Another Sub-Group (under the chairmanship of Mr. I. A. Marriott (Canada)) dealt with certain objections raised in connexion with the same article, particularly as regards technical conditions for the transit of relief.

96. Working Group B submitted its report to Committee II at the Committee's ninety-fourth and ninety-fifth meetings on 12 May 1977.



Paragraphs 1, 2 and 3 of Article 33 were adopted by consensus at the ninety-fourth meeting. Paragraph 4, with the exception of sub-paragraph (b), was adopted by consensus at the ninety-fourth meeting. Paragraph 4 (b) was adopted by 47 votes to 2, with 12 abstentions.

97. Paragraph 5, with the exception of the last sentence, was adopted by consensus at the ninety-fifth meeting of the Committee. The last sentence of paragraph 5 was adopted by 35 votes to none, with 20 abstentions.

98. Article 34 was adopted by consensus at the ninety-fifth meeting.

Article 33 - Relief societies and relief actions

99. The following amendment was submitted:

CDDH/II/77

Norway

(Referred to Working Group B at the eighty-eighth meeting of Committee II. Subsequently withdrawn at the ninety-fifth meeting of the Committee)

Article 34 - Recording and information

100. The following amendment was submitted:

CDDH/II/428

Canada, Ireland, United Kingdom  
of Great Britain and Northern  
Ireland

(Referred to Working Group B at the eighty-eighth meeting of Committee II)

Article 35 - National Red Cross  
and other relief societies

101. No amendments were submitted.

Comments by the Rapporteur of Working Group B

102. For the sake of brevity, in Article 34 the words "victims of the conflict" were retained; these must be understood to include:

(a) Able-bodied, wounded or sick combatants of the adverse Party, captured by the Party to the conflict;

(b) Combatants of the adverse Party killed in battle and whose bodies are found by the Party to the conflict;

(c) Prisoners who have died in captivity;

(d) Civilians of the adverse Party who have been placed under surveillance, interned or imprisoned for reasons relating to the conflict;

(e) Civilians of the adverse Party who have died in the fighting and whose bodies are found by the Party to the conflict;

(f) Civilians of the adverse Party who have died in captivity.

103. The Working Group decided that Article 35 should be incorporated in Article 33 as paragraph 1.

#### IV. ADOPTION OF THE REPORT OF COMMITTEE II

104. At its 100th and 101st meetings, on 20 May 1977, the Committee adopted, this report, as amended, by consensus.

A N N E X

ARTICLES ADOPTED BY COMMITTEE II

ARTICLES OF DRAFT PROTOCOL I

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Note: At the fourth session the Committee modified some articles which had been adopted at previous sessions (Articles 8, 9, 11, 12, 15, 20 quater, 23 of draft Protocol I, Articles 2 and 4 of the Annex, Article 11 of draft Protocol II) and had already been reviewed by the Drafting Committee of the Conference. For technical reasons, these articles have been republished on the basis of the text as it stood before being reviewed by the Drafting Committee. It is the understanding of Committee II, however, that the text of these articles to be adopted by the Plenary is the text as reviewed by the Drafting Committee.



ANNEX

ARTICLES ADOPTED BY COMMITTEE II

ARTICLES OF DRAFT PROTOCOL I

Draft Protocol I

Part II - Wounded, sick and shipwrecked persons

Section I - General protection

Article 8 - Definitions\*

For the purposes of this Protocol:

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them, and who refrain from any act of hostility. These persons shall be considered shipwrecked during their rescue until they acquire another status under either the Conventions or this Protocol, provided that they continue to refrain from any act of hostility.

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\* Sub-paragraph (f) was adopted at the seventy-fifth meeting, on 31 May 1976, by consensus, in the following languages: English, French, Russian and Spanish. The other parts of the article were adopted at the seventy-seventh meeting, on 1 June 1976, by consensus, in the following languages: English, French, Russian and Spanish. (See documents CDDH/II/377 and CDDH/II/379). Sub-paragraph (d)(i) was reconsidered, modified and adopted at the ninety-eighth meeting, on 13 May 1977, by consensus. Sub-paragraph (f)(iv) was adopted at the same meeting by consensus in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 21 to 23 of the present report.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first-aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease. The term includes, for example, hospitals and other similar units, blood transfusion centres, preventive medicine centres and institutes, medical depots and the medical and pharmaceutical stores of such medical units. Medical units may be fixed or mobile, permanent or temporary.

(d) "Medical personnel" means those persons assigned, by a Party to the conflict, exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

- (i) medical personnel of a Party to the conflict, whether military or civilian, including those described in the first and second Conventions, and those assigned to civil defence organizations.
- (ii) medical personnel of National Red Cross (Red Crescent, Red Lion and Sun) Societies and other national voluntary aid societies duly recognized and authorized by a Party to the conflict.
- (iii) medical personnel of medical units or medical transports described in Article 9, paragraph 2, of this Protocol.

(e) "Permanent medical units" and "permanent medical personnel" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units" and "temporary medical personnel" are those devoted exclusively to medical purposes for limited periods during the whole of such periods. Unless otherwise specified, the terms "medical units" and "medical personnel" respectively cover both permanent and temporary categories.

(f) "Religious personnel" means persons such as chaplains, whether military or civilian, exclusively engaged in the work of their ministry and attached to:

- (i) the armed forces of a Party to the conflict, or
- (ii) medical units or medical transports of a Party to the conflict, or
- (iii) medical units or medical transports described in Article 9, paragraph 2 of this Protocol, or
- (iv) civil defence organizations of a Party to the conflict.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of sub-paragraph (e) apply to them.

(g) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.

(h) "Distinctive signal" means any signal or message specified for the exclusive identification of medical units or transports in Chapter III of the Annex to this Protocol.

Draft Protocol I  
Part II - Wounded, sick and shipwrecked persons  
Section I - General protection

Article 9 - Field of application\*

1. This part, the provisions of which are intended to ameliorate the condition of the wounded, sick and shipwrecked shall apply to all persons affected by a situation referred to in Article 1, without any discrimination founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status or any other similar criteria.

2. Articles 27 and 32 of the first Convention shall apply to permanent medical units and transport (other than hospital ships, to which Article 25 of the second Convention applies) and their personnel lent for humanitarian purposes to a Party to a conflict:

(a) by a neutral or other State which is not a party to that conflict;

(b) by a recognized and authorized aid society of such a State;

(c) by an impartial international humanitarian organization.

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\* Paragraph 1 was adopted by vote (39 votes to 1 with 14 abstentions) and paragraph 2 by consensus at the twenty-third meeting on 24 February 1975, in the following languages: English, French, Russian and Spanish. Paragraph 1 and paragraph 2 (c) were reconsidered, modified and adopted at the ninety-eighth meeting, in Arabic, English, French, Russian and Spanish on 13 May 1977, by 38 votes to 4, with 8 abstentions. (See paragraphs 24 to 26 of the present report.)



Draft Protocol I  
Part II - Wounded, sick and shipwrecked persons  
Section I - General protection

Article 11 - Protection of persons\*

1. The physical or mental health and integrity of persons who have fallen into the hands of the adverse Party, or who are interned, detained or otherwise deprived of liberty, as a result of hostilities or occupation,<sup>1/</sup> shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with accepted medical standards which would be applied under similar medical circumstances to nationals of the Party conducting the procedure who are not in any way deprived of liberty.
2. Subject to the provision of paragraph 1, it is, in particular, prohibited to carry out on such persons, even with their consent:
  - (a) physical mutilations;
  - (b) medical or scientific experiments;
  - (c) removal of tissue or organs for transplantation.
3. Exceptions to the prohibition contained in paragraph 2 (c) of this article may be made only in the case of donations of blood for transfusion or of skin for grafting provided that they are given voluntarily and without any coercion or inducement, and then only for therapeutic purposes, under conditions consistent with generally accepted medical standards and controls designed for the benefit of both the donor and the recipient.

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\* Adopted at the thirty-ninth meeting, 20 March 1975, by consensus, in the following languages: English, French, Russian and Spanish. See document CDDH/II/272. Paragraph 4 was reconsidered, modified and adopted at the ninety-ninth meeting on 13 May 1977 by consensus in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 27 of the present report.

<sup>1/</sup> Attention is drawn to the words related to a situation referred to in Article 2 common to the Geneva Conventions of 1949 in draft Articles 65, paragraph 3; 67, paragraph 2; and 68, paragraph 3, which deal with similar situations.

4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who has fallen into the hands of a Party other than the one on which he depends and which either violates any of the prohibitions in paragraphs 1 and 2 or fails to comply with the requirements of paragraph 3 shall be a grave breach of this Protocol.

5. The persons described in paragraph 1 of this article have the right to refuse any surgical operation. In case of refusal, medical personnel shall endeavour to obtain a written statement to that effect, signed or acknowledged by the patient.

6. Each Party to a conflict shall keep a medical record for every donation of blood for transfusion or skin for grafting by persons referred to in paragraph 1 of this article, if that donation is made under the responsibility of that Party. In addition, each Party to a conflict shall endeavour to keep a record of all medical procedures undertaken with respect to any person who is interned, detained, or otherwise deprived of liberty, as a result of hostilities or occupation. These records shall be available at all times for inspection by the Protecting Power.

Draft Protocol I  
Part II - Wounded, sick and shipwrecked persons  
Section I - General protection

Article 12 - Protection of medical units\*

1. Medical units shall be respected and protected at all times and shall not be the object of attack.
2. Paragraph 1 of this article shall apply to civilian medical units provided that they:
  - (a) belong to one of the Parties to the conflict; or
  - (b) are recognized and authorized by the competent authority of one of the Parties to the conflict; or
  - (c) are authorized as required by Article 9, paragraph 2, of the present Protocol and Article 27 of the first Convention.
3. The Parties to the conflict are invited to notify to each other the location of fixed medical units. Absence of such notification shall not exempt any of the parties from the obligation to comply with the provisions of paragraph 1 of this article.
4. Under no circumstances shall medical units be used in an attempt to protect military objectives from attack. Whenever possible the Parties to the conflict shall ensure that medical units are so sited that attacks against military objectives do not imperil their safety.

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\* Adopted at the twenty-third meeting, 24 February 1975, by consensus, in the following languages: English, French, Russian and Spanish. (See document CDDH/II/240). Paragraph 2 (b) was reconsidered, modified and adopted at the ninety-ninth meeting, on 13 May 1977, by consensus in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 28 of the present report.

Draft Protocol I  
Part II - Wounded, sick and shipwrecked persons  
Section I - General protection

Article 15 - Protection of civilian medical  
and religious personnel\*

1. Civilian medical personnel shall be respected and protected.
2. If needed all available help shall be afforded to civilian medical personnel in an area where civilian medical services are disrupted by reason of combat activity.
3. The Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform, to the best of their ability, their humanitarian functions. The Occupying Power may not require that, in the performance of those functions, such personnel shall give priority to the treatment of any person except on medical grounds. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.
4. Civilian medical personnel shall have access to any place where their services are essential, subject to such supervisory and safety measures as the relevant Party to the conflict may deem necessary.
5. Civilian religious personnel shall be respected and protected. The provision of the Conventions and of the present Protocol concerning the protection and identification of medical personnel shall apply equally to such persons.

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\* Paragraphs 3, 4 and 5 were adopted by consensus at the twenty-fourth meeting, on 25 February 1975, in the following languages: English, French, Russian and Spanish; the new paragraph 1 (former paragraphs 1 and 2 combined) was adopted by consensus at the thirtieth meeting, on 5 March 1975, in the following languages: English, French, Russian and Spanish; paragraph 2 was adopted by consensus at the forty-fourth meeting, on 2 April 1975, in the following languages: English, French, Russian and Spanish. Paragraph 5 was reconsidered at the seventy-fifth meeting, on 31 May 1976, and amended and adopted by consensus in the following languages: English, French, Russian and Spanish. Paragraph 3 was reconsidered at the eighty-first meeting on 9 June 1976, and modified and adopted by consensus. (See documents CDDH/221/Rev.1, p. 121 and CDDH/II/373). Paragraph 5 was reconsidered at the ninety-ninth meeting on 13 May 1977 and modified and adopted by consensus in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 29 of the present report.

Draft Protocol I

Part II - Wounded, sick and shipwrecked persons

Section I bis - Information on the victims of a conflict  
and remains of deceased

Article 20 quater - Remains of deceased\*

1. The remains of persons who have died as a result of occupation or in detention resulting from occupation or hostilities, those of persons who are not nationals of the country in which they die as a result of hostilities, and the gravesites of all such persons where such remains or gravesites would not receive more favourable consideration under the Conventions and the Protocol, shall be respected, maintained and marked as provided for in Article 130 of the fourth Convention.
  
2. As soon as circumstances and the relations between the adverse parties permit, the High Contracting Parties, on whose territories graves and, where appropriate, other locations of the remains of persons who have died as a result of hostilities or during occupation or in detention are situated, shall conclude agreements in order to:
  - (a) facilitate access to the gravesites by relatives of the deceased and by representatives of official graves registration services and to regulate the practical arrangements for such access;
  - (b) permanently protect and maintain such gravesites;
  - (c) facilitate the return of the remains of the deceased and of personal effects to the home country upon its request or unless that country objects, upon the request of the next of kin.
  
3. In the absence of agreements as provided for in paragraph 2 (b) or (c) of this article and if the home country of such deceased is not willing to arrange at its expense for the maintenance of such gravesites, the High Contracting Party on whose territory such gravesites are situated may offer to facilitate the return of the remains of such deceased to the home country. Where such an offer has not been accepted the High Contracting Party, after five years from the date of this offer and upon due notice to the home country, may adopt the arrangements laid down in its own laws on cemeteries and graves.

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\* Adopted by consensus at the seventy-eighth meeting on 2 June 1976 and at the seventy-ninth meeting on 4 June 1976, in the following languages: English, French, Russian and Spanish. (See document CDDH/II/376 and CDDH/II/385). A paragraph 5, within brackets, was deleted at the ninety-ninth meeting on 13 May 1977 by consensus. See paragraph 32 of the present report.

4. A High Contracting Party in whose territory the gravesites described in this article are situated shall be permitted to exhume only:

(a) in accordance with paragraphs 2 (c) and 3 of this article, or

(b) where exhumation is a matter of overriding public necessity, including cases of medical and investigative necessity, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the home country of its intention to exhume together with details of the intended place of reinterment.

Draft Protocol I  
Part II - Wounded, sick and shipwrecked persons  
Section II - Medical transports  
Chapter I - Joint provisions

Article 23 - Hospital ships and coastal rescue craft\*

1. The provisions of the Conventions with respect:

(a) to vessels described in Articles 22, 24, 25 and 27 of the second Convention,

(b) to their lifeboats and their small craft,

(c) to their personnel and crews, and

(d) to the wounded and sick and the shipwrecked on board

shall also apply where these vessels carry civilian wounded and sick and shipwrecked who do not belong to any of the categories mentioned in Article 13 of the second Convention and in Article 42 of the present Protocol. Such civilians are, however, not subject to surrender to any Party which is not their own, or to capture at sea. If they find themselves in the hands of an adverse Party they shall be covered by the fourth Convention and the present Protocol.

2. The protection provided by the Conventions to vessels described in Article 25 of the second Convention shall extend to hospital ships lent for humanitarian purposes to a Party to a conflict:

(a) by a neutral, or other States which is not a party to that conflict; or

(b) by an impartial international humanitarian organization

provided that the requirements set out in that article are complied with.

3. Craft described in Article 27 of the second Convention shall be protected even if notification is not made. Parties to a conflict are, nevertheless, invited to inform other Parties to that conflict of any details of such craft which will facilitate their identification and recognition.

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\* Adopted at the forty-ninth meeting on 8 April 1975, by consensus, in the following languages: English, French, Russian and Spanish. (See document CDDH/II/296). Paragraph 2 (b) was reconsidered, modified and adopted at the ninety-eighth meeting, on 13 May 1977 by 38 votes to 4 with 8 abstentions. See paragraph 33 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 54 - Definitions and scope\*

For the purposes of this Protocol:

1. "Civil defence" is the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers and to help it to recover from the immediate effects of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:

- (a) warning;
- (b) evacuation;
- (c) management of shelters;
- (d) management of blackout measures;
- (e) rescue;
- (f) medical services, including first aid, and religious assistance;
- (g) fire-fighting;
- (h) detection and marking of danger areas;
- (i) decontamination and similar protective measures;
- (j) provision of emergency accommodation and supplies;
- (k) emergency assistance in the restoration and maintenance of order in distressed areas;
- (l) emergency repair of indispensable public utilities;
- (m) emergency disposal of the dead;
- (n) assistance in the preservation of objects essential for survival;
- (o) complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organization.

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\* Adopted by consensus at the ninety-first meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 39 to 41 of the present report.



2. "Civil defence organizations" means those establishments and other units which are organized or authorized by the competent authorities of a Party to the conflict to perform any of the tasks mentioned in paragraph 1, and which are assigned and devoted exclusively to such tasks.

3. "Personnel" of civil defence organizations means those persons assigned by a Party to the conflict exclusively to the performance of the civil defence tasks mentioned in paragraph 1, including those personnel assigned by the competent authority of the Party to the conflict exclusively to the administration of these organizations.

4. "Matériel" of civil defence organizations means equipment, supplies and transports used by these organizations for the performance of the civil defence tasks mentioned in paragraph 1.

Draft Protocol I  
Part IV - Civilian population  
Chapter III - Civil defence

Article 55 - General protection\*

1. Civilian civil defence organizations and their personnel shall be respected and protected subject to the provisions of this Protocol, particularly the provisions of this section. They shall be entitled to carry out their civil defence tasks, except in case of imperative military necessity.
2. The provisions of paragraph 1 shall also apply to civilians who, although not members of civilian civil defence organizations respond to an appeal from the competent authorities and carry out civil defence tasks under their control.
3. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are covered by Article 47. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except in the case of imperative military necessity, by the Party to which they belong.

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\* Adopted by consensus at the ninety-first meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 42 to 46 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 56 - Civil defence in occupied territories\*

1. In occupied territories, civilian civil defence organizations shall receive from the authorities the facilities necessary for the performance of their tasks. In no circumstances shall their personnel be compelled to perform activities which would interfere with the proper performance of these tasks. The Occupying Power shall not change the structure of personnel of such units in any way which might jeopardize the efficient performance of their mission. Civilian civil defence organizations shall not be required to give priority to the nationals or interests of that Power.
2. The Occupying Power shall not compel, coerce or induce civilian civil defence organizations to perform their tasks in any manner prejudicial to the interests of the civilian population.
3. The Occupying Power may disarm civil defence personnel for reasons of security.
4. The Occupying Power shall neither divert from their proper use nor requisition buildings or matériel belonging to or in use by civil defence organizations if such diversion or requisition would be harmful to the civilian population.
5. Provided that the general rule in paragraph 4 continues to be observed, the Occupying Power may requisition or divert these resources, subject to the following particular conditions:
  - (a) That the buildings or matériel are necessary for other needs of the civilian population; and
  - (b) That the requisition or diversion continues only while such necessity exists.
6. The Occupying Power shall neither divert nor requisition shelters provided for the use of the civilian population or needed by this population.

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\* Adopted by consensus at the ninety-first meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 47 to 49 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 57 - Civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations\*

1. Articles 55, 56, 58 and 59 also apply to the personnel and matériel of civilian civil defence organizations of neutral or other States not Parties to the conflict which carry out civil defence tasks mentioned in Article 54 in the territory of a Party to the conflict, with the consent and under the control of that Party. Notification of such assistance shall be given as soon as possible to any adverse Party concerned. In no circumstances shall this activity be deemed to be an interference in the conflict. This activity should, however, be performed with due regard to the security interests of the Parties to the conflict concerned.
2. The Parties to the conflict receiving assistance referred to in paragraph 1 and the High Contracting Parties granting it should facilitate international co-ordination of such civil defence actions when appropriate. In such cases the relevant international organizations are covered by the provisions of this chapter.
3. In occupied territories, the Occupying Power may only exclude or restrict the activities of civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations if it can assure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.

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\* Adopted by consensus at the ninety-second meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 50 to 53 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 58 - Cessation of protection\*

1. The protection to which civilian civil defence organizations, their personnel, buildings, shelters and matériel are entitled shall not cease unless they commit or are used to commit, outside their proper tasks, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.
2. The following shall not be considered as acts harmful to the enemy:
  - (a) that civil defence tasks are carried out under the direction or control of military authorities;
  - (b) that civilian civil defence personnel co-operate with military personnel in the performance of civil defence tasks, or that some military personnel are attached to civilian civil defence organizations;
  - (c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat.
3. It shall also not be considered as an act harmful to the enemy, that civilian civil defence personnel bear light individual weapons for the purpose of maintaining order or for self-defence. However, in areas where land fighting is taking place or is likely to take place, the Parties to a conflict shall undertake the appropriate measures to limit these weapons to handguns, such as pistols or revolvers, in order to assist in distinguishing between civil defence personnel and combatants. Although civil defence personnel bear other light individual weapons in such areas they shall nevertheless be respected and protected as soon as they have been recognized as such.
4. Similarly, the organization of civilian civil defence organizations along military lines, and compulsory service in them, shall not deprive them of the protection conferred by this Chapter.

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\* Adopted by consensus at the ninety-fifth meeting, 12 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. The words "or military units", in paragraph 2 (b) were deleted by 40 votes to 3, with 17 abstentions. See paragraphs 54 to 58 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 59 - Identification\*

1. Each Party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and matériel are identifiable while exclusively devoted to the performance of civil defence tasks. Shelters provided for the civilian population should be similarly identifiable.
2. Each Party to the conflict shall also endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian shelters, civil defence buildings, personnel and matériel on which the international distinctive sign of civil defence is displayed.
3. In occupied territories and in areas where fighting is taking place or is likely to take place, civilian civil defence personnel should be recognizable by the international distinctive sign of civil defence and by an identity card certifying their status.
4. The international distinctive sign of civil defence is an equilateral blue triangle on an orange ground when used for the protection of civil defence organizations, their buildings, personnel and matériel and for civilian shelters.
5. In addition to the distinctive sign, Parties to the conflict may agree upon the use of distinctive signals for civil defence identification purposes.
6. The application of the provisions of paragraphs 1 to 4 is governed by Chapter V of Annex I to this Protocol.
7. In time of peace the sign described in paragraph 4 may, with the consent of the competent national authorities, be used for civil defence identification purposes.
8. The High Contracting Parties and the Parties to the conflict shall take the measures necessary to supervise the display of the international distinctive sign of civil defence and to prevent and repress any misuse thereof.
9. Identification of civil defence medical and religious personnel, medical units, and medical transports is also governed by Article 18.

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\* Adopted by consensus at the ninety-second meeting, 11 May 1977 in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 59 to 62 of the present report.

Draft Protocol I  
Part IV - Civilian population  
Chapter VI - Civil defence

Article 59 bis - Members of the armed forces and military  
units assigned to civil defence  
organizations\*

1. Members of the armed forces and military units assigned to civil defence organizations shall be respected and protected provided that:

(a) such personnel and such units are permanently assigned and exclusively devoted to the performance of any of the tasks mentioned in Article 54;

(b) if so assigned such personnel do not perform any other military duties during the conflict;

(c) such personnel are clearly distinguishable from the other members of the armed forces by prominently displaying the international distinctive sign of civil defence, which shall be as large as appropriate, and such personnel are provided with the identity card referred to in Chapter V of the Annex I to this Protocol certifying their status;

(d) such personnel and such units are equipped only with light individual weapons for the purpose of maintaining order or for self-defence. The provisions of Article 58, paragraph 3 shall also apply in this case;

(e) such personnel do not participate directly in hostilities and such personnel do not commit or are not used to commit, outside their proper tasks, acts harmful to the adverse Party;

(f) such personnel and such units perform their civil defence duties only within the national territory of their Party.

The non-observance of the conditions stated in paragraph 1 (e) by any member of the armed forces who is bound by the conditions prescribed in paragraph 1 (a) and 1 (b) is prohibited.

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\* Paragraph 1 (a), (b) and (c) were adopted by consensus at the ninety-sixth meeting, 12 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. Paragraph 1 (d), (e), (f), the end of paragraph 1, paragraphs 2, 3 and 4 were adopted by consensus at the ninety-seventh meeting, 13 May 1977, in the same languages. The second sentence of paragraph 2 was maintained by 28 votes to 11, with 17 abstentions. See paragraphs 63 to 67 of the present report.

2. Military personnel serving within civil defence organizations shall, if they fall into the hands of an adverse Party, be prisoners of war. In occupied territory they may, but only in the interest of the civilian population of that territory, be employed on civil defence tasks in so far as the need arises, provided however that, if such work is dangerous, they volunteer for such tasks.

3. The buildings and major items of equipment and transports of military units assigned to civil defence organizations shall be clearly marked with the international distinctive sign of civil defence. This distinctive sign shall be as large as appropriate.

4. The matériel and buildings of military units permanently assigned to civil defence organizations and exclusively devoted to the performance of civil defence tasks shall, if they fall into the hands of an adverse Party, remain subject to the laws of war. They may not, however, be diverted from their civil defence purpose so long as they are required for the performance of civil defence tasks, except in case of imperative military necessity, unless previous arrangements have been made for adequate provision for the needs of the civilian population.



Draft Protocol I  
Part IV - Civil population  
Section II - Relief

Article 60 - Field of application\*

The provisions of this section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59 to 62 and other relevant provisions of the fourth Convention.

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\* Adopted by consensus at the eighty-seventh meeting, 28 April 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 69 and 70 of the present report.

Draft Protocol IPart IV - Civilian populationSection II - Relief in favour of the civilian populationArticle 61 - Basic needs in occupied territories\*

1. In addition to the duties specified in Article 55 of the fourth Convention concerning food and medical supplies the Occupying Power shall, to the fullest extent of the means available to it and without any discrimination, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.
2. Relief actions, for the benefit of the civilian population of occupied territory are governed by Articles 59 to 62 and 108 to 111 of the fourth Convention, as well as Article 62 bis of this Protocol, and shall be implemented without delay.

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\* Adopted by consensus at the eighty-seventh meeting, 28 April 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 69 and 71 of the present report.

Draft Protocol I

Part IV - Civilian population

Section II - Relief in favour of the civilian population

Article 62 - Relief action\*

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 61, relief actions which are humanitarian and impartial in character and conducted without any discrimination shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons such as children, expectant mothers, maternity cases and nursing mothers who, under this Protocol or the fourth Convention, are to be accorded privileged treatment or particular protection.

2. The Parties to the conflict, and each High Contracting Party shall allow and shall facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party, which allows the passage of relief consignments, equipment and personnel in accordance with paragraph 2,

(a) shall have the right to prescribe the technical arrangements, including search, under which such passage is allowed;

(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of a Protecting Power;

(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding,

except in cases of urgent necessity, in the interest of the civilian population concerned.

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\* Adopted by consensus at the eighty-seventh meeting, 28 April 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 69 and 72 of the present report.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

Draft Protocol I  
Part IV - Civilian population  
Section II - Relief in favour of the civilian population

New Article 62 bis - Relief personnel\*

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for transportation and distribution of relief consignments; the participation of such personnel shall be submitted to the approval of the Party in whose territory they will carry out their duties.
2. These personnel shall be respected and protected.
3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in paragraph 1, in carrying out their relief mission. Only in case of imperative military necessity may the activities of these relief personnel be limited or their movements temporarily restricted.
4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of security requirements of the Party in whose territory they are carrying out their duties. If these conditions are not respected, the mission of any of those personnel who do not respect these conditions may be terminated.

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\* Adopted by consensus at the eighty-eighth meeting, 28 April 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 69 and 73 to 80 of the present report.

Draft Protocol I  
Technical Annex  
Chapter I - Identity Cards

Article 2 - Identity card for temporary civilian medical  
and religious personnel\*

Note 3 to read:

3. The identity card for civil defence personnel is described in Article 14 of this Annex.

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\* Adopted by consensus at the ninety-second meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 81 of the present report. For Article 2 as adopted by the Committee at the third session see document CDDH/235/Rev.1, Annex I.

Draft Protocol I  
Technical Annex  
Chapter II - The distinctive emblem

Article 4 - Use\*

1. The distinctive emblem shall, whenever possible, be marked on a flat surface or on flags visible from as many directions and from as far as possible.
  
2. Subject to the instructions of the competent authority, medical and religious personnel carrying out their duties in the battle area shall, as far as possible, wear headgear and clothing bearing the distinctive emblem.

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\* Adopted by consensus at the seventieth meeting on 19 May 1976 in the following languages: English, French, Russian and Spanish. Paragraph 2 was reconsidered, amended and adopted by consensus at the ninety-ninth meeting, on 13 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 84 of the present report.

Draft Protocol I  
Technical Annex  
Chapter V - Civil defence

Article 14 - Identity cards\*

1. The identity card of the civil defence personnel provided for in Article 59, paragraph 3 of the Protocol is governed by the relevant provisions of Article 1 of this Annex.
2. The identity card for civil defence personnel may follow the model shown in Figure 1 of this Annex, except that it should bear the international distinctive sign of civil defence, the words "civil defence personnel" would appear instead of the words "civilian medical/religious personnel" and the words "PERMANENT/TEMPORARY" would not appear.

If civil defence personnel are permitted to carry light individual weapons, an entry to that effect should be mentioned.

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\* Adopted by consensus at the ninety-second meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish, except the last sentence of Article 14, paragraph 2 which was adopted at the ninety-seventh meeting, 13 May 1977. See paragraph 82 of the present report.



Draft Protocol I  
Technical Annex  
Chapter V - Civil defence

Article 15 - International distinctive sign of civil defence\*

1. The international distinctive sign of civil defence as provided for in Article 59, paragraph 4 of the Protocol is an equilateral blue triangle on an orange ground. A model is shown in Figure 3:

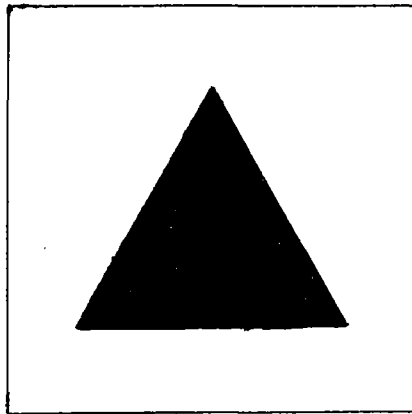


Fig. 3: - Sign in blue on an orange ground

2. It is recommended that:

(a) if the blue triangle is on a flag or armlet or tabard, the ground to the triangle be the orange flag, armlet or tabard

(b) one of the angles of the triangle be pointed vertically upwards

(c) no angle of the triangle touch the edge of the ground.

3. The international distinctive sign shall be as large as appropriate under the circumstances. The distinctive sign shall, whenever possible, be displayed on a flat surface or on flags visible from as many directions and from as far away as possible. Subject to the instructions of the competent authority, civil defence personnel shall, as far as possible, wear headgear and clothing bearing the international distinctive sign. At night or when visibility is reduced, the sign may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.

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\* Adopted by consensus at the ninety-second meeting, 11 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraph 83 of the present report.



ARTICLES OF DRAFT PROTOCOL II



Draft Protocol II

Part III - Wounded, sick and shipwrecked persons

Article 11 - Definitions\*

For the purposes of this Protocol,

(a) The words "wounded" and "sick" mean persons, whether military or civilian, who, because of trauma, disease or other physical or mental disorder or disability, are in need of medical assistance and care and who refrain from any act of hostility. These words shall also cover maternity cases, new-born babies and other persons who may be in need of immediate medical assistance or care, such as the infirm or expectant mothers, and who refrain from any act of hostility.

(b) "Shipwrecked" means persons, whether military or civilian, who are in peril at sea or on other waters as a result of misfortune affecting either them or the vessel or aircraft carrying them and who refrain from any act of hostility. These persons shall also be considered shipwrecked during their rescue until they acquire another status under this Protocol, provided that they continue to refrain from any act of hostility.

(c) "Medical units" means establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment - including first aid treatment - of the wounded, sick and shipwrecked, and for the prevention of disease, which belong to or are recognized and authorized by a party to the conflict. Medical units may be fixed or mobile, permanent or temporary.

(d) "Medical transportation" means the conveyance by land, water or air of the wounded, sick and shipwrecked, medical and religious personnel and medical equipment and supplies protected by this Protocol.

(e) "Medical transport" is a means of transportation, be it military or civilian, permanent or temporary, assigned exclusively to medical transportation and under the control of a party to the conflict.

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\* Adopted by consensus at the eightieth meeting on 4 June 1976 in the following languages: English, French, Russian and Spanish. See page 86 of the present report. Sub-paragraph (f) (i) was reconsidered and adopted (brackets deleted) by consensus at the ninety-ninth meeting, on 13 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. Point (iv) was added to paragraph (h) by consensus at the same meeting and in the same languages. See paragraph 86 of the present report.

(f) "Medical personnel" means those persons assigned exclusively to the medical purposes enumerated in sub-paragraph (c) and also those persons assigned exclusively to the administration of medical units or to the operation or administration of medical transports. Such assignments may be either permanent or temporary. The term shall include:

- (i) medical personnel of a Party to the conflict, whether military or civilian, including those assigned to medical tasks of civil defence;
- (ii) medical personnel of Red Cross (Red Crescent, Red Lion and Sun) organizations recognized and authorized by a Party to the conflict;
- (iii) medical personnel of other aid societies recognized and authorized by a Party to the conflict and located within the territory of the High Contracting Party in whose territory an armed conflict is taking place.

(g) "Permanent medical units", "permanent medical personnel" and "permanent medical transport" are those assigned exclusively to medical purposes for an indeterminate period. "Temporary medical units", "temporary medical personnel" and "temporary medical transport" are those devoted exclusively to medical purposes for limited periods during the whole of such period. Unless otherwise specified, the terms "medical units", "medical personnel" and "medical transport" respectively cover both permanent and temporary categories.

(h) "Religious personnel" means persons such as chaplains, whether military or civilian, engaged in the work of their ministry and attached either to:

- (i) the armed forces or other armed groups of a Party to the conflict, or to
- (ii) medical units of a Party to the conflict, or to
- (iii) medical units of the aid societies referred to in sub-paragraph (f), or to
- (iv) civil defence organizations of a Party to the conflict.

The attachment of religious personnel may be either permanent or temporary, and the relevant provisions of paragraph (g) apply to them.

(i) "Distinctive emblem" means the distinctive emblem of the Red Cross (Red Crescent, Red Lion and Sun) on a white ground when used for the protection of medical units and transports, or medical and religious personnel, equipment or supplies.

Draft Protocol II  
Part V - Civilian population  
Chapter II - Civil defence

Article 30 - Civil defence\*

Unarmed civilian civil defence personnel shall, except in the case of imperative military necessity, be permitted to carry out those civil defence tasks necessary for the survival of the civilian population.

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\* Adopted at the ninety-eighth meeting of Committee II, 13 May 1977, by 24 votes to none with 32 abstentions, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 89, 91 and 92 of the present report.

Draft Protocol II  
Part IV - Relief

Article 33 - Relief societies and relief actions\*

1. Relief societies established in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, shall be permitted to carry out relief activities in accordance with the fundamental principles of the Red Cross, as formulated by the International Red Cross Conferences, and no one shall be harassed, prosecuted, convicted or punished for such activities.
2. If the civilian population in any territory under the control of a Party to the conflict is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the Party or Parties concerned. Relief actions fulfilling the above conditions, or offers thereof, shall not be regarded as interference in the armed conflict.
3. The Parties to the conflict and each High Contracting Party through whose territory these relief supplies will pass shall facilitate rapid and unimpeded passage of all relief consignments provided in accordance with the conditions stated in paragraph 2.
4. The Parties to the conflict and each High Contracting Party which allows the passage of relief consignments in accordance with paragraph 3:
  - (a) shall have the right to prescribe the technical arrangements including the right of search under which such passage is allowed;
  - (b) may make such permission conditional on the satisfactory assurance that such relief consignments will be used for the purpose for which they are intended;

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\* Paragraphs 1, 2 and 3 were adopted by consensus at the ninety-fourth meeting of the Committee. Paragraph 4, except for sub-paragraph (b), was adopted by consensus at the same meeting. Sub-paragraph (b) was adopted by 47 votes to 2 with 12 abstentions.

Paragraph 5, except for the last sentence, was adopted by consensus at the ninety-fifth meeting of the Committee.

All these paragraphs were adopted at these meetings, on 12 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 93 to 97 and 99 of the present report.



(c) shall in no way whatsoever divert relief consignments from the purpose for which they are intended or delay their forwarding, except in cases of urgent necessity, in the interest of the civilian population concerned.

5. Medical personnel and medical units may, when required, take part in a relief action, subject to the conditions and technical arrangements prescribed by the Party or Parties to the conflict concerned. The relevant provisions of Part III of this Protocol shall apply to them, but in no circumstances may they exceed the terms of their mission. In particular, they shall take account of the security requirements of the party in whose territory they are carrying out their duties. The party in whose territory such medical personnel and units are operating may reserve the right to terminate their mission.

Draft Protocol II  
Part IV - Relief

Article 34 - Recording and information\*

1. Each Party to the conflict should, as rapidly as possible, organize, if necessary with the co-operation of the International Committee of the Red Cross, an information bureau to which it shall communicate all relevant information on the victims of the conflict who are in its power.

2. Each information bureau shall as soon as possible:

(a) transmit to the bureau of the adverse Party concerned, if necessary through the Central Tracing Agency of the International Committee of the Red Cross, the information thus obtained,

(b) undertake any enquiries necessary in order to reply to the requests addressed to it,

(c) endeavour to ensure that the information it receives is transmitted to an appropriate member of the family concerned, except in cases where such acts are liable to be prejudicial to the interests of the victims or of their relatives.

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\* Adopted by consensus at the ninety-fifth meeting, 12 May 1977, in the following languages: Arabic, English, French, Russian and Spanish. See paragraphs 93, 98 and 100 of the present report.

Geneva, 17 March - 10 June 1977

WORKING GROUP A REPORT

DRAFT ADDITIONAL PROTOCOL - CIVIL DEFENCE

Articles 54, 55, 56, 57, 59 and comments

Committee II referred to Working Group A the provisions on civil defence, including the amendments which had been submitted thereto.

The officers of the Working Group A were:

Mr. Solf (USA) - Chairman

Mr. Bothe (Federal Republic of Germany) - Rapporteurs  
Mr. Sanchez del Rio y Sierra (Spain)

The Working Group had 16 meetings. It constituted three sub-groups, chaired respectively by Messrs. Gonzalves (Netherlands), Schultz (Denmark) and Warras (Finland)

The Working Group proposes for adoption by Committee II the following articles.

CIVIL DEFENCE

Article 54 - Definitions and scope

For the purposes of this Protocol:

1. "Civil defence" is the performance of some or all of the undermentioned humanitarian tasks intended to protect the civilian population against the dangers and to help it to

recover from the immediate effects of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:

- (a) warning;
- (b) evacuation;
- (c) management of shelters;
- (d) management of blackout measures;
- (e) rescue;
- (f) medical services, including first aid, and religious assistance;
- (g) fire-fighting;
- (h) detection and marking of danger areas;
- (i) decontamination and similar protective measures;
- (j) provision of emergency accommodation and supplies;
- (k) emergency assistance in the restoration and maintenance of order in distressed areas;
- (l) emergency repair of indispensable public utilities;
- (m) emergency disposal of the dead;
- (n) assistance in the preservation of objects essential for survival;
- (o) complementary activities necessary to carry out any of the tasks mentioned above, including, but not limited to, planning and organization.

2. "Civil defence organizations" means those establishments and other units which are organized or authorized by the competent authorities of a Party to the conflict to perform any of the tasks mentioned in paragraph 1, and which are assigned and devoted exclusively to such tasks.

3. "Personnel" of civil defence organizations means those persons assigned by a Party to the conflict exclusively to the performance of the civil defence tasks mentioned in paragraph 1, including those personnel assigned by the competent authority of the Party to the conflict exclusively to the administration of these organizations.

4. "Matériel" of civil defence organizations means equipment, supplies and transports used by these organizations for the performance of the civil defence tasks mentioned in paragraph 1.

Article 55 - General protection

1. Civilian civil defence organizations and their personnel shall be respected and protected subject to the provisions of this Protocol, particularly the provisions of this section. They shall be entitled to carry out their civil defence tasks, except in case of imperative military necessity.

2. The provisions of paragraph 1 shall also apply to civilians who, although not members of civilian civil defence organizations respond to an appeal from the competent authorities and carry out civil defence tasks under their control.

3. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are covered by Article 47. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except in the case of imperative military necessity.

Article 56 - Civil defence in occupied territories

1. In occupied territories, civilian civil defence organizations shall receive from the authorities the facilities necessary for the performance of their tasks. In no circumstances shall their personnel be compelled to perform activities which would interfere with the proper performance of these tasks. The Occupying Power shall not change the structure or personnel of such units in any way which might jeopardize the efficient performance of their mission. Civilian civil defence organizations shall not be required to give priority to the nationals or interests of that Power.

2. The Occupying Power shall not compel, coerce or induce civilian civil defence organizations to perform their tasks in any manner prejudicial to the interests of the civilian population.

3. The Occupying Power may disarm civil defence personnel for reasons of security.

4. The Occupying Power shall neither divert from their proper use nor requisition buildings or matériel belonging to or in use by civil defence organizations if such diversion or requisition would be harmful to the civilian population.

5. Provided that the general rule in paragraph 4 continues to be observed, the Occupying Power may requisition or divert these resources, subject to the following particular conditions:

(a) That the buildings or matériel are necessary for other needs of the civilian population; and

(b) That the requisition or diversion continues only while such necessity exists.

6. The Occupying Power shall neither divert nor requisition shelters provided for the use of the civilian population or needed by this population.

Article 57<sup>1/</sup> /civilian/ civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations

1. Articles 55, 56, 58 and 59 also apply to the personnel and matériel or /civilian/ civil defence organizations of neutral or other States not Parties to the conflict which carry out the civil defence tasks mentioned in Article 54 in the territory of a Party to the conflict, with the consent and under the control of that Party. Notification of such assistance shall be given as soon as possible to any adverse Party concerned. In no circumstances shall this activity be deemed to be an interference in the conflict.

2. The Parties to the conflict and each High Contracting Party concerned shall facilitate international co-ordination of the civil defence actions referred to in paragraph 1, when appropriate. In such cases the relevant international organizations are covered by the provisions of this chapter.

3. In occupied territories, the Occupying Power may only exclude or restrict the activities of /civilian/ civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations if it can assure the adequate performance of civil defence tasks from its own resources or those of the occupied territory.

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1/ Final text based on an oral presentation made in Working Group A.

Article 59 - Identification

1. Each Party to the conflict shall endeavour to ensure that its civil defence organizations, their personnel, buildings and matériel are identifiable while exclusively devoted to the performance of civil defence tasks. Shelters provided for the civilian population should be similarly identifiable.

2. Each Party to the conflict shall also endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian shelters, civil defence buildings, personnel and matériel on which the international distinctive sign of civil defence is displayed.

3. In occupied territories and in areas where fighting is taking place or is likely to take place, civilian civil defence personnel should be recognizable by the international distinctive sign of civil defence and by an identity card certifying their status.

4. The international distinctive sign of civil defence is an equilateral blue triangle on an orange ground when used for the protection of civil defence organizations, their buildings, personnel and matériel and for civilian shelters.

5. In addition to the distinctive sign, Parties to the conflict may agree upon the use of distinctive signals for civil defence identification purposes.

6. The application of the provisions of paragraphs 1 to 4 is governed by Chapter V of Annex to this Protocol.

7. In time of peace the sign described in paragraph 4 may, with the consent of the competent national authorities, be used for civil defence identification purposes.

8. The High Contracting Parties and the Parties to the conflict shall take the measures necessary to supervise the display of the international distinctive sign of civil defence and to prevent and repress any misuse thereof.

9. Identification of civil defence medical and religious personnel, medical units, and medical transports is also governed by Article 18.

Comments

Except as otherwise indicated, the respective comments have been requested by various delegations and were not objected by any delegation in Working Group A. The exact wording, however, is the responsibility of the Rapporteurs.

Article 54, paragraph 1

The term "disasters" in the introductory phrase has to be broadly construed. It covers natural disasters as well as any other calamity not caused by hostilities.

The items of the enumeration of civil defence tasks have to be read in conjunction with the introductory phrase; that is to say, all these activities are intended to protect the civilian population, etc. Thus, the term "warning" in lit. a, means warning of the civilian population, in particular with respect to forthcoming attacks or natural disasters.

With particular reference to lit. k, it has to be pointed out that nothing in the definition of civil defence alters the position of civilian police who are protected as civilians. Ordinary police functions are not civil defence functions. But in distressed areas, that is areas stricken by hostilities or disasters, where the normal functioning of public administration has broken down, civil defence organizations may as an exceptional measure assist also in the maintenance of order. Such assistance may include the direction of movements of refugees within or from distressed areas.

In lit. l, the term "public utilities" includes, inter alia, water control works, (e.g. dams, dykes, drainage and discharging canals, outlets, sluices, locks, flood gates and pumping installations).

In lit. n, the term "essential" has been chosen in order to avoid confusion with the term "objects indispensable to the survival" used in Article 48. It was agreed that the assistance referred to did not involve guard duties or require the use of weapons. An illustration of the kind of assistance intended was temporary repair of a silo which might have been damaged.

The expression "mentioned above" in lit. o does not refer to the enumeration of civil defence tasks, but also to the introductory phrase of paragraph 1.

A civil defence organization may perform additional tasks, not included in paragraph 1, without losing the general protection afforded by this Chapter, provided that these tasks do not constitute acts harmful to the enemy under Article 58. Those performing these additional tasks are, however, not protected by this Chapter while they are performing them.

With respect to paragraph 2, organizations "which are assigned and devoted exclusively" to civil defence tasks include those which are assigned and devoted to such tasks only for a limited period, even if that period is a relatively short one, provided, however, that this assignment or devotion is an exclusive one.



The definition of "civil defence organizations" in this article in no way deprives individuals carrying out civil defence tasks of their rights under this chapter so long as they are part of, or under contract to, an organization of the type referred to in Article 63 of the Fourth Convention; and there is no need for them to be classified or embodied into a formal unit.

Article 54, paragraph 3

In the definition of "personnel", the word "exclusively" is used in order to indicate that this personnel, while assigned to civil defence tasks, shall not have other functions.

Article 55

Civil defence forms part of civilian life. Therefore, civil defence personnel are protected as civilians under this Protocol. The most important provisions concerning the protection of civilians and the civilian population are to be found in Section I of Part IV. This is the meaning of the reference to "this Protocol, particularly this Section" in paragraph 1, which includes also a reference to certain conditions and limitations of protection.

Article 56

Article 55 applies to both occupied and non-occupied territory. Article 56 is thus supplementary to Article 55 as far as occupied territories are concerned. Article 63 of the Fourth Convention is also applicable.

Article 57

It is understood that the activities of civil defence bodies of neutral or other States not Parties to the conflict /or of international civil defence organizations/ in occupied territories are subject to the consent and control of the Occupying Power.

Article 59, paragraphs 5 and 7

"Civil defence identification" means the identification of shelters for the civilian population and of civil defence personnel, buildings and matériel.

Article 59, paragraphs 7 and 8

It is understood that these paragraphs do not deal with other than protective uses of the distinctive sign of civil defence.

Article 59 - paragraph 9

Medical and religious personnel as well as medical units and transports of civil defence organizations are covered by Part II of the Protocol. This personnel may be assisted or even replaced

by other civil defence personnel which is able to perform medical functions, but which is mainly assigned to other civil defence tasks. This might give rise to difficulties with respect to the command structure. Medical functions may also be performed on a temporary basis by civil defence personnel in cases of emergency where the necessary formalities have not been fulfilled in order to enable them to use the red cross as a distinctive emblem. In such cases, it is desirable that personnel and units performing medical tasks are protected by the international sign of civil defence. This idea is conveyed by the inclusion of the word also in this paragraph.

Geneva, 17 March - 10 June 1977

REPORT OF WORKING GROUP A

DRAFT ADDITIONAL PROTOCOL ON CIVIL DEFENCE

Article 58 - Cessation of protection

1. The protection to which /civilian/ civil defence organizations, their personnel, buildings, shelters and matériel are entitled shall not cease unless they commit or are used to commit, outside their proper tasks, acts harmful to the enemy. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

2. The following shall not be considered as acts harmful to the enemy:

- (a) that civil defence tasks are carried out under the direction or control of military authorities;
- (b) that civilian civil defence personnel co-operate with military personnel in the performance of civil defence tasks, or that some military personnel /or military units/ are attached to civilian civil defence organizations;
- (c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat;

3. It shall also not be considered an act harmful to the enemy, that /civilian/ civil defence personnel bear light individual weapons for the purpose of maintaining order or for self-defence. However, in areas where land fighting is taking place or is likely to take place, the Parties to a conflict shall undertake the appropriate measures to limit these weapons to handguns, such as pistols or revolvers, in order to assist in distinguishing between civil defence personnel and combatants. Although civil defence personnel bear other light individual weapons in such areas they shall nevertheless be respected and protected as soon as they have been recognized as such.

4. Similarly, the organization of /civilian/ civil defence organizations along military lines, and compulsory service in them, shall not deprive them of the protection conferred by this Chapter.

#### COMMENTARY AGREED UPON BY THE WORKING GROUP

The provisions in paragraph 3 are valid for all civil defence personnel, civilian as well as military. To this effect a cross-reference has been made in Article 59 bis on military personnel assigned to civil defence organizations, paragraph 1 (c).

The words "light individual weapons" should be interpreted in the same way as in Article 13, paragraph 2 (a) on civilian medical personnel.

On the question of self-defence, it is understood that civil defence personnel may be armed for self-defence against marauders or other criminal individuals or groups. They may not engage in combat against the adverse party and may not use force to resist capture. If, however, they are unlawfully attacked by individual members of the adverse party's forces, they may use their weapons in self-defence after having made a reasonable effort to identify themselves as civil defence personnel.

The words "respected and protected" mean that the personnel must not knowingly be attacked or unnecessarily prevented from discharging their proper functions.

For members of the armed forces, assigned to civil defence organizations, the last provision of paragraph 3 does not imply any change in their status as prisoners of war, if they fall into the hands of the adverse party.

COMMENTS BY THE RAPPORTEUR

Article 58, paragraph 2, lit. b

"Some military personnel" does not refer to large numbers of members of the armed forces, but to a relatively small number.

Article 58

The Working Group decided not to adopt paragraph 4 of amendment CDDH/II/406, because the matters dealt with in this amendment were already covered by other provisions, e.g. Articles 58 paragraph 1, 35 paragraph 1, 36 paragraph 1, 46 paragraph 3, 47 paragraph 2. The relevant text of amendment CDDH/II/406 is as follows:

4. Whenever civilian units or personnel of civil defence perform any of those tasks enumerated in Article 54 (a) in direct support of military operations or objectives, the protection to which they are otherwise entitled under this Chapter shall cease for the duration of such performance. Their entitlement to display the distinctive sign of civil defence, described in Article 59, shall also cease for the duration of the performance of such tasks.



Geneva, 17 March - 10 June 1977

Supplement to the Report of Working Group A  
on Civil Defence

Technical Annex<sup>\*/</sup>

Chapter I

Identity Card

Art. 2 - Identity card for temporary civilian medical and religious personnel

Note 4 to read: (Note 3 of document CDDH/CR/RD/23)

4. The identity card for civil defence personnel is described in Article 14 of this Annex.

Chapter V

Civil Defence

Article 14 - Identity cards

1. The identity card of the /permanent/ civil defence personnel provided for in Article 59, paragraph 3 of the Protocol is governed by the relevant provisions of Article 1 of this annex.

2. The identity card for civil defence personnel may follow the model shown in Figure 1 of this Annex, except that it should bear the international distinctive sign of civil defence, the words "civil defence personnel" would appear instead of the words "civilian medical/religious personnel" and the words "PERMANENT/TEMPORARY" would not appear.

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<sup>\*/</sup> The proposed changes should be made in document CDDH/II/371 (Report of Technical Sub-Committee to Committee II)

[Further information, for instance, regarding the permission to carry weapons, may be added.]

[If Civil Defence personnel are permitted to carry light individual weapons, an entry to that effect including the registration number shall be mentioned.]

#### Article 15 - International distinctive sign of civil defence

1. The international distinctive sign of civil defence as provided for in Article 59, paragraph 4 of the Protocol is an equilateral blue triangle on an orange ground. A model is shown in Figure 3:

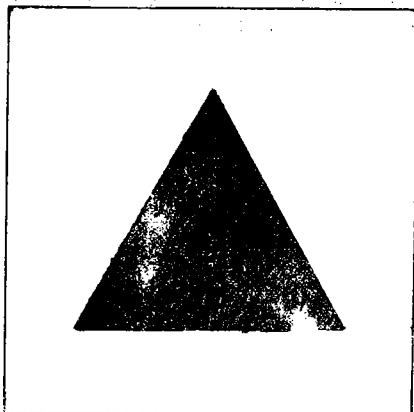


Fig. 3 - Sign in blue on an orange ground

2. It is recommended that:

(a) if the blue triangle is on a flag or armband or tabard, the ground to the triangle be the orange flag, armband or tabard

(b) one of the angles of the triangle be pointed vertically upwards

(c) no angle of the triangle touch the edge of the ground

3. The international distinctive sign shall be as large as appropriate under the circumstances. The distinctive sign shall, whenever possible, be displayed on a flat surface or on flags visible from as many directions and from as far away as possible. Subject to the instructions of the competent authority, civil defence personnel shall as far as possible, wear headgear and clothing bearing the international distinctive sign. At night or when visibility is reduced, the sign may be lighted or illuminated; it may also be made of materials rendering it recognizable by technical means of detection.



Geneva, 17 March - 10 June 1977

COMMITTEE II

Report of Working-Group B on  
Articles 33 and 34 of Protocol II (Relief)

Article 33 - Relief Societies and Relief Actions

1. Relief societies established in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, shall be permitted to carry out relief activities in accordance with / humanitarian principles /, / the fundamental principles of the Red Cross, as formulated by the International Red Cross Conferences /, and no one shall be harassed, prosecuted, convicted or punished for such activities.
2. If the civilian population in any territory under the control of a Party to the conflict is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the Party or Parties concerned. Relief actions fulfilling the above conditions, or offers thereof, shall not be regarded as interference in the armed conflict.
3. The Parties to the conflict and each High Contracting Party through whose territory these relief supplies will pass shall facilitate rapid and unimpeded passage of all relief consignments provided in accordance with the conditions stated in paragraph 2.
4. The Parties to the conflict and each High Contracting Party which allows the passage of relief consignments in accordance with paragraph 3:
  - (a) shall have the right to prescribe the technical arrangements including the right of search under which such passage is allowed;

(b) May make such permission conditional on the distribution of relief consignments being made under the supervision of an impartial humanitarian body approved by the receiving party.

(c) Shall in no way whatsoever divert relief consignments from the purpose for which they are intended or delay their forwarding, except in cases of urgent necessity, in the interest of the civilian population concerned.

5. If necessary, medical personnel and medical units may take part in a relief action, subject to the conditions and technical arrangements prescribed by the Party or Parties to the conflict concerned. The relevant provisions of Part III of this Protocol shall apply to them, but in no circumstances may they exceed the terms of their mission. In particular, they shall take account of the security requirements of the party in whose territory they are carrying out their duties. The mission of any of those personnel who do not respect these conditions may be terminated.

#### Article 34 - Recording and information

1. Each Party to the conflict should, as rapidly as possible, organize, if necessary, with the co-operation of the International Committee of the Red Cross, an information bureau to which it shall communicate all relevant information on the victims of the conflict who are in its power.

2. Each information bureau shall as soon as possible :

(a) transmit to the bureau of the adverse Party concerned, if necessary through the Central Tracing Agency of the International Committee of the Red Cross, the information thus obtained,

(b) undertake any enquiries necessary in order to reply to the requests addressed to it,

(c) endeavour to ensure that the information it receives is transmitted to an appropriate member of the family concerned,

except in cases where such acts are liable to be prejudicial to the interests of the victims or of their relatives.

COMMENTS BY THE RAPPORTEUR

1. Working Group B met times under the chairmanship of Dr. Bosco Jakovljević; Mr. Sánchez del Rio acted as Rapporteur and Mrs. Haritini Tollenaere as Legal Secretary.
2. A sub-group was set up under the chairmanship of Mr. Warras (Finland) to give deeper consideration to some of the questions raised, particularly in connexion with Article 33, and it prepared the text which was considered by the Working Group. Another sub-group (under the chairmanship of Dr. Mariott) sought solutions to certain objections raised in connexion with the same article, particularly as regards the technical condition for the passage of relief consignments.
3. For the sake of brevity, in Article 34 the words "victims of the conflict" were retained; these must be understood to include:
  - (a) Able-bodied, wounded or sick combatants of the adverse Party, captured by the Party to the conflict;
  - (b) Combatants of the adverse Party killed in battle and whose bodies are found by the Party to the conflict;
  - (c) Prisoners who have died in captivity;
  - (d) Civilians of the adverse Party who have been placed under surveillance, interned or imprisoned for reasons relating to the conflict;
  - (e) Civilians of the adverse Party who have died in the fighting and whose bodies are found by the Party to the conflict;
  - (f) Civilians of the adverse Party who have died in captivity.



Geneva, 17 March - 10 June 1977

COMMITTEE II

Report of Working Group B on  
Articles 33 and 34 of Protocol II (Relief)

Add to the report the following paragraph:

4. The Working Group decided that Article 35 should be incorporated in Article 33 as paragraph 1.



Geneva, 17 March - 10 June 1977

COMMITTEE II

Text adopted by the "B" Working Group concerning Articles 60 to 62 bis of the Protocol I on Relief.

ARTICLE 60 - Field of application

The provisions of this section apply to the civilian population as defined in this Protocol and are supplementary to Articles 23, 55, 59 to 62 and other relevant provisions of the Fourth Convention.

ARTICLE 61 - Basic needs in occupied territories

1. In addition to the duties specified in the Article 55 of the Fourth Convention concerning food and medical supplies the Occupying Power shall, / to the fullest extent of the means available to it / and without any discrimination, also ensure the provision of clothing, bedding, means of shelter, other supplies essential to the survival of the civilian population of the occupied territory and objects necessary for religious worship.
2. Relief actions, for the benefit of the civilian population of occupied territory are governed by Article 59 through 62 and 108 through 111 of the Fourth Convention, as well as Article 62 bis of this Protocol, and shall be implemented without delay.

ARTICLE 62 - Relief Action

1. If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 61, relief actions which are humanitarian and impartial in character and conducted without any discrimination shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the

distribution of relief consignments, priority shall be given to those persons such as children, expectant mothers and maternity cases who, under this Protocol or the Fourth Convention, are to be accorded privileged treatment or particular protection.

2. The Parties to the conflict, and each High Contracting Party shall allow and shall facilitate rapid and unimpeded passage of all relief consignments, equipment and personnel provided in accordance with this section, even if such assistance is destined for the civilian population of the adverse Party.

3. The Parties to the conflict and each High Contracting Party, which allows the passage of relief consignments, equipment and personnel in accordance with paragraph 2,

(a) shall have the right to prescribe the technical arrangements, including search, under which such passage is allowed;

(b) may make such permission conditional on the distribution of this assistance being made under the local supervision of the Protecting Power, / or of an impartial international humanitarian body / ;

(c) shall, in no way whatsoever, divert relief consignments from the purpose for which they are intended nor delay their forwarding, except in cases of urgent necessity, in the interest of the civilian population concerned.

4. The Parties to the conflict shall protect relief consignments and facilitate their rapid distribution.

5. The Parties to the conflict and each High Contracting Party concerned shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1.

#### NEW ARTICLE 62 BIS - Relief personnel

1. Where necessary, relief personnel may form part of the assistance provided in any relief action, in particular for transportation and distribution of relief consignments; the participation of such personnel shall be submitted to the approval of the Party in whose territory they will carry out their duties.

2. This personnel shall be respected and protected.



3. Each Party in receipt of relief consignments shall, to the fullest extent practicable, assist the relief personnel referred to in para. 1. in carrying out their relief mission. Only in case of imperative military necessity may the activities of these relief personnel be limited or their movements temporarily restricted.

4. Under no circumstances may relief personnel exceed the terms of their mission under this Protocol. In particular they shall take account of the necessities of security of the Party in whose territory they are carrying out their duties. If these conditions are not respected the mission of relief personnel may be terminated.

## WORKING GROUP B

Draft report

1. Under the agreement reached within Committee II at its eighty-third meeting on 14 April, the Working Group was set up to examine the section dealing with Relief and, under the chairmanship of Dr. Boško Jakovljević, it met five times. Mr. Javier Sánchez del Río acted as the Group's Rapporteur, assisted by Mrs. Tollenard in the capacity of Legal Secretary.

2. It was agreed to retain in Article 60 the specific reference to Articles 23, 55 and 55-62 of the Fourth Convention, with the addition of the phrase "and other relevant provisions". On the other hand, it was considered unnecessary to allude to other rules of international law since that might raise problems of interpretation and in any case be inappropriate in a Protocol to the Geneva Conventions.

It is understood that the reference to the relevant provisions of the Fourth Convention applies to all the articles of the Part on relief.

3. Two opposing trends emerged with regard to Article 62, when a counter-proposal was made to the text set out in document CDDH/II/398/Add.1, placing the parties under a clearly defined obligation. A small group was formed to work out a text acceptable to all and it reached the following conclusions:

(a) Paragraph 1 of Article 62 should be reworded to state that relief actions shall be carried out in accordance with agreements concluded between the Parties.

(b) Article 61 should be redrafted so that a reference to it should suffice in Article 62.

(c) The field of application of both articles should be more clearly delimited: 61 applies to occupied territories and 62 to unoccupied territories.

4. One delegation proposed that the words "by international bodies such as the United Nations agencies or the International Red Cross" should be inserted in paragraph 5 of Article 62. Most members of the group took the opposite view, however, and the proposal was withdrawn although it was agreed that if the Red Cross group of delegates examined the matter in greater detail and decided that it would be desirable to mention that body, the proposal could be revived before the Committee.

5. In order to obviate problems arising from the presence of certain persons required for relief actions, a new Article 62 bis was proposed: this relates to the requirements for the admission and service of such personnel.

6. The following sentences have been retained in square brackets since no consensus on them was reached within the Working Group:

(a) Article 61, paragraph 1: "of the means available to it". Some delegations took the view that these words restricted protection of the civilian population to the advantage of the occupying power.

(b) Article 62, paragraph 3 (b): "or of an impartial humanitarian body". Several delegations urged that it should be deleted as superfluous (in view of the terms of Article 5) and dangerous in its interpretation.

7. Since the Working Group examined not only the content but also the form of these articles, the Drafting Committee of Committee II, set up at the first session of the Conference, decided that there was no need for it to meet and that the Working Group could submit the text directly to the Committee. If necessary, the Drafting Committee could meet later to finalize the drafting.



Geneva, 17 March - 10 June 1977

REPORT OF WORKING GROUP ON CHAPTER II (Civil Defence)

DRAFT ADDITIONAL PROTOCOL II

PART V - Civilian Population

Chapter II - Civil Defence

Article 30

Subject to temporary and exceptional measures imposed for reasons of security by the party to the conflict, civil defence organizations existing in the territory of the party to the conflict or created in that territory during the conflict, or civilians who assist them to carry out their tasks, shall be permitted to pursue their activities for the purpose of ensuring the conditions necessary for the survival of the civilian population, and shall not be the object of attack.

Article 31: deleted



Geneva, 17 March - 10 June 1977

SECOND REPORT OF WORKING GROUP ON CHAPTER II (Civil Defence)

DRAFT ADDITIONAL PROTOCOL II

PART V - Civilian Population

Chapter II - Civil Defence

Article 30 - Civil Defence

Unarmed civilian Civil Defence personnel shall, except in the case of imperative military necessity, be permitted to carry out those Civil Defence tasks necessary for the survival of the civilian population.