

OFFICIAL RECORDS

OF THE

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

GENEVA (1974 -1977)

VOLUME III

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.

*Document circulated in French only.

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VOLUME III

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OFFICIAL RECORDS

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 III

TABLE OF AMENDMENTS TO THE DRAFT ADDITIONAL PROTOCOLS

Part One

AMENDMENTS TO DRAFT ADDITIONAL PROTOCOL I AND ANNEX

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AMENDMENTS TO THE DRAFT ADDITIONAL PROTOCOLS

Part One

AMENDMENTS TO DRAFT ADDITIONAL PROTOCOL I AND ANNEX

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INTRODUCTION

THE TABLE OF AMENDMENTS is a compilation of the draft amendments to the International Committee of the Red Cross (ICRC) draft Additional Protocols to the Geneva Conventions of August 12, 1949; it contains all the draft amendments that were submitted formally in writing during the four sessions of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts.

The Table of Amendments comprises volumes III and IV of the Official Records of the Conference. Volume III, part one of the table, contains amendments submitted to draft Protocol I and the Annex thereto, and volume IV, part two of the table, amendments submitted to draft Protocol II, four annexes to the Table of Amendments containing particular amendments to the draft Additional Protocols and a number of information documents. An introduction and a comparative table of the titles of the articles of the draft Protocol is included in each volume. In the first part of the comparative table, the numbers and titles of the articles of the ICRC draft Additional Protocols are set out against those of the corresponding articles proposed or approved by the main Committees and of those of the articles adopted in the Final Act, and in the second part the titles of the articles of the Final Act are listed against those of the ICRC draft or of the proposed new articles in which they originated.

The amendments are reproduced under the titles of the articles to which they were submitted, either those of the articles of the draft Additional Protocols or those of new articles proposed during the Conference. To facilitate the use of the table, whenever articles in the Final Act bear a different number or title from those first proposed for them, the number or title in the Final Act is given in a footnote.

The amendments are arranged in the chronological order in which they were submitted. In some cases, where articles were radically changed or replaced by new articles in the course of the Conference, explanatory notes have been added to facilitate the identification of the amendments and the articles to which they relate.

The names of the countries sponsoring amendments are those borne by the countries concerned at the time the amendments were submitted.

In volume IV, the Philippines proposal for a draft code of international crimes and procedure in violations of the Conventions and the Protocol is reproduced as an annex (Annex I to the Table of Amendments) in compliance with the request of the Philippines delegation (CDDH/I/346).

Annex II to the same volume contains the amendments submitted by the Republic of Viet-Nam; Annex III contains proposed amendments to draft Protocol I submitted by the Democratic Republic of Viet-Nam, and Annex IV amendments to draft Protocol II as a whole submitted by Canada.

The four Annexes to the Table of Amendments have been placed in chronological order according to the date of submission of the first amendment in the annex (Annexes I and II) or the date when the proposal was made (Annexes III and IV).

The Annexes are followed by a number of information documents submitted for the attention of the Conference by various governments, governmental and non-governmental organizations, and other bodies.

In the Russian version of the table, as in the other volumes of the Official Records of the Diplomatic Conference, documents submitted at the first session are reproduced in English, since Russian was not an official working language until the second session of the Conference. As there was no official translation into Russian of the ICRC draft Additional Protocols, the titles of the ICRC articles also are given in English.

An index of the titles in English of the articles in the ICRC draft Additional Protocols and the Final Act and of the articles proposed or adopted in the main Committees is included in the English version of the Table of Amendments and in volume XVII of the Official Records of the Conference.

I. PROTOCOL I - COMPARATIVE TABLE OF TITLES OF ARTICLES

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COMPARATIVE TABLE OF TITLES OF ARTICLES

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Article 1 - Scope of the present Protocol	General principles	Article 1 - General principles and scope of application
Article 2 - Definitions	Definitions	Article 2 - Definitions
Article 3 - Beginning and end of application	Beginning and end of application	Article 3 - Beginning and end of application
Article 4 - Legal status of the Parties to the conflict	Legal status of the Parties to the conflict	Article 4 - Legal status of the Parties to the conflict
Article 5 - Appointment of Protecting Powers and of their substitute	Appointment of Protecting Powers and of their substitute	Article 5 - Appointment of Protecting Powers and of their substitute
Article 6 - Qualified persons	Qualified persons	Article 6 - Qualified persons
Article 7 - Meetings	Meetings	Article 7 - Meetings
Article 8 - Definitions	Definitions	Article 8 - Terminology
Article 9 - Field of application	Field of application	Article 9 - Field of application

ICRC

COMMITTEE

FINAL ACT

Article 10 - Protection and care

Article 10 - Protection and care

Article 11 - Protection of persons

Article 11 - Protection of persons

Article 12 - Medical units

Article 12 - Protection of medical units

Article 13 - Discontinuance of protection of civilian medical units

Article 13 - Discontinuance of protection of civilian medical units

Article 14 - Requisition

Article 14 - Limitations on requisition of civilian medical units

Article 15 - Civilian medical and religious personnel

Article 15 - Protection of civilian medical and religious personnel

Article 16 - General protection of medical duties

Article 16 - General protection of medical duties

Article 17 - Role of the civilian population

Article 17 - Role of the civilian population and of aid societies

Article 18 - Identification

Article 18 - Identification

Article 19 - States not parties to a conflict

Article 19 - Neutral and other States not Parties to the conflict

Article 98 - Revision of Annex I

Article 18 bis - Revision of the Annex (Originally Article 16 of the Annex to Protocol I)

<u>ICRC</u>	<u>COMMITTEE</u>	<u>FINAL ACT</u>
Article 20 - Prohibition of reprisals	Prohibition of reprisals	Article 20 - Prohibition of reprisals
	Article 20 <u>bis</u> - Purpose	Article 32 - General principle
	Article 20 <u>ter</u> - Missing persons	Article 33 - Missing persons
	Article 20 <u>quater</u> - Remains of deceased	Article 34 - Remains of deceased
Article 21 - Definitions	Definitions	Article 8 - Terminology
Article 22 - Search for wounded		
Article 23 - Application	Article 22 - Medical vehicles	Article 21 - Medical vehicles
Article 24 - Protection	Article 23 - Hospital ships and coastal rescue craft	Article 22 - Hospital ships and coastal rescue craft
Article 25 - Notification	Article 24 - Other medical ships and craft	Article 23 - Other medical ships and craft
Article 26 - Sectors controlled by national and allied forces	Article 26 - Protection of medical aircraft	Article 24 - Protection of medical aircraft
Article 27 - Contact zone	Article 26 <u>bis</u> - Medical aircraft in areas not controlled by an adverse Party	Article 25 - Medical aircraft in areas not controlled by an adverse Party
	Medical aircraft in contact or similar zones	Article 26 - Medical aircraft in contact or similar zones

ICRC

COMMITTEE

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Article 28 - Sectors controlled by enemy forces

Medical aircraft in areas controlled by an adverse Party

Article 27 - Medical aircraft in areas controlled by an adverse Party

Article 29 - Restrictions

Restrictions on operations of medical aircraft

Article 28 - Restrictions on operations of medical aircraft

Article 30 - Agreements and notifications

Notifications and agreements concerning medical aircraft

Article 29 - Notifications and agreements concerning medical aircraft

Article 31 - Landing

Landing and inspection

Article 30 - Landing and inspection of medical aircraft

Article 32 - States not parties to the conflict

Neutral and other States not Parties to the conflict

Article 31 - Neutral and other States not Parties to the conflict

Article 33 - Prohibition of unnecessary injury

Basic rules

Article 35 - Basic rules

Article 34 - New weapons

New weapons

Article 36 - New weapons

Article 35 - Prohibition of perfidy

Prohibition of perfidy

Article 37 - Prohibition of perfidy

Article 36 - Recognized signs

Recognized emblems

Article 38 - Recognized emblems

Article 37 - Emblems of nationality

Emblems of nationality

Article 39 - Emblems of nationality

ICRC

Article 38 - Safeguard of an enemy hors de combat and giving quarter

Article 39 - Aircraft occupants

Article 40 - Independent missions

Article 41 - Organization and discipline

Article 42 - New category of prisoners of war

Article 43 - Basic rule

Article 44 - Field of application

Article 45 - Definition of civilians and civilian population

COMMITTEE

Quarter

Article 38 bis - Safeguard of an enemy hors de combat

Aircraft occupants

Independent missions

Organization and discipline

New category of prisoners of war

Article 42 bis (b) - Protection of persons taking part in hostilities

Article 42 quater - Mercenaries

Basic rule

Field of application

Definition of civilians and civilian population

FINAL ACT

Article 40 - Quarter

Article 41 - Safeguard of an enemy hors de combat

Article 42 - Occupants of aircraft

Article 46 - Spies

Article 43 - Armed forces

Article 44 - Combatants and prisoners of war

Article 45 - Protection of persons who have taken part in hostilities

Article 47 - Mercenaries

Article 48 - Basic rule

Article 49 - Definition of attacks and scope of application

Article 50 - Definition of civilians and civilian population

ICRC

Article 46 - Protection of the civilian population

Article 47 - General protection of civilian objects

Article 48 - Objects indispensable to the survival of the civilian population

Article 49 - Works and installations containing dangerous forces

Article 50 - Precautions in attack

Article 51 - Precautions against the effects of attacks

Article 52 - Non-defended localities

Article 53 - Neutralized localities

COMMITTEE

Protection of the civilian population

General protection of civilian objects

Article 47 bis - Protection of cultural objects and of places of worship

Objects indispensable to the survival of the civilian population

Article 48 bis - Protection of the natural environment

Works and installations containing dangerous forces

Precautions in attack

Precautions against the effects of attacks

Non-defended localities

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Article 51 - Protection of the civilian population

Article 52 - General protection of civilian objects

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Article 54 - Protection of objects indispensable to the survival of the civilian population

Article 55 - Protection of the natural environment

Article 56 - Protection of works and installations containing dangerous forces

Article 57 - Precautions in attack

Article 58 - Precautions against the effects of attacks

Article 59 - Non-defended localities

Article 60 - Demilitarized zones

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Article 54 - Definition	Definitions and scope	Article 61 - Definitions and scope
Article 55 - Zones of military operations	General protection	Article 62 - General protection
Article 56 - Occupied territories	Civil defence in occupied territories	Article 63 - Civil defence in occupied territories
Article 57 - Civil defence bodies of States not parties to a conflict and international bodies	Civilian civil defence organizations of neutral or other States not Parties to the conflict and of international co-ordinating organizations	Article 64 - Civilian civil defence organizations of neutral or other States not Parties to the conflict and international co-ordinating organizations
Article 58 - Cessation of protection	Cessation of protection	Article 65 - Cessation of protection
Article 59 - Identification	Identification	Article 66 - Identification
Article 60 - Field of application	Article 59 bis - Members of the armed forces and military units assigned to civil defence organizations	Article 67 - Members of the armed forces and military units assigned to civil defence organizations
Article 61 - Supplies	Field of application	Article 68 - Field of application
Article 62 - Relief actions	Basic needs in occupied territories	Article 69 - Basic needs in occupied territories
	Relief actions	Article 70 - Relief actions

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Article 63 - Field of application	Article 62 <u>bis</u> - Relief personnel	Article 71 - Personnel participating in relief actions
Article 64 - Refugees and stateless persons	Field of application	Article 72 - Field of application
Article 65 - Fundamental guarantees	Refugees and stateless persons	Article 73 - Refugees and stateless persons
Article 66 - Objects indispensable to the survival of the civilian population	Article 64 <u>bis</u> - Reunion of dispersed families	Article 74 - Reunion of dispersed families
Article 67 - Protection of women	Fundamental guarantees	Article 75 - Fundamental guarantees
Article 68 - Protection of children	Objects indispensable to the survival of the civilian population	Article 49 - Definition of attacks and scope of application
Article 69 - Evacuation of children	Protection of women	Article 54 - Protection of objects indispensable to the survival of the civilian population
	Protection of children	Article 76 - Protection of women
	Evacuation of children	Article 77 - Protection of children
		Article 78 - Evacuation of children

ICRC

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New article after Article 69 - Protection of journalists engaged in dangerous missions	Article 69 - Measures of protection for journalists
Article before (or after) Article 70 - Grave violations	Article 89 - Co-operation
Measures for execution	Article 80 - Measures for execution
Article 70 <u>bis</u> (a) - Activi- ties of the Red Cross and other humanitarian organi- zations	Article 81 - Activities of the Red Cross and other humani- tarian organizations
Legal advisers in armed forces	Article 82 - Legal advisers in armed forces
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Repression of breaches of the present Protocol	Article 85 - Repression of breaches of this Protocol
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Superior orders	
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Article 78 - Extradition

Article 79 - Mutual assistance in criminal matters

Mutual assistance in criminal matters

Article 88 - Mutual assistance in criminal matters

Article 79 bis - International Fact-Finding Commission

Article 90 - International Fact-Finding Commission

Article before Article 80 - Responsibility

Article 91 - Responsibility

Article 80 - Signature

Signature

Article 92 - Signature

Article 81 - Ratification

Ratification

Article 93 - Ratification

Article 82 - Accession

Accession

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Article 83 - Entry into force

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Article 84 - Treaty relations upon entry into force of the present Protocol

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Article 97 - Amendment

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Denunciation

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Article 100 - Notifications

Article 89 - Registration

Registration

Article 101 - Registration

Article 90 - Authentic texts and official translations

Authentic texts and official translations

Article 102 - Authentic texts

PROTOCOL I

2. Final Act - International Committee of the Red Cross draft Additional Protocols

FINAL ACT

Article 1 - General principles and scope of application

Article 2 - Definitions

Article 3 - Beginning and end of application

Article 4 - Legal status of the Parties to the conflict

Article 5 - Appointment of Protecting Powers and of their substitute

Article 6 - Qualified persons

Article 7 - Meetings

Article 8 - Terminology

Article 9 - Field of application

Article 10 - Protection and care

ICRC

Article 1 - Scope of the present Protocol

Article 2 - Definitions

Article 3 - Beginning and end of application

Article 4 - Legal status of the Parties to the conflict

Article 5 - Appointment of Protecting Powers and of their substitute

Article 6 - Qualified persons

Article 7 - Meetings

Article 8 - Definitions

Article 21 - Definitions

Article 9 - Field of application

Article 10 - Protection and care

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Article 11 - Protection of persons
Article 12 - Protection of medical units
Article 13 - Discontinuance of protection
of civilian medical units
Article 14 - Limitations on requisition
of civilian medical units
Article 15 - Protection of civilian
medical and religious personnel
Article 16 - General protection of
medical duties
Article 17 - Role of the civilian
population and of aid societies
Article 18 - Identification
Article 19 - Neutral and other States not
Parties to the conflict
Article 20 - Prohibition of reprisals
Article 21 - Medical vehicles
Article 22 - Hospital ships and coastal
rescue craft
Article 23 - Other medical ships and craft
Article 24 - Protection of medical aircraft

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Article 11 - Protection of persons
Article 12 - Medical units
Article 13 - Discontinuance of protection
of civilian medical units
Article 14 - Requisition
Article 15 - Civilian medical and religious
personnel
Article 16 - General protection of
medical duties
Article 17 - Role of the civilian population
Article 18 - Identification
Article 19 - States not parties to a conflict
Article 20 - Prohibition of reprisals
Article 23 - Application
Article 24 - Protection
Article 25 - Notification

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Article 25 - Medical aircraft in areas not controlled by an adverse Party

Article 26 - Medical aircraft in contact or similar zones

Article 27 - Medical aircraft in areas controlled by an adverse Party

Article 28 - Restrictions on operations of medical aircraft

Article 29 - Notifications and agreements concerning medical aircraft

Article 30 - Landing and inspection of medical aircraft

Article 31 - Neutral or other States not Parties to the conflict

Article 32 - General principle

Article 33 - Missing persons

Article 34 - Remains of deceased

Article 35 - Basic rules

Article 36 - New weapons

Article 37 - Prohibition of perfidy

Article 38 - Recognized emblems

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Article 26 - Sectors controlled by national and allied forces

Article 27 - Contact zone

Article 28 - Sectors controlled by enemy forces

Article 29 - Restrictions

Article 30 - Agreements and notifications

Article 31 - Landing

Article 32 - States not parties to the conflict

Article 33 - Prohibition of unnecessary injury

Article 34 - New weapons

Article 35 - Prohibition of perfidy

Article 36 - Recognized signs

FINAL ACT

Article 39 - Emblems of nationality

Article 40 - Quarter

Article 41 - Safeguard of an enemy hors de combat

Article 42 - Occupants of aircraft

Article 43 - Armed forces

Article 44 - Combatants and prisoners of war

Article 45 - Protection of persons who have taken part in hostilities

Article 46 - Spies

Article 47 - Mercenaries

Article 48 - Basic rule

Article 49 - Definition of attacks and scope of application

Article 50 - Definition of civilians and civilian population

Article 51 - Protection of the civilian population

Article 52 - General protection of civilian objects

ICRC

Article 37 - Emblems of nationality

Article 38 - Safeguard of an enemy hors de combat and giving quarter

Article 39 - Aircraft occupants

Article 41 - Organization and discipline

Article 42 - New category of prisoners of war

Article 40 - Independent missions

Article 43 - Basic rule

Article 44 - Field of application

Article 66 - Objects indispensable to the survival of the civilian population

Article 45 - Definition of civilians and civilian population

Article 46 - Protection of the civilian population

Article 47 - General protection of civilian objects

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Article 53 - Protection of cultural objects and of places of worship

Article 54 - Protection of objects indispensable to the survival of the civilian population

Article 55 - Protection of the natural environment

Article 56 - Protection of works and installations containing dangerous forces

Article 57 - Precautions in attack

Article 58 - Precautions against the effects of attacks

Article 59 - Non-defended localities

Article 60 - Demilitarized zones

Article 61 - Definitions and scope

Article 62 - General protection

Article 63 - Civil defence in occupied territories

Article 64 - Civilian civil defence organizations of neutral or other States not Parties to the conflict and international co-ordinating organizations

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Article 48 - Objects indispensable to the survival of the civilian population

Article 66 - Objects indispensable to the survival of the civilian population

Article 49 - Works and installations containing dangerous forces

Article 50 - Precautions in attack

Article 51 - Precautions against the effects of attacks

Article 52 - Non-defended localities

Article 53 - Neutralized localities

Article 54 - Definition

Article 55 - Zones of military operations

Article 56 - Occupied territories

Article 57 - Civil defence bodies of States not Parties to a conflict and international bodies

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Article 65 - Cessation of protection
Article 66 - Identification
Article 67 - Members of the armed forces
and military units assigned to civil
defence organizations
Article 68 - Field of application
Article 69 - Basic needs in occupied
territories
Article 70 - Relief actions
Article 71 - Personnel participating in
relief actions
Article 72 - Field of application
Article 73 - Refugees and stateless
persons
Article 74 - Reunion of dispersed families
Article 75 - Fundamental guarantees
Article 76 - Protection of women
Article 77 - Protection of children
Article 78 - Evacuation of children
Article 79 - Measures of protection for
journalists

ICRC

Article 58 - Cessation of protection
Article 59 - Identification
Article 60 - Field of application
Article 61 - Supplies
Article 62 - Relief actions
Article 63 - Field of application
Article 64 - Refugees and stateless
persons
Article 65 - Fundamental guarantees
Article 67 - Protection of women
Article 68 - Protection of children
Article 69 - Evacuation of children

FINAL ACT

Article 80 - Measures for execution

Article 81 - Activities of the Red Cross and other humanitarian organizations

Article 82 - Legal advisers in armed forces

Article 83 - Dissemination

Article 84 - Rules of application

Article 85 - Repression of breaches of this Protocol

Article 86 - Failure to act

Article 87 - Duty of commanders

Article 88 - Mutual assistance in criminal matters

Article 89 - Co-operation

Article 90 - International Fact-Finding Commission

Article 91 - Responsibility

Article 92 - Signature

Article 93 - Ratification

Article 94 - Accession

Article 95 - Entry into force

ICRC

Article 70 - Measures for execution

Article 71 - Legal advisers in armed forces

Article 72 - Dissemination

Article 73 - Rules of application

Article 74 - Repression of breaches of the present Protocol

Article 76 - Failure to act

Article 79 - Mutual assistance in criminal matters

Article 80 - Signature

Article 81 - Ratification

Article 82 - Accession

Article 83 - Entry into force

FINAL ACT

Article 96 - Treaty relations upon entry
into force of this Protocol

Article 97 - Amendment

Article 98 - Revision of Annex I

Article 99 - Denunciation

Article 100 - Notifications

Article 101 - Registration

Article 102 - Authentic texts

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Article 84 - Treaty relations upon entry
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Article 86 - Amendment

Article 16 of the Annex - Procedure

Article 87 - Denunciation

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translations

II. AMENDMENTS TO DRAFT ADDITIONAL PROTOCOL I AND ANNEX

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

PREAMBLE

(adopted by Committee I at the fourth session
and by the Conference
at the fifty-fourth plenary meeting, on 7 June 1977)

CDDH/I/56
18 March 1974
Original: English

Philippines

In the second line of the second paragraph of the
preamble, after the word "of", insert the phrase "all
classes of recognized international ...".

CDDH/I/337 and
Add.1
21 April 1977
Original: English

Algeria, Bulgaria, Byelorussian Soviet
Socialist Republic, Cuba, Czechoslovakia,
Democratic People's Republic of Korea,
German Democratic Republic, Hungary,
Mongolia, Poland, Socialist Republic of
Vietnam, Ukrainian Soviet Socialist
Republic, Union of Soviet Socialist
Republics

1. Add paragraph 2

Recalling that every State has the duty to refrain in
its international relations from the threat or use of force
against the territorial integrity or political independence
of any State,

2. Add paragraph 4

Bearing in mind the fundamental importance of resolu-
tion 3314 (XXIX) on the definition of aggression adopted by
the United Nations General Assembly, wish to reaffirm their
conviction that nothing in the Geneva Conventions and this
Protocol may be construed as justifying or legitimizing
acts of aggression or other acts which are contrary to
international law.

(In document CDDH/I/337/Add.1 Algeria was added as a co-sponsor.)

Draft Protocol I, Preamble (concluded)

CDDH/439
6 June 1977

Philippines

Original: English

The preamble to Protocol I should be amended to read:

The High Contracting Parties,

Proclaiming their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State,

Believing it necessary nevertheless to reaffirm and develop the provisions of THE GENEVA CONVENTIONS OF 12 AUGUST 1949 BY MEANS OF THIS PROTOCOL WHICH PROTECTS the victims of armed conflicts and SUPPLEMENTS those measures intended to reinforce their application,

Expressing their conviction that nothing in this Protocol or in the Geneva Conventions of 12 August 1949 can be construed as legitimizing or authorizing any act of aggression or any other use of force inconsistent with THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW,

Reaffirming further that the provisions of the Geneva Conventions of 12 August 1949 and of this Protocol must be fully applied in all circumstances to all persons who are protected by those instruments without any adverse distinction based on the nature, origin, or CAUSES of the armed conflict,

Have agreed on the following:

For draft amendment CDDH/41 submitted by the Republic of Viet-Nam, see Annex III to the Table of Amendments.

PART I - GENERAL PROVISIONS

ARTICLE 1 - SCOPE OF THE PRESENT PROTOCOL*
(adopted by Committee I at the first session
and by the Conference
at the thirty-sixth plenary meeting, on 23 May 1977)

CDDH/I/5 and Add.1 and 2 7 March 1974 Original: English	<u>Algeria, Bulgaria, Czechoslovakia, German Democratic Republic, Hungary, Morocco, Poland, Union of Soviet Socialist Republics, United Republic of Tanzania</u>
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Add a new paragraph:

"The international armed conflicts referred to in Article 2 common to the Conventions include also armed conflicts where peoples fight against colonial and alien domination and against racist régimes."

(In documents CDDH/I/5/Add.1 and 2 Morocco and Bulgaria were added as co-sponsors.)

(This amendment was withdrawn at the fifth meeting of Committee I, on 14 March 1974, in favour of document CDDH/I/41.)

CDDH/I/11 and Add.1 to 3 8 March 1974 Original: English	<u>Algeria, Arab Republic of Egypt, Australia, Cuba, Democratic Yemen, Guinea- Bissau, Ivory Coast, Kuwait, Libyan Arab Republic, Madagascar, Morocco, Nigeria, Norway, Pakistan, Senegal, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates, United Republic of Cameroon, Yugoslavia, Zaire</u>
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Add a second paragraph:

"The situations referred to in the preceding paragraph include armed struggles waged by peoples in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and defined by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations."

(In documents CDDH/I/11/Add.1 to 3 Guinea-Bissau, Madagascar, Senegal, Tunisia and the United Arab Emirates were added as co-sponsors.)

* Title in Final Act: Article 1 - General principles and scope of application.

Draft Protocol I, Article 1 (continued)

CDDH/I/11 and Add.1 to 3 (concluded)

(Cuba and Morocco joined as co-sponsors at the second meeting of Committee I, on 11 March 1974.)

(Nigeria and Pakistan withdrew their sponsorship at the sixth meeting of Committee I, on 15 March 1974.)

CDDH/I/12 and

Corr.1 and

CDDH/I/12 and Add.1

8 March 1974

Original: English/

French

Argentina, Austria, Belgium, Germany,
Federal Republic of, Italy, Netherlands,
Pakistan, United Kingdom of Great Britain
and Northern Ireland

Replace Article 1 by the following:

"Article 1 - General Principles

1. The High Contracting Parties undertake to respect and to ensure respect for the present Protocol in all circumstances.

2. The present Protocol shall apply in the situations referred to in Article 2 common to the Geneva Conventions of August 12, 1949, for the Protection of War Victims.

3. In cases not included in this present Protocol or in other instruments of conventional law, civilians and combatants remain under the protection and the authority of the principles of international law, as they result from established custom, from the principles of humanity and the dictates of public conscience."

(In document CDDH/I/12/Corr.1 the date of the amendment was changed to read "8 March 1974".)

(In document CDDH/I/12/Add.1 Italy was added as a co-sponsor.)

Draft Protocol I, Article 1 (continued)

CDDH/I/13
11 March 1974

Romania

Original: French

Add the following at the end of the Article:

"... and in armed conflicts in which the people of a colony, a Non-Self-Governing Territory or a territory under foreign occupation are engaged, in the exercise of the right to self-determination and the right to self-defence against aggression, with a view to ensuring more effective protection for the victims of aggression and oppression."

(This amendment was withdrawn at the fifth meeting of Committee I, on 14 March 1974, in favour of document CDDH/I/41.)

CDDH/I/41 and
Add.1 to 7
14 March 1974
Original: English

Algeria, Arab Republic of Egypt, Bangladesh, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Chad, Congo, Cuba, Czechoslovakia, German Democratic Republic, Ghana, Guinea-Bissau, Hungary, India, Indonesia, Iraq, Ivory Coast, Jordan, People's Democratic Republic of Korea, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mongolia, Morocco, Nigeria, Pakistan, Poland, Qatar, Romania, Saudi Arabia, Senegal, Sri Lanka, Sudan, Sultanate of Oman, Syrian Arab Republic, Togo, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Cameroon, United Republic of Tanzania, Yemen, Yugoslavia, Zaire, Zambia

Add a second paragraph:

"2. The situations referred to in the preceding paragraph include armed conflicts where peoples fight against colonial and alien domination and against racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and defined by the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations".

Draft Protocol I, Article 1 (continued)

CDDH/I/41 and Add.1 to 7 (concluded)

(In documents CDDH/I/41/Add.1 to 7 the following countries were added as co-sponsors: Bangladesh, Bulgaria, Chad, Indonesia, Iraq, Jordan, Democratic People's Republic of Korea, Kuwait, Lebanon, Mongolia, Pakistan, Qatar, Romania, Saudi Arabia, Senegal, Sri Lanka, Sultanate of Oman, Yemen, Zambia.)

CDDH/I/42

Turkey

14 March 1974

Original: French

Add a second paragraph:

"2. The present Protocol shall also apply to armed conflicts waged by the national liberation movements recognized by the regional intergovernmental organizations concerned against colonial and foreign domination and racist régimes in the exercise of the principle of the self-determination of peoples as set out in the Charter of the United Nations."

CDDH/I/71

Argentina, Honduras, Mexico, Panama, Peru

20 March 1974

Original: Spanish

Amend the title and text of the Article to read:

"Article 1 - General principles

1. The present Protocol, which supplements the Geneva Conventions of August 12, 1949, for the Protection of War Victims, shall apply in the situations referred to in Article 2 common to these Conventions.

2. The situations referred to in the preceding paragraph include armed conflicts in which peoples are fighting against colonial and alien occupation and racist régimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Draft Protocol I, Article 1 (concluded)

CDDH/I/71 (concluded)

3. The High Contracting Parties undertake to respect and to ensure respect for the present Protocol in all circumstances.

4. In cases not included in the present Protocol or in other instruments of treaty law, civilians and combatants remain under the protection and authority of the principles of international law derived from established custom, from the principles of humanity and from the dictates of public conscience."

ARTICLE 2 - DEFINITIONS
(adopted by Committee I at the second and fourth sessions
and by the Conference
at the thirty-sixth plenary meeting, on 23 May 1977)

CDDH/I/29
11 March 1974
Original: English

Poland

Delete sub-paragraph (e) and substitute the following:

"(e) 'Substitute' means an organization offering every guarantee of impartiality and efficacy which has been entrusted by the Parties involved in the conflict with the task of acting in place of a Protecting Power for the discharge of all or part of its functions."

CDDH/I/36 and
Corr.1
12 March 1974
Original: English/
French

Australia, Belgium, United Kingdom of
Great Britain and Northern Ireland,
United States of America

1. Reverse and combine sub-paragraphs (a) and (b).
2. Delete sub-paragraph (c) as unnecessary.
3. Replace sub-paragraph (d) with the following:

"(d) 'Protecting Power' means a State not engaged in the conflict which has been designated by a Party to the conflict and accepted by the adversary Party and has agreed to carry out the functions assigned to a Protecting Power under the Conventions and the present Protocol."

4. Replace sub-paragraph (e) with the following:

"(e) 'Substitute' means an impartial humanitarian body acting in place of a Protecting Power for the discharge of all or part of its functions."

(In document CDDH/I/36/Corr.1, paragraph 4, the words "impartial humanitarian body" were substituted for "impartial humanitarian organization".)

(The amendment referring to sub-paragraphs (a) and (b) was withdrawn at the seventh meeting of Committee I, on 15 March 1974.)

Draft Protocol I, Article 2 (continued)

CDDH/I/38
13 March 1974
Original: French

Brazil

Add the following sub-paragraphs:

"(f) 'Party to the Conventions' means a State which has consented to be bound by the four Geneva Conventions of 12 August 1949 for the Protection of War Victims and with respect to which the Conventions are in force;

(g) 'Party to the conflict' means a State which takes part in an international armed conflict within the field of application of the present Protocol or which perpetrates or suffers occupation within the meaning of Article 2 common to the Conventions."

(This amendment was withdrawn at the nineteenth meeting of Working Group A, in 1975 (see document CDDH/I/235/Rev.1).)

CDDH/I/44 and
Corr.1
15 March 1974
Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Jordan, Kuwait, Lebanon,
Libyan Arab Republic, Morocco, Nigeria,
Pakistan, Qatar, Saudi Arabia, Sudan,
Sultanate of Oman, Syrian Arab Republic,
Tunisia, Uganda, United Arab Emirates

In sub-paragraph (e), delete the words "all or part of" so that the sub-paragraph will then read:

"(e) 'Substitute' means an organization acting in place of a Protecting Power for the discharge of its functions."

(In document CDDH/I/44/Corr.1 Lebanon was deleted from the list of sponsors.)

Draft Protocol I, Article 2 (continued)

CDDH/I/62

Syrian Arab Republic

18 March 1974

Original: French

1. In sub-paragraph (c), define clearly the various categories of "protected persons" and "protected objects".

2. Replace the wording of sub-paragraph (d) by the following:

"(d) 'Protecting Entity' means a person or an entity designated by a Party to the conflict and accepted by the adverse Party, and carrying out the functions assigned to a Protecting Power under the Conventions or those devolving on Protecting Entities under the present Protocol."

3. In sub-paragraph (e), replace the words "Protecting Power" by the words "Protecting Entity".

(This amendment was withdrawn at the seventy-fourth meeting of Committee I, on 16 May 1977).

CDDH/45

Austria, Finland, Sweden, Switzerland,

18 March 1974

United Kingdom of Great Britain and

Original: French

Northern Ireland

In Article 2(d) replace "a State not engaged in the conflict" by "a neutral or other State not a Party to the conflict".

CDDH/I/72

Senegal

20 March 1974

Original: French

Amend sub-paragraph (c) to read as follows:

"(c) 'Protected persons' shall be deemed to mean peoples and individuals who, by reason of their specially frail condition, of their status or of their role at the moment when protection is to be conferred, take no part in military operations although they may find themselves in a position of legitimate defence.

Draft Protocol I, Article 2 (concluded)

CDDH/I/72 (concluded)

'Protected objects' shall be deemed to mean natural resources, the environment and, in general, all those objects which, at the moment when protection is to be conferred, are not specifically used or converted for military purposes."

(This amendment was withdrawn at the seventy-fourth meeting of Committee I, on 16 May 1977.)

NEW ARTICLE 2 bis (a) - RESPECT FOR THE
CONVENTIONS AND THE PROTOCOL*
(withdrawn)

CDDH/I/20
11 March 1974
Original: English

Pakistan

After Article 2, insert the following new
Article 2 bis:

"1. The High Contracting Parties undertake to respect and to ensure respect for the Conventions and this Protocol in all circumstances.

2. In the event of a Power failing to fulfil its obligations, each of the other Contracting Parties shall endeavour to bring it back to an attitude of respect for the Conventions and Protocol."

(This amendment was withdrawn at the seventy-fourth meeting of Committee I, on 16 May 1977.)

NEW ARTICLE 2 bis (b) - RED SHIELD OF DAVID*
(withdrawn)

CDDH/I/286
10 April 1975
Original: English

Israel

Add the following new Article 2 bis to Part I of
Protocol I:

"Where the Red Shield of David on a white ground is already used as a distinctive emblem, that emblem is also recognized by the terms of the Conventions and the present Protocol."

(This amendment was withdrawn at the seventy-fourth meeting of Committee I, on 16 May 1977.)

* Provisional title proposed by the Secretariat.

ARTICLE 3 - BEGINNING AND END OF APPLICATION
(adopted by Committee I at the second session
and by the Conference
at the thirty-sixth plenary meeting, on 23 May 1977)

CDDH/I/14
11 March 1974
Original: Spanish

Uruguay

Amend paragraph 2 as follows:

"2. In the territory of Parties to the conflict, the application of the present Protocol shall cease on the close of military operations and of situations governed by the Conventions and the present Protocol."

CDDH/I/45
18 March 1974
Original: English

Israel

Add a paragraph:

"4. Persons hors de combat shall continue, after the general close of military operations, to benefit from the protection afforded by the present Protocol."

CDDH/I/46
18 March 1974
Original: English

India

1. In paragraph 1, delete the words "from the beginning of any situation" and substitute the words "to the cases".

2. Add a paragraph:

"4. The present Protocol shall continue to apply in the case of protected persons within the meaning of Article 2(c), whose release, repatriation, or resettlement takes place after the period mentioned in paragraphs 2 and 3".

Draft Protocol I, Article 3 (continued)

CDDH/I/47
18 March 1974
Original: French

Syrian Arab Republic

In paragraph 2, for the words "on the general close of military operations" substitute the words "on the termination of the armed conflict".

CDDH/I/48 and
Corr.1 and
CDDH/I/48/Add.1
and Add.1/Corr.1
18 March 1974
Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Iraq, Jordan, Kuwait,
Lebanon, Libyan Arab Republic, Mauritania,
Mongolia, Morocco, Pakistan, Qatar, Saudi
Arabia, Sudan, Sultanate of Oman, Syrian
Arab Republic, Tunisia, United Arab
Emirates, Yugoslavia

1. In paragraphs 1, 2 and 3, before the words "the present Protocol", insert the words "the Conventions and".

2. Add a new paragraph 4 reading as follows:

"4. Protected persons whose release, repatriation or re-establishment may take place after such dates, shall meanwhile continue to benefit from the Conventions and the present Protocol."

(In document CDDH/I/48/Add.1 the Arab Republic of Egypt and Yugoslavia were added as co-sponsors.)

(Documents CDDH/I/48/Corr.1 and CDDH/I/48/Add.1/Corr.1 indicated that Mongolia should be replaced by Yugoslavia as a co-sponsor.)

CDDH/I/49
18 March 1974
Original: English

United States of America

1. Revise paragraph 2 as follows:

"2. In the territory of Parties to the conflict, the application of the present Protocol shall cease on the general close of military operations, except that:

(a) Prisoners of war shall continue to benefit from the present Protocol until their release and repatriation;

Draft Protocol I, Article 3 (continued)

CDDH/I/49 (concluded)

(b) In the case of occupied territory, the application of the Conventions and the present Protocol shall cease only on the termination of the occupation;

(c) Protected persons in the sense of Article 4 of the Fourth Convention as supplemented by Article 64 of the present Protocol shall continue to benefit from the present Protocol until their final release, repatriation, or re-establishment;

(d) The persons referred to in Article 65 of the present Protocol whose liberty has been restricted for reasons related to a situation referred to in Article 2 common to the Conventions shall continue to benefit from Article 65 of the present Protocol until their release, repatriation, or re-establishment."

2. Delete paragraph 3.

Note: Sub-paragraph (d) would obviate the need for paragraph 5 of Article 65.

CDDH/I/213
13 February 1975
Original: English

Australia

Delete the existing Article and insert in lieu thereof the following new Article:

"Article 3 - Beginning and end of application

Except for the provisions which shall be implemented in peace time:

1. The present Protocol shall apply from the beginning of any situation referred to in Article 2 common to the Conventions.

2. The application of the present Protocol shall cease, in the territory of Parties to the conflict, on the general close of military operations. Prisoners of War whose release, repatriation or re-establishment may take place after such date, shall meanwhile continue to benefit from the present Protocol.

Draft Protocol I, Article 3 (concluded)

CDDH/I/213 (concluded)

3. The application of the present Protocol in the case of occupied territories shall cease on the termination of the occupation."

CDDH/I/215

14 February 1975

Original: French

Ukrainian Soviet Socialist Republic

At the end of paragraph 1, replace the words "Article 2 common to the Conventions" by the words "Article 1 of the present Protocol".

ARTICLE 4 - LEGAL STATUS OF THE PARTIES TO THE CONFLICT
(adopted by Committee I at the second session
and by the Conference
at the thirty-sixth plenary meeting, on 23 May 1977)

CDDH/I/34
12 March 1974
Original: English

Australia

Change the title to read:

"Legal status of Parties to the conflict and territories".

(This amendment was withdrawn at the twenty-first meeting of Committee I, on 13 February 1975, and replaced by document CDDH/I/214.)

CDDH/I/43
15 March 1974
Original: English

Norway

Add the following paragraphs:

"2. The territory of a colony or other Non-Self-Governing Territory has, under the Charter of the United Nations, a status separate and distinct from the territory of the State administering it; and such separate and distinct status under the Charter shall exist until the people of the colony or Non-Self-Governing Territory have exercised their right of self-determination in accordance with the Charter, and particularly its purposes and principles.

3. Nothing in the Conventions or in the present Protocol shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour."

Draft Protocol I, Article 4 (concluded)

CDDH/I/214

13 February 1975

Original: English

Australia

Delete the existing Article and insert in lieu thereof the following new Article:

"Article 4 - Legal status of the Parties to the conflict

The legal status of the Parties to the conflict, or territories over which they exercise authority, shall not be affected by the application of the present Protocol."

ARTICLE 4 bis - INTERPRETATION AND APPLICATION
(withdrawn)

CDDH/I/15

Romania

8 March 1974

Original: French

Insert a new article after Article 4:

"Article 4 bis - Interpretation and application

1. No provision of the present Protocol shall be so construed as to affect State sovereignty or to authorize foreign States to intervene in an armed conflict.

2. In interpreting and applying the Conventions and the present Protocol, Parties shall observe the basic principles governing international treaties, namely, strict respect for national independence and sovereignty, equal rights, non-interference in the internal affairs of other States, the prohibition of the use or threat of force, the peaceful settlement of international disputes so that international peace and security and justice are not endangered, and the duty to discharge in good faith the international obligations which have been undertaken."

(This amendment was withdrawn at the ninth meeting of Committee I, on 18 March 1974.)

ARTICLE 5 - APPOINTMENT OF PROTECTING POWERS AND
OF THEIR SUBSTITUTE

(adopted by Committee I at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/I/18
8 March 1974
Original: French

Romania

1. Amend paragraph 1 as follows:

"1. In a situation referred to in Article 2 common to the Conventions, each Party to the conflict shall designate a Protecting Power for the sole purpose of applying the Conventions and the present Protocol and shall for the same purpose permit the activities of a Protecting Power designated by the adverse Party and accepted as such by it".

2. Replace paragraphs 2, 3, 4, 5 and 6 by the following paragraph 2:

"2. If a Protecting Power is not designated in accordance with the preceding paragraph, the Parties to the conflict shall in their territories and for the sole purpose of applying the Conventions and the present Protocol, permit a humanitarian organization, such as the International Committee of the Red Cross, designated and accepted by those Parties or, where appropriate, designated by the United Nations Organization and recognized by the Parties, to act as substitute within the meaning of Article 2(e)".

CDDH/I/24
11 March 1974
Original: English

Pakistan

- Redraft Article 5 as follows:

"Article 5 - Protecting Powers"

1. The Conventions and the present Protocol shall be applied with the co-operation and under the scrutiny of Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict.

2. The Protecting Power may undertake any intervention or initiative which may enable it to verify or improve the application of any provision of the Convention or Protocol.

Draft Protocol I, Article 5 (continued)

CDDH/I/24 (continued)

Where the Protecting Power is also a High Contracting Party, it shall make all efforts to ensure implementation of the Conventions and Protocol, and shall bring continuing violations to the attention of the High Contracting Parties.

3. From the beginning of a situation referred to in Article 2 common to the Conventions, each Party to the conflict shall without delay designate a Protecting Power for the purpose of applying the Conventions and the present Protocol.

4. A Protecting Power designated by one Party to the conflict shall be accepted by the other Party to the conflict unless it has reasonable grounds for concluding that the Power so designated shall not be neutral in applying the provisions of the Convention and Protocol.

5. In the event of disagreement or unjustified delay in the designation and acceptance of Protecting Powers, the International Committee of the Red Cross shall offer its good offices with a view to the designation of Protecting Powers acceptable to both Parties to the conflict. For that purpose, it may, inter alia, ask each of the Parties to provide it with a list of at least five States which they consider acceptable in that respect; these lists shall be communicated to it within ten days; it shall compare them and seek the agreement of any proposed State named on both lists.

6. If, despite the foregoing, no Protecting Power is appointed, the Parties to the conflict shall accept the offer made by the International Committee of the Red Cross, if it deems it necessary, to act as a substitute within the meaning of Article 2(e).

7. The designation and acceptance of Protecting Powers for the sole purpose of applying the Conventions and the present Protocol shall not affect the legal status of the Parties to the conflict or that of the territories over which they exercise authority.

8. The maintenance of diplomatic relations between the Parties to the conflict does not constitute an obstacle to the appointment of Protecting Powers for the sole purpose of applying the Convention and the present Protocol.

Draft Protocol I, Article 5 (continued)

CDDH/I/24 (concluded)

9. Whenever in the present Protocol mention is made of a Protecting Power, such mention also implies the substitute within the meaning of Article 2(e)."

CDDH/I/31
11 March 1974

Greece

Original: French

Delete paragraph 3, Proposals I and II, and substitute the following:

"3. If, despite the foregoing, no Protecting Power is appointed, the Parties to the conflict shall accept the International Committee of the Red Cross as a substitute within the meaning of Article 2(e), in so far as that is compatible with its own activities."

CDDH/I/50
18 March 1974

Italy

Original: English

Paragraph 3 to read as follows:

"3. Without prejudice to the obligation of Parties to the conflict under paragraph 1 of this Article and the rights of the International Committee of the Red Cross under paragraph 2 thereof, from the outbreak of a situation referred to in Article 2 common to the Conventions and until such time as the Protecting Powers begin to exercise their functions, each of the Parties to the conflict shall accept the offer made by the International Committee of the Red Cross, if it deems it necessary, to act as a substitute within the meaning of Article 2(e)."

CDDH/I/51
18 March 1974

Australia

Original: English

Amend paragraph 6 to read:

"Whenever in the present Protocol mention is made of a Protecting Power, such mention also includes the substitute within the meaning of Article 2(e)."

Draft Protocol I, Article 5 (continued)

CDDH/I/52
18 March 1974

Original: English

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

In paragraph 4, delete the words "or that of the territories over which they exercise authority".

CDDH/I/54
18 March 1974

Original: French

Brazil

Replace paragraph 3 (Proposals I and II) by the following:

"3. If, despite the foregoing, no Protecting Power is appointed, the International Committee of the Red Cross may either (a) nominate an international body capable of assuming, with the agreement of the Parties, the functions of a substitute, or (b), after consulting the Parties, assume such functions itself."

CDDH/I/61
18 March 1974

Original: English

Bangladesh

Paragraph 3, Proposal I

Delete the words "provided the Parties to the conflict agree".

CDDH/I/62
18 March 1974

Original: French

Syrian Arab Republic

Redraft Article 5 as follows:

"1. From the beginning of a situation referred to in Article 2 common to the Conventions, each Party to the conflict shall without delay designate a Protecting Entity for the purpose of applying the Conventions and the present Protocol and shall without delay and for the same purpose permit the activities of a Protecting Entity designated by the adverse Party and accepted as such.

Draft Protocol I, Article 5 (continued)

CDDH/I/62 (concluded)

2. In the event of disagreement or delay in the designation and acceptance of the Protecting Entity, the International Committee of the Red Cross shall offer its good offices with a view to the designation of Protecting Entities acceptable to both Parties to the conflict. For that purpose, it may, inter alia, ask each of the Parties to provide it with a list of at least five Entities which they consider acceptable in that respect; these lists shall be communicated to it within ten days; it shall compare them and seek the agreement of any proposed Entity named on both lists.

3. If, despite the foregoing, no Protecting Entity is appointed, a Conference of the High Contracting Parties shall be held in conformity with Article 7 of the present Protocol to designate a substitute for the Protecting Entity.

4. The designation and acceptance of Protecting Entities shall not affect the legal status of the Parties to the conflict or that of the territories over which they exercise authority.

5. The maintenance of diplomatic relations between the Parties to the conflict does not constitute an obstacle to the appointment of Protecting Entities for the purpose of applying the Conventions and the present Protocol.

6. Whenever in the present Protocol mention is made of a Protecting Entity, such mention also implies the substitute within the meaning of Article 2(e)."

Draft Protocol I, Article 5 (continued)

CDDH/I/64

United States of America

19 March 1974

Original: English

Delete paragraph 3, Proposals I and II, and substitute the following:

"3. If, despite the foregoing, a Protecting Power is not appointed within 60 days of the time when one Party has first proposed the appointment of a Protecting Power, the Parties to the conflict shall accept the offer made by the International Committee of the Red Cross, if it deems it necessary, to act as a substitute within the meaning of Article 2(e)."

(This amendment was replaced by document CDDH/I/205.)

CDDH/I/67 and

Belgium, Netherlands, United Kingdom of
Great Britain and Northern Ireland

Add.1

20 March 1974

Original: English

Delete the present text and substitute the following:

"1. From the outbreak of a situation referred to in Article 2 common to the Conventions, each Party to the conflict shall without delay designate, and each adverse Party shall accept, a Protecting Power to carry out the functions assigned to it under the Conventions and the present Protocol, and shall permit a Protecting Power so designated and accepted to carry out these functions.

2. If a Protecting Power has not been designated or accepted from the outbreak of a situation referred to in Article 2, the International Committee of the Red Cross shall have the right to exercise its good offices and mediation with the Parties to the conflict, to try to ensure the immediate designation and acceptance of such a Protecting Power as is agreeable to both such Parties. For that purpose it may inter alia ask each of the Parties to provide it was a list of at least five States ... (ICRC text to end of paragraph).

Draft Protocol I, Article 5 (continued)

CDDH/I/67 and Add.1 (concluded)

3. Without prejudice to the obligation of Parties to the conflict under paragraph 1 of this Article and the rights of the International Committee of the Red Cross under paragraph 2 thereof, the adverse Party shall, in the event of there being no Protecting Power effectively carrying out its function under the present Protocol, request or accept the offer of the services of the International Committee of the Red Cross to assume the functions of a Protecting Power under the present Protocol.

4. The designation and acceptance of Protecting Powers for the sole purpose of applying the Conventions and the present Protocol shall not affect the legal status of the Parties to the conflict or that of the territories over which they exercise authority.

5. The maintenance of diplomatic relations between the Parties to the conflict shall not relieve them from their obligations under the preceding paragraphs of this Article.

6. Whenever hereafter in the present Protocol mention is made of a Protecting Power, such mention also implies the substitute within the meaning of Article 2(e)."

(In document CDDH/I/67/Add.1 the Netherlands was added as a co-sponsor.)

CDDH/I/68

India

20 March 1974

Original: English

1. In the second and third lines of paragraph 1, delete the clause ", which has not already entrusted the protection of its interests and those of its nationals to a third State,".
2. Delete the second sentence of paragraph 2, beginning with the words "For that purpose ..." and ending with the words "named on both lists".
3. In paragraph 5, after the words "between the Parties to the conflict" insert the words ", or the entrusting of the protection of a Party's interests and those of its nationals to a third State,".

Draft Protocol I, Article 5 (continued)

CDDH/I/70 and
Corr.1
20 March 1974
Original: English

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

1. Amend paragraphs 1, 2 and 3 to read as follows:

"1. From the beginning of any of the situations referred to in Article 1 of the present Protocol, each Party to the conflict shall without delay designate a Protecting Power for the sole purpose of applying the Conventions and the present Protocol and shall without undue delay and for the same purpose permit the activities of the Protecting Power accepted by it following the designation of the same by the adverse Party.

2. In the event of disagreement over the designation and acceptance of Protecting Powers, an impartial humanitarian organization, such as the International Committee of the Red Cross, may, subject to the consent of the Parties to the conflict concerned, render its services for the purpose of ascertaining which Protecting Powers would be acceptable to the said Parties to the conflict, and for that purpose may ask each of the Parties to provide it with a list of at least five States which it considers acceptable in that respect; such lists shall be communicated to the said organization within / days following the receipt of the said request. Upon the receipt of such lists the said organization shall communicate them to each of the Parties to the conflict respectively, and seek the consent of each of the Parties to any State named on the list provided by the adversary Party.

However, the designation and acceptance of the Protecting Powers shall be subject to the express consent of the Parties to the conflict concerned.

3. If, despite the foregoing, no Protecting Power is appointed, a humanitarian organization, offering every guarantee of impartiality and efficacy, may assume the functions of a substitute within the meaning of Article 2(e), provided the Parties to the conflict so agree."

Draft Protocol I, Article 5 (continued)

CDDH/I/70 and Corr.1 (concluded)

2. In paragraph 4, delete the words "or that of the territories over which they exercise authority".

(In document CDDH/I/70/Corr.1 the word "render" was substituted for the word "offer" in the phrase "subject to the consent of the Parties to the conflict concerned, offer its services ...".)

CDDH/I/75

20 March 1974

Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Iraq, Jordan, Kuwait,
Lebanon, Libyan Arab Republic, Morocco,
Qatar, Sudan, Sultanate of Oman, United
Arab Emirates

1. In paragraph 2, delete the word "unjustified" in the first line.
2. Replace paragraph 3, Proposals I and II, by the following:

"If, despite the foregoing, no Protecting Power is appointed, the Parties to the conflict shall accept as a substitute for the Protecting Power an impartial humanitarian organization, such as the International Committee of the Red Cross, appointed by one of the Parties and accepted by the other Party, or, in the last instance, appointed by the Conference of the High Contracting Parties, in conformity with Article 7."

3. In paragraph 4, insert a full stop after the word "conflict". Replace the words "or that of the territories over which they exercise authority" by the words "Neither the occupation of a territory nor the designation and acceptance of such Protecting Powers shall affect the legal status of the territory in question".

CDDH/I/76

20 March 1974

Original: English

Republic of Korea

Delete Proposal I, and insert the words "without delay" between the words "accept" and "the offer" in the third line of paragraph 3, Proposal II.

Draft Protocol I, Article 5 (continued)

CDDH/I/77

Spain

21 March 1974

Original: Spanish

Amend Article 5 to read as follows:

"1. From the beginning of a situation referred to in Article 2 common to the Conventions, each Party to the conflict is required, without delay and for the sole purpose of applying the Conventions and the present Protocol, to designate a Protecting Power and, without delay and for the same purpose, to accept and permit on its territory, the activities of a Protecting Power designated by the adverse Party.

The International Committee of the Red Cross may, if it deems it expedient, offer its services to the Parties to the conflict to facilitate the discharge of those obligations.

2. For the appointment of Protecting Powers, each Party to the conflict shall, within ... from the outbreak thereof, provide the adverse Party, through a neutral Contracting Power, the organs of the International Red Cross, or other impartial humanitarian institutions, with a list of at least five Powers, entities or bodies capable of assuming the duties of Protecting Powers as laid down in the Conventions. Such lists shall be examined and collated by the mediating Power or humanitarian institution which shall seek the consent of the States or entities listed, all within ...

As soon as an affirmative reply has been received, the mediating Power or institution shall, within an equal period, seek the consent of the Parties to the conflict.

3. If, despite the foregoing, no agreement is reached on the appointment of a Protecting Power, the Parties to the conflict shall immediately consider any offer from the International Committee of the Red Cross to act as a substitute within the meaning of Article 2(e).

4. If the International Committee of the Red Cross deems it impossible to assume the functions of substitute, the Parties to the conflict shall, without any delay, accept as a substitute the Power or international or humanitarian organization with which the Committee arranges for the discharge of the duties of Protecting Power.

Draft Protocol I, Article 5 (continued)

CDDH/I/77 (concluded)

5. Protecting Powers and their substitute shall be considered and recognized not only as the agents of the Parties to the conflict but also, and especially, as the agents of the international treaty community constituted by the High Contracting Parties.

6. Independently of its possible discharge of the functions of substitute for the Protecting Power, the International Committee of the Red Cross, and any other impartial humanitarian body, may in all circumstances carry out the humanitarian activities necessary for the achievement of the purposes laid down in Article 9 of the First, Second and Third Geneva Conventions and Article 10 of the Fourth Geneva Convention.

7. (Identical to paragraph 4 of the ICRC draft, subject to the deletion of the words " or that of the territories over which they exercise authority").

8. The fact that at any time a Party to the conflict may not be represented by a Protecting Power or its substitute shall not entitle it to ignore its obligations towards the Protecting Power or its substitute of the adverse Party. In that event, the procedure for appointment laid down in paragraph 2 of the present Article, shall be applied again without delay.

9. (Same as paragraph 5 of the ICRC draft, but with the word "obstaculiza" in the Spanish version replaced by the word "impede".")

CDDH/I/80 and
Add.1
22 March 1974
Original: French

Argentina, Austria, Brazil, Holy See,
Ireland, Liberia, Philippines, United
Kingdom of Great Britain and Northern
Ireland, United Republic of Cameroon

Replace the word "substitute" by the words "any substitutes".

(In document CDDH/I/80/Add.1 Brazil and the Philippines were added as co-sponsors.)

Draft Protocol I, Article 5 (concluded)

CDDH/I/205

United States of America

11 February 1975

Original: English

1. Delete Proposals I and II and substitute the following:

"3. If, despite the foregoing, a Protecting Power is not appointed within 30 days of the time when one Party has first proposed the appointment of a Protecting Power, the International Committee of the Red Cross shall offer its good offices with a view to the designation of a substitute within the meaning of Article 2(e) acceptable to both Parties to the conflict. For that purpose, it may, inter alia, ask each Party to provide it with a list of at least three impartial humanitarian organizations, with the necessary capacity, which they consider acceptable in that respect; the International Committee of the Red Cross may be listed by a Party to the conflict; these lists shall be communicated to the International Committee of the Red Cross within 10 days; the International Committee of the Red Cross shall compare them and seek the agreement of any proposed substitute named on both lists."

2. Add a new paragraph 3 bis:

"3 bis. If, despite the foregoing, a Protecting Power is not appointed within 60 days of the time when one Party has first proposed the appointment of a Protecting Power, the Parties to the conflict shall accept the offer made by the International Committee of the Red Cross, if it deems it necessary, to act as a substitute within the meaning of Article 2(e)."

3. Add a new final paragraph:

"The procedures provided in the foregoing paragraphs are without prejudice to and constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded, sick, and shipwrecked persons, medical personnel and chaplains, prisoners of war and civilian persons and for their relief, in accordance with Article 9 common to the Convention (Article 10, Fourth Convention)."

For draft amendment CDDH/I/9 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 5 bis - STANDING BODY
(withdrawn)

CDDH/I/83

Norway

13 September 1974

Original: English

Insert new Article 5 bis:

"Article 5 bis - Standing body

1. In conformity with Article 10, paragraph 1, common to the first three Conventions and Article 11, paragraph 1, of the Fourth Convention, the Parties may appoint any body established or designated by the United Nations for that purpose to assume the duties incumbent on the Protecting Power by virtue of the Conventions and the present Protocol.

2. If no Protecting Power has been appointed within the period of ... days from the beginning of a situation provided for in Article 2, common to the Conventions, and the International Committee of the Red Cross has not assumed all the functions of the Protecting Power under the Conventions and the present Protocol, including the investigation and reporting on violations, the said body will then undertake, by virtue of this Protocol, the functions of the Protecting Power or those of them not carried out by the International Committee of the Red Cross.

3. In cases where both the International Committee of the Red Cross and the said body are assuming the functions of the Protecting Power under the Conventions and the present Protocol, they shall act in concert and co-ordinate their activities."

(The sponsor of amendment CDDH/I/83 and the co-sponsors of amendment CDDH/I/75 agreed to combine their proposals in a new paragraph 4 bis to Article 5 (see document CDDH/219/Rev.1, paragraph 57).)

ARTICLE 6 - QUALIFIED PERSONS
(adopted by Committee I at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/I/1
5 March 1974
Original: English

Philippines

After paragraph 4, add a new paragraph:

"5. National Red Cross Societies (Red Crescent, Red Lion and Sun) may offer their services to the competent authorities entrusted with recruiting and training these qualified personnel".

(This amendment was withdrawn by document CDDH/I/10.)

CDDH/I/17
8 March 1974
Original: French

Romania

1. In paragraph 1 delete the words "and in particular the activities of the Protecting Powers".
2. In paragraph 2 insert the word "composition," before the word "recruitment".
3. Delete paragraph 3.
4. In paragraph 4 (new paragraph 3), first line, replace the words "these persons" by the words "such personnel".

Draft Protocol I, Article 6 (continued)

CDDH/I/40

Philippines

8 March 1974

Original: English

Add a new paragraph:

"5. National Red Cross Societies (Red Crescent, Red Lion and Sun) may offer their services to the competent authorities entrusted with recruiting and training this qualified personnel."

CDDH/I/55

Brazil

18 March 1974

Original: French

Replace paragraph 4 by the following:

"The conditions governing the employment of the personnel outside the national territory shall, in each case, form the subject of special agreements of which the Contracting Parties shall be at least the State to which the personnel belongs, on the one hand, and the State to which the territory in which that personnel is called upon to work belongs, on the other hand."

CDDH/I/66

Bangladesh

19 March 1974

Original: English

Delete the present text and substitute the following:

"1. In peacetime the High Contracting Parties shall impart training to a sufficient number of persons capable of carrying out the application of the Conventions and of the present Protocol, and in particular the activities of the Protecting Powers.

2. The recruitment and training of such persons lies within the national competence.

Draft Protocol I, Article 6 (concluded)

CDDH/I/66 (concluded)

3. Each High Contracting Party shall maintain a register containing a list of persons so trained and shall transmit such list to the International Committee of the Red Cross.

4. The conditions governing the employment of such persons outside the national territory shall, in each case, form the subject of a special agreement."

CDDH/I/76

20 March 1974

Original: English

Republic of Korea

Add the following new sentence at the end of paragraph 2:

"The International Committee of the Red Cross may offer the services of its personnel to the national authorities if the national authorities so request."

CDDH/I/84

11 September 1974

Original: English

German Democratic Republic

Redraft paragraph 4 to read:

"4. The conditions governing the employment of these persons outside the national territory shall, in each case, be the subject of special agreements between the Parties concerned,"

ARTICLE 7 - MEETINGS
(adopted by Committee I at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/I/16
8 March 1974
Original: French

Romania

Redraft this Article to read:

"Article 7 - Diplomatic Conference

The depositary of the Conventions, at the request of two thirds of the Parties thereto, shall convene a diplomatic conference with a view to amending or revising the present Protocol."

CDDH/I/28
11 March 1974
Original: English

Pakistan

Replace the present Article 7 by the following:

"Article 7 - Meeting of the High Contracting Parties

1. The depositary of the Conventions shall convene a meeting of the High Contracting Parties, at the request of two thirds of them, to study general problems concerning the application of the Conventions and Protocol; it may convene such a meeting at the request, also, of the International Committee of the Red Cross."

2. On request of the International Committee of the Red Cross the depositary shall convene a meeting of the High Contracting Parties in order to consider the prohibition of weapons, projectiles, substances, methods and means which uselessly aggravate the suffering of disabled adversaries or render their death inevitable in all circumstances. A meeting of the High Contracting Parties shall also be convened by the depositary on the request of the International Committee of the Red Cross, with the object of specifying and prohibiting weapons and methods of warfare which are likely to affect combatants and civilians indiscriminately.

Draft Protocol I, Article 7 (continued)

CDDH/I/28 (concluded)

3. The Protecting Powers or the International Committee of the Red Cross shall bring to the notice of High Contracting Parties serious and continuing breaches of the Conventions and Protocol. The High Contracting Parties shall endeavour to bring the Parties to the conflict back to an attitude of respect for the Conventions and the Protocol.

4. In cases where the conciliation procedure common to the Conventions and Protocol has failed, the Protecting Power may, if it considers the question of interpretation or application sufficiently important, request the depositary to convene a meeting of the High Contracting Parties to resolve the disagreement. The depositary shall immediately circulate this request to the High Contracting Parties, and shall convene such a meeting if desirable. A meeting of the High Contracting Parties, so convened, shall take appropriate steps to settle the disagreement."

CDDH/I/48 and
Corr.1 and
CDDH/I/48/Add.1 and
Corr.1
18 March 1974
Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Iraq, Jordan, Kuwait,
Lebanon, Libyan Arab Republic, Mauritania,
Mongolia, Morocco, Pakistan, Qatar, Saudi
Arabia, Sudan, Sultanate of Oman, Syrian
Arab Republic, Tunisia, United Arab
Emirates, Yugoslavia

Delete the present text and substitute the following:

"The depositary of the present Protocol shall convene a meeting of the High Contracting Parties at the request of one or more of the said Parties and upon the approval of a majority of the said Parties, to consider problems concerning the application of the Conventions and the present Protocol. It may also convene such a meeting at the request of the International Committee of the Red Cross."

(In document CDDH/I/48/Add.1 the Arab Republic of Egypt and Yugoslavia were added as co-sponsors.)

(In documents CDDH/I/48/Corr.1 and CDDH/I/48/Add.1/Corr.1 Mongolia was replaced by Yugoslavia as co-sponsor.)

Draft Protocol I, Article 7 (concluded)

CDDH/I/62
18 March 1974

Syrian Arab Republic

Original: French

Replace Article 7 by the following:

"Article 7 - Conferences

The High Contracting Parties shall hold a conference whenever circumstances require, to study any problem concerning the application of the Conventions and of the present Protocol. The conference shall be convened by the depositary of the Conventions at the request of the International Committee of the Red Cross or of one third of the High Contracting Parties."

CDDH/I/65
19 March 1974

Bangladesh

Original: English

Replace Article 7 by the following:

"A Review Conference shall be convened by the depositary of the Conventions either at the request of one third of the High Contracting Parties or 10 years from the date of the present Protocol comes into force to review the working of the present Protocol with reference to its implementation and consider and adopt appropriate amendments."

ARTICLE 7 bis - ENQUIRY PROCEDURE CONCERNING AN
ALLEGED VIOLATION OF THE CONVENTIONS
(withdrawn)

CDDH/I/27

Pakistan

11 March 1974

Original: English

Add the following Article after Article 7:

"Article 7 bis - Enquiry procedure concerning an
alleged violation of the Convention

1. At the request of a Party to the conflict the Protecting Power or the International Committee of the Red Cross shall institute an enquiry concerning any alleged violation of the Conventions or this Protocol. The representatives of both Parties to the conflict shall take part in the enquiry.

2. Where a Party to the conflict apprehends that death or serious injury caused to a prisoner of war has resulted in violation of the obligations under the Conventions or Protocol it may request the Protecting Power or the International Committee of the Red Cross to carry out an independent enquiry. The Protecting Power or the International Committee of the Red Cross shall carry out the enquiry in accordance with paragraph 1 of this Article.

3. Once the violation has been established the Parties to the conflict shall put an end to it and shall repress it with the least possible delay. If the enquiry indicates the guilt of one or more persons, the detaining Power shall take all measures for the prosecution of the person or persons responsible."

(This amendment was withdrawn at the seventy-seventh meeting of Committee I, on 18 May 1977.)

ARTICLE 7 ter - SETTLEMENT OF DISAGREEMENTS
(withdrawn)

CDDH/I/25
11 March 1974
Original: English

Pakistan

Add the following Article after Article 7 bis:

"Article 7 ter - Settlement of disagreements

1. In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provision of the 'Conventions or Protocol' the Protecting Power shall lend their good offices with a view to settling the disagreement.

2. For this purpose, each of the Protecting Powers, may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives and in particular of the authorities responsible for prisoners of war, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers, may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

3. Where the procedure in paragraphs 1 and 2 does not resolve the disagreement, the Protecting Power may, if it considers the question of interpretation or application sufficiently important, request the depositary to convene a meeting of the High Contracting Parties, which shall take appropriate steps to resolve the disagreement."

(This amendment was withdrawn at the seventy-seventh meeting of Committee I, on 18 May 1977.)

PART II - WOUNDED, SICK AND SHIPWRECKED PERSONS*

CDDH/II/27
11 March 1974
Original: English

United Kingdom of Great Britain and
Northern Ireland

Change the title of Part II from "WOUNDED, SICK AND SHIPWRECKED PERSONS" to "THE WOUNDED AND SICK".

CDDH/II/45
12 March 1974
English only

Australia

Change the title of Part II to read: "THE WOUNDED, SICK AND SHIPWRECKED".

* Title in Final Act: PART II - WOUNDED, SICK AND SHIPWRECKED.

SECTION I - GENERAL PROTECTION

ARTICLE 8 - DEFINITIONS*

(adopted by Committee II at the third and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/1
27 February 1974
Original: French

Belgium

Amend sub-paragraph (d) i to read:

"(d) i. military medical personnel, as defined in the First and Second Conventions, including medical transport crews, as well as personnel engaged exclusively in the operation or administration of medical units".

CDDH/II/3
6 March 1974
Original: English

Yugoslavia

1. In the third line of sub-paragraph (c), after the word "stores" delete the full stop and insert ", first aid teams."

2. Delete the word "exclusively" after the word "engaged" in the third line of sub-paragraph (d) ii.

CDDH/II/13
11 March 1974
Original: French

Australia, Belgium, France, Italy, Japan,
Netherlands, Norway, Spain, Switzerland,
United Kingdom of Great Britain and
Northern Ireland

Amend sub-paragraph (d) i to read:

"(d) i. military medical personnel, as defined in the First and Second Conventions, including medical transport crews, as well as personnel engaged exclusively in the operation or administration of medical units."

* Title in Final Act: Article 8 - Terminology.

Draft Protocol I, Article 8 (continued)

CDDH/II/17
11 March 1974
Original: French

Poland

Replace the introductory phrase by the following:

"The terms used in the present Part have the following meaning:"

CDDH/II/18
11 March 1974
Original: French

Holy See

In sub-paragraph (d) iii, add the words, "and the voluntary relief organizations;"

CDDH/II/19 and
Corr.1
11 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics

1. Replace the present text of sub-paragraph (a) by the following:

"'the wounded and the sick' means persons, whether military or civilian, who because of trauma, disease or other disorder of physical or mental health are in need of medical assistance and care and who refrain from any act of hostility."

2. Add in sub-paragraph (c) "anti-epidemic establishments" to the enumeration given in connexion with the term "medical establishments."

Draft Protocol I, Article 8 (continued)

CDDH/II/19 and Corr.1 (concluded)

3. Amend sub-paragraph (d) to read:

"'medical personnel' means personnel, whether permanent or temporary, duly recognized or authorized by the State and engaged exclusively in the operation or administration of health services, medical units and means of medical transport, that is to say personnel assigned to the prevention of disease and the search for, removal, treatment or transport of the wounded, the shipwrecked and the sick. The term includes inter alia military medical personnel as defined in the First and Second Geneva Conventions, the medical personnel of civil defence organizations referred to in Article 54, civilian medical personnel under State supervision, personnel of the national Red Cross (Red Crescent, Red Lion and Sun) Societies attached to medical units and military or civilian medical transport crews."

(Sub-amendment CDDH/II/19/Corr.1 which read "Add the words 'anti-epidemic establishments' to the enumeration given in connexion with the term 'medical establishments'." replaced the amendment to sub-paragraph (c) in document CDDH/II/19, which read: "In the first line, delete the words 'medical establishments' and substitute the words 'anti-epidemic establishments'.")

CDDH/II/30

Denmark, France, Sweden

12 March 1974

Original: English

Amend sub-paragraph (d) iii to read:

"(d) iii. the medical personnel of civil defence bodies assigned to the discharge of the tasks mentioned in Article 54, and duly recognized or authorized medical personnel of the national Red Cross (Red Crescent, Red Lion and Sun) Societies."

(Denmark joined as co-sponsor at the eleventh meeting of Committee II, on 20 March 1974.)

Draft Protocol I, Article 8 (continued)

CDDH/II/42

Australia

12 March 1974

Original: English

1. Amend sub-paragraph (a) to read:

"For the purposes of the present Part:

(a) 'the wounded and the sick' means persons, whether military or civilian, who are in need of medical assistance and care and who refrain from any act of hostility. The term includes, inter alia, the infirm, as well as expectant mothers, maternity cases and new-born babies;"

2. Replace the words "shipwrecked persons" in sub-paragraph (b) by "the shipwrecked".

3. Redraft sub-paragraph (d) ii as follows:

"(d) ii. civilian medical personnel, including members of the crews of means of medical transports, whether permanent or temporary, duly recognized or authorized by the State and engaged exclusively in the operation or administration of medical units and means of medical transport, and includes the personnel assigned to the search for, removal, treatment or transport of the wounded and the sick."

4. Redraft sub-paragraph (e) as follows:

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

5. Redraft sub-paragraph (f) as follows:

"(f) 'distinctive signal' means any signalling and identification system specified for the use of medical units and means of transport as envisaged in chapter III of the Annex."

Draft Protocol I, Article 8 (continued)

CDDH/II/46
12 March 1974

United Kingdom of Great Britain and
Northern Ireland

Original: English

Delete the content of the whole Article and insert the following:

"(a) 'wounded and sick' means persons, whether military or civilian, who are in serious need of medical assistance and care and who refrain from any act of hostility. The term also includes the shipwrecked, the infirm, pregnant women, maternity cases and new-born babies;

(b) 'shipwrecked persons' means persons, whether military or civilian, who are in peril at sea 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 medical establishments and units, whether military or civilian, including all installations of a medical nature, such as hospitals and blood transfusion centres, and the medical and pharmaceutical storage buildings of such establishments and 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 assigned exclusively but for one or more limited periods to medical purposes, while exclusively devoted to such purposes;

(d) 'medical personnel' means:

- i. military medical personnel as described in the First and Second Conventions, including medical transport crews;
- ii. civilian medical personnel, whether permanent or temporary, (including medical transport crews and civil defence medical personnel), duly recognized or authorized by the State and engaged exclusively in the operation or administration of medical units and medical transport, including personnel assigned to the search for, removal, diagnosis, treatment or transportation of the wounded and sick;

Draft Protocol I, Article 8 (continued)

CDDH/II/46 (concluded)

- iii. medical personnel of national Red Cross (Red Crescent, Red Lion and Sun) Societies duly recognized or authorized by the State;

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

(f) 'distinctive signal' means any signalling and identification system specified for the exclusive use of medical units and transport in chapter III of the Annex."

CDDH/II/57
12 March 1974
Original: French

International Committee of the Red Cross
(suggested amendment)*

Amend sub-paragraph (b) to read as follows:

"(b) 'shipwrecked persons' means persons, whether military or civilian, who are in peril at sea or in the air as a result of the destruction, loss or disablement of the vessel or aircraft in which they were travelling, or for any other reason, and who refrain from any act of hostility. If in peril on land as a result of the destruction, loss or disablement of their means of transport, or for any other reason, the above-mentioned persons shall be assimilated to shipwrecked persons."

* See CDDH/II/SR.5, paras. 42-44. For the sponsors of this amendment, see CDDH/II/57/Rev.1,

Draft Protocol I, Article 8 (continued)

CDDH/II/57/Rev.1
14 March 1974
Original: French

Austria, Denmark, Greece, Iran, Mexico,
Switzerland

Amend sub-paragraph (b) to read:

"(b) 'shipwrecked persons' means persons, whether military or civilian, who are in peril at sea or in the air as a result of the destruction, loss or disablement of the vessel or aircraft in which they were travelling, or for any other reason, and who refrain from any act of hostility. If in peril on land as a result of the destruction, loss or disablement of their means of transport, or for any other reason, the above-mentioned persons shall be deemed to be shipwrecked persons."

CDDH/II/58
12 March 1974
Original: French

Holy See

Add the following definition:

"'chaplains and other persons performing similar functions' means:

- i. army chaplains of whatever religious denomination;
- ii. ministers of religion serving the people;
- iii. chaplains engaged in civil defence as defined in Article 54 and ministers of religion of the national Red Cross (Red Crescent, Red Lion and Sun) Societies and voluntary relief agencies."

(This amendment was withdrawn in favour of document CDDH/II/374 below.)

CDDH/II/73
14 March 1974
Original: French

Syrian Arab Republic

Reword sub-paragraph (b) as follows:

"(b) 'shipwrecked persons' means persons, whether military or civilian, who are in any kind of peril at sea, in the air or on land, and who refrain from any act of hostility."

Draft Protocol I, Article 8 (continued)

CDDH/II/76
15 March 1974

Mexico

Original: Spanish

Reword sub-paragraph (b) as follows:

"(b) 'shipwrecked persons' means persons, whether military or civilian, who are in peril at sea as a result of the destruction, loss or disablement of the vessel in which they were travelling, provided that they refrain from any act of hostility. By extension, military or civilian persons who are on land as a result of the destruction, immobilization, loss or disablement of the means of transport in which they were travelling, and who are in peril or in enemy territory, and who refrain from fighting, shall be deemed to be shipwrecked persons."

CDDH/II/239
20 February 1975
Original: English

United Kingdom of Great Britain and
Northern Ireland, United States of America

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."

Draft Protocol I, Article 8 (concluded)

CDDH/II/374

25 May 1976

Original: French

Austria, Guatemala, Holy See, Nicaragua

Insert a paragraph (d) bis worded as follows:

"'Religious personnel' means persons such as chaplains exclusively engaged in the work of their ministry and attached to:

- i. the armed forces of one of the Parties to the conflict, or to
- ii. the medical units or medical transport units of one of the Parties to the conflict, whether they be civilian or military, or to
- iii. medical units or medical transport units placed at the disposal of one of the Parties to the conflict under the terms of Article 9, paragraph 2, of the present Protocol.

Such attachment may be either permanent or temporary."

CDDH/II/436

2 May 1977

Original: French

Australia, Austria, France, Holy See

In sub-paragraph (f) defining "Religious personnel", insert under i. the words "or Civil Defence bodies" between the words "the armed forces" and "of a Party to the conflict". The new version will be:

- "i. the armed forces or Civil Defence bodies of a Party to the conflict."

For draft amendment CDDH/II/87 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 9 - FIELD OF APPLICATION
(adopted by Committee II at the second and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/4
7 March 1974
Original: English

Austria

In Article 9, for "the wounded, the sick and the shipwrecked", read "the wounded and the sick".

CDDH/II/19
11 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics

1. In paragraph 1 replace the words "without distinction on grounds of nationality" by the words "without any discrimination".

2. In paragraph 3 after the words "of an international character" add the words "such as the International Committee of the Red Cross and the League of Red Cross (Red Crescent and Red Lion and Sun) Societies."

CDDH/II/20
11 March 1974
Original: English

Austria, Belgium, Denmark, France, Germany, Federal Republic of, Norway

After the words "of an international character", insert the words: "such as the International Committee of the Red Cross and the League of Red Cross Societies".

(Denmark joined as co-sponsor at the seventh meeting of Committee II, on 15 March 1974.)

Draft Protocol I, Article 9 (continued)

CDDH/II/28
11 March 1974

Original: English

United Kingdom of Great Britain and
Northern Ireland

1. Amend paragraph 2 to read:

"2. The provisions of Article 27 of the First Convention apply to permanent medical units and transport (other than hospital ships) and their medical personnel lent for humanitarian purposes to a Party to the conflict by a State which is not a Party to the conflict or by a recognized society of such a State."

2. Amend paragraph 3 to read:

"3. The provisions of Article 27 of the First Convention shall apply to medical units and transport (other than hospital ships) and their medical personnel lent for humanitarian purposes to a Party to the conflict by an organization of an international character, provided the said organization fulfils the requirements imposed on the government of a State which is not a Party to the conflict under the terms of the aforesaid Article 27."

CDDH/II/41
12 March 1974

Original: English

Australia

Amend paragraph 1 to read:

"1. The present Part shall apply in the area under the control of the Parties to the conflict, without any discrimination, to all the wounded and the sick and the shipwrecked of the armed forces and of the civilian population and to all military and civilian medical personnel, medical units and medical transports."

CDDH/II/49
12 March 1974

Original: English

Canada, Netherlands, Switzerland, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete paragraph 1 and renumber paragraphs 2 and 3 as paragraphs 1 and 2 respectively.

Draft Protocol I, Article 9 (concluded)

CDDH/45
18 March 1974
Original: French

Austria, Finland, Sweden, Switzerland,
United Kingdom of Great Britain and
Northern Ireland

1. In paragraph 2 replace the words "a State which is not a Party to the conflict" by "a neutral or other State which is not a Party to the conflict".
2. In paragraph 3 replace the words "of a State which is not a Party to the conflict" by "of a neutral State" (cf. Article 27 of the First Geneva Convention of 1949 to which this Article refers).

CDDH/II/435 and
Corr.1
2 May 1977
Original: English

Australia, United States of America

Amend paragraph 1 to read:

"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."

(In document CDDH/II/435/Corr.1 paragraph 1 of document CDDH/II/435 was amended as follows: Add the word "wealth" after "social origin" and delete the last phrase in brackets.)

ARTICLE 10 - PROTECTION AND CARE
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/19
11 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist
Republic, German Democratic Republic,
Hungary, Poland, Ukrainian Soviet
Socialist Republic, Union of Soviet
Socialist Republics

1. Add the following words at the end of paragraph 1:

"The shipwrecked shall be respected and protected before and during rescue and transport to the land, where their status shall depend on their state of health and shall correspond to the Articles of the First Convention and the present Protocol."

2. In paragraph 2, replace the words "without any adverse distinction" by the words "without any discrimination".

CDDH/II/26
11 March 1974
English only

United Kingdom of Great Britain and
Northern Ireland

Amend paragraph 1 to read:

"1. The wounded and sick shall be respected and protected."

CDDH/II/40
12 March 1974
Original: English

Australia

Redraft paragraph 2 as follows:

"2. In all circumstances they shall be treated humanely and shall receive to the fullest extent possible and with the least possible delay and without any discrimination the medical care and attention necessitated by their condition."

Draft Protocol I, Article 10 (continued)

CDDH/II/50
12 March 1974
Original: English

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

Amend paragraph 2 to read:

"2. In all circumstances they shall be treated humanely and shall receive the medical care and attention necessitated by their condition to the fullest extent possible, with the least possible delay, and without any adverse distinction or discrimination founded on race, colour, caste, nationality, religion or faith, political opinion, sex, social status, or any other similar criteria."

CDDH/II/70
13 March 1974
Original: English

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

Add a new paragraph to read:

"3. In case surgical intervention is considered necessary to save the life of the wounded and the sick as judged by common medical practice, the written consent of the person while fully conscious is required."

CDDH/II/75
15 March 1974
Original: French

International Committee of the Red Cross
(Suggested amendment)*

Add three new paragraphs to read:

"3. At all times, and particularly after an engagement, the Parties to the conflict shall take the necessary measures to search for and to collect the wounded, the sick, the shipwrecked and the dead.

* At the tenth meeting of Committee II (see CDDH/II/SR.10, para. 9) the representative of the ICRC pointed out that the title of the amendment should be "Suggested amendment" as the ICRC could not propose amendments.

Draft Protocol I, Article 10 (concluded)

CDDH/II/75 (concluded)

4. Whenever circumstances permit, the Parties to the conflict shall conclude an armistice, a cease-fire or local arrangements permitting the search for and the collection, evacuation or exchange of the wounded, the sick and the shipwrecked.

5. For the purposes of the present Article, military personnel or civilians who are in peril on land as the result of the loss or disablement of their means of transport, and who refrain from any act of hostility, shall be deemed to be shipwrecked persons."

ARTICLE 11 - PROTECTION OF PERSONS

(adopted by Committee II at the second and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/29

11 March 1974

Original: Spanish

Uruguay

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."

CDDH/II/43

12 March 1974

Original: English

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

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.

Draft Protocol I, Article 11 (continued)

CDDH/II/43 (concluded)

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."

CDDH/II/70
13 March 1974
Original: English

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

In paragraph 1, omit the word "unjustified".

CDDH/II/207
10 February 1975
Original: English/
French

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

Add a paragraph to read:

"3. Any person has the right to refuse surgical intervention on his own body. When a wounded or sick person is in the position to exercise this right where a surgical intervention is considered necessary as judged by common medical practice, a written declaration of refusal is required."

Draft Protocol I, Article 11 (concluded)

CDDH/IT/438

9 May 1977

Original: French

Belgium, France, Netherlands

Amend the text of paragraph 4 to read:

"4. Any wilful act or omission which seriously endangers the physical or mental health or integrity of any person who has fallen into the power of a Party other than his own 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."

ARTICLE 12 - MEDICAL UNITS*
(adopted by Committee II at the second and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/1
27 February 1974
Original: French

Belgium

Amend the title of this Article to read: "Protection of medical units".

CDDH/II/13
11 March 1974
Original: French

Australia, Belgium, France, Italy, Japan,
Netherlands, Norway, Spain, Switzerland,
United Kingdom of Great Britain and
Northern Ireland

Change the title of this Article to read: "Protection of medical units".

CDDH/II/16
11 March 1974
Original: French

Romania

In paragraph 4, delete the phrase "in so far as is possible"

CDDH/II/19
11 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist
Republic, German Democratic Republic,
Hungary, Poland, Ukrainian Soviet Socialist
Republic, Union of Soviet Socialist
Republics

1. Replace the present title by "Protection of medical units".

2. 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."

* Title in Final Act: Article 12 - Protection of medical units.

Draft Protocol I, Article 12 (continued)

CDDH/II/19 (concluded)

3. 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".

CDDH/II/22
11 March 1974

United Kingdom of Great Britain and
Northern Ireland

Original: English

Redraft 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.

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

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."

CDDH/II/25
11 March 1974

Cuba

Original: Spanish

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".

Draft Protocol I, Article 12 (concluded)

CDDH/II/39
12 March 1974
Original: English

Australia

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."

CDDH/II/412 and
Add.1
18 April 1977
Original: English

France, Germany, Federal Republic of,
United Kingdom of Great Britain and
Northern Ireland, United States of
America

Amend paragraph 2(b) replacing "or" by "and", so that it will read:

"(b) are recognized and authorized by the competent authority of one of the Parties to the conflict; or".

(In document CDDH/II/412/Add.1, the United States of America was added as co-sponsor.)

ARTICLE 13 - DISCONTINUANCE OF PROTECTION
OF CIVILIAN MEDICAL UNITS
(adopted by Committee II at the second and third sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/15
11 March 1974
Original: English

Canada, United Kingdom of Great Britain
and Northern Ireland

Amend paragraph 2 to read:

"2. 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."

(The United Kingdom of Great Britain and Northern Ireland joined as co-sponsor at the fourteenth meeting of Committee II, on 6 February 1975.)

CDDH/II/17
11 March 1974
Original: French

Poland

In paragraph 1, after the words "a reasonable time limit" insert the words "for the discontinuance of the acts in question."

(This amendment was withdrawn at the fourteenth meeting of Committee II, on 6 February 1975.)

Draft Protocol I, Article 13 (continued)

CDDH/II/25

Cuba

11 March 1974

Original: Spanish

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

CDDH/II/38

Australia

12 March 1974

English only

Amend paragraph 2(b) to read:

"(b) the presence in the medical unit of small arms and ammunition which have been taken from the wounded and the sick and not yet handed over to the appropriate services."

CDDH/II/47

United Kingdom of Great Britain and Northern Ireland

12 March 1974

Original: English

Amend paragraph 2 as follows:

"2. The following shall not be considered as harmful acts:

(a) the fact that members of the armed forces are receiving medical treatment in such medical units;

(b) the presence in a medical unit of small arms and ammunition which have been taken from the wounded and sick and not yet handed over to the competent services;

(c) the fact that a medical unit is guarded by an armed picket, sentries, or escort responsible for keeping order."

(This amendment was withdrawn at the fourteenth meeting of Committee II, on 6 February 1975, in favour of document CDDH/II/15.)

Draft Protocol I, Article 13 (concluded)

CDDH/II/378

28 May 1976

Original: English

Canada, Germany, Federal Republic of,
United Kingdom of Great Britain and
Northern Ireland, United States of
America

Amend paragraph 2(d) to read:

"(d) that members of the armed forces or other combatants are in the unit for medical reasons."

ARTICLE 14 - REQUISITION*
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/3 Yugoslavia
6 March 1974
Original: English

In paragraph 2, 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."

CDDH/II/16 Romania
11 March 1974
Original: French

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

2. In paragraph 2, delete the words "shall take into account."

CDDH/II/19 Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics
11 March 1974
Original: English

In paragraph 1, delete the words "and of the occupation administration,"

* Title in Final Act: Article 14 - Limitations on requisition of civilian medical units.

Draft Protocol I, Article 14 (continued)

CDDH/II/21 and
Add.1

11 March 1974

Original: English

Arab Republic of Egypt, Austria, Canada,
Denmark, Finland, Libyan Arab Republic,
Mexico, Pakistan, Sweden, Syrian Arab
Republic, United Republic of Tanzania

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.

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."

(In document CDDH/II/21/Add.1 the Arab Republic of Egypt, Libyan Arab Republic, Mexico, Pakistan, Syrian Arab Republic and the United Republic of Tanzania were added as co-sponsors.)

(Denmark joined as co-sponsor at the fifteenth meeting of Committee II, on 7 February 1975.)

Draft Protocol I, Article 14 (concluded)

CDDH/II/37
12 March 1974
English only

Australia

Revise paragraph 1 as follows:

"1. An Occupying Power may requisition civilian medical units, their equipment, their material and the services of their personnel only temporarily and in case of urgent necessity, and solely for the purpose of providing medical care for the wounded and the sick of the armed forces and of the occupation administration."

(This amendment was withdrawn at the fifteenth meeting of Committee II, on 7 February 1975.)

ARTICLE 15 - CIVILIAN MEDICAL AND RELIGIOUS PERSONNEL*
(adopted by Committee II at the second, third and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/16
11 March 1974
Original: French

Romania

In paragraph 3, delete the word "possible".

CDDH/II/23
11 March 1974
Original: English

United Kingdom of Great Britain and
Northern Ireland

Revise paragraph 3 as follows:

"3. All feasible help shall be afforded to medical
personnel in the combat zone."

CDDH/II/24
11 March 1974
Original: English

United States of America

In paragraph 3, replace the word "possible" by the
word "feasible".

CDDH/II/59
12 March 1974
Original: French

Holy See

In the first line of paragraph 6 either delete the word
"permanently" or after the word "permanently" insert the
words "or temporarily".

(This amendment was withdrawn at the seventeenth meeting of
Committee II, on 11 February 1975, in favour of amendment CDDH/II/201.)

* Title in Final Act: Article 15 - Protection of civilian medical
and religious personnel.

Draft Protocol I, Article 15 (continued)

CDDH/II/70
13 March 1974
Original: English

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

In paragraph 6 replace "Chaplains and other persons performing similar functions" by "Religious personnel".

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975, in favour of document CDDH/II/201.)

CDDH/II/72
14 March 1974
Original: English

Brazil

In paragraph 6 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."

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975, in favour of document CDDH/II/201.)

CDDH/II/201
6 February 1975
Original: French

Austria, France, Holy See, Switzerland

In paragraph 6, 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 ...".

(This amendment was withdrawn at the nineteenth meeting of Committee II, on 13 February 1975, in favour of amendment CDDH/II/201/Rev.1.)

Draft Protocol I, Article 15 (continued)

CDDH/II/201/Rev.1
11 February 1975
Original: French

Australia, Austria, Belgium, France,
Ghana, Guatemala, Holy See, Japan,
Nigeria, Sweden, Switzerland

In paragraph 6, 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 ...".

CDDH/II/205
10 February 1975
Original: English

Australia

Amend paragraph 4, second sentence to read:

"The Occupying Power may not require that in the performance of those functions such personnel give priority to the treatment of any person except on medical grounds only."

CDDH/II/216
13 February 1975
Original: English

Netherlands

Add a new paragraph:

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

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975.)

CDDH/II/373
21 May 1976
Original: French

Austria, Belgium, France, Holy See,
Nicaragua, Spain, Switzerland, Venezuela

In the second sentence of paragraph 5, delete the word "permanent" between the words "identification of" and "medical personnel".

Draft Protocol I, Article 15 (concluded)

CDDH/II/388
3 June 1976
Original: English

Canada, United Kingdom of Great Britain
and Northern Ireland, United States of
America

Amend the last sentence of paragraph 3 to read:

"They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission."

CDDH/II/411 and
Add.1
15 April 1977
Original: English

Austria, France, Germany, Federal Republic
of, Holy See, Switzerland, United Kingdom
of Great Britain and Northern Ireland,
United States of America

Amend the first sentence of paragraph 5 to read:

"5. Civilian religious personnel shall be respected and protected ...".

(In document CDDH/II/411/Add.1, the United States of America was added as co-sponsor.)

ARTICLE 16 - GENERAL PROTECTION OF MEDICAL DUTIES
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/1 Belgium
27 February 1974
Original: French

Add the following to paragraph 2:

"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."

(This amendment was withdrawn in favour of amendment CDDH/II/212.)

CDDH/II/24 United States of America
11 March 1974
Original: English

Amend the second sentence of paragraph 3 to read:
"Regulations for the compulsory notification of communicable diseases shall, however, be respected."

CDDH/II/29 Uruguay
11 March 1974
Original: Spanish

In paragraph 3 delete the words "should such information be likely to prove harmful to the persons concerned or to their families."

(The sponsor being absent, this amendment was cancelled by Committee II at the nineteenth meeting, on 13 February 1975.)

Draft Protocol I, Article 16 (continued)

CDDH/II/35
12 March 1974
English only

Australia

Redraft paragraph 3 to read:

"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."

CDDH/II/36
12 March 1974
Original: English

Australia

1. 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."

2. Amend 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."

(This amendment was withdrawn in favour of amendment CDDH/II/212.)

Draft Protocol I, Article 16 (continued)

CDDH/II/48
12 March 1974
Original: English

United Kingdom of Great Britain and
Northern Ireland

Revise paragraph 1 as follows:

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

(This amendment was withdrawn at the nineteenth meeting of Committee II, on 13 February 1975.)

CDDH/II/53
12 March 1974
Original: English

Canada, Germany, Federal Republic of,
Netherlands, Sweden, Union of Soviet
Socialist Republics, United States of
America

1. In paragraph 1 replace the word "professional" by "medical".

2. Amend paragraph 2 to read:

"2. Persons engaged in medical activities shall not be compelled to perform acts or to 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."

(This amendment was withdrawn in favour of amendment CDDH/II/212.)

Draft Protocol I, Article 16 (continued)

CDDH/II/71

Brazil

14 March 1974

Original: English

1. Delete the last sentence of paragraph 3.
2. Add a paragraph to read:

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

(This amendment was replaced by amendment CDDH/II/211.)

CDDH/II/206

United Kingdom of Great Britain and
Northern Ireland

10 February 1975

Original: English

Redraft the Article as follows:

"No person engaged in medical activities may be punished nor 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 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."

(This amendment was replaced by amendment CDDH/II/209.)

Draft Protocol I, Article 16 (continued)

CDDH/II/209
11 February 1975
Original: English

United Kingdom of Great Britain and
Northern Ireland

Redraft the Article as follows:

"No person engaged in medical activities may be punished nor 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."

(This amendment was withdrawn, except for sub-paragraph (c), at the nineteenth meeting of Committee II, on 13 February 1975, in favour of amendment CDDH/II/212.)

Draft Protocol I, Article 16 (concluded)

CDDH/II/211
11 February 1975
Original: English

Brazil, Netherlands, Spain

1. Delete last sentence of paragraph 3.
2. Add new paragraph 4:

"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."

CDDH/II/212
11 February 1975
Original: English

Australia, Belgium, Canada, Germany,
Federal Republic of, Netherlands, Sweden,
Union of Soviet Socialist Republics,
United States of America

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."

For draft amendment CDDH/II/88 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 17 - ROLE OF THE CIVILIAN POPULATION*
(adopted by Committee II at the second and third sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/1
27 February 1974
Original: French

Belgium

1. Insert in paragraph 2, after the words "Relief societies", the words: "such as national Red Cross (Red Crescent, Red Lion and Sun) Societies".

2. 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 paragraph 4 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.

CDDH/II/4
7 March 1974
Original: English

Austria

In paragraph 5, for "the wounded, the sick and the shipwrecked", read "the wounded and the sick".

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975.)

* Title in Final Act: Article 17 - Role of the civilian population and of aid societies.

Draft Protocol I, Article 17 (continued)

CDDH/II/11
11 March 1974
Original: French

Belgium, Denmark, France, Germany,
Federal Republic of, Switzerland

In paragraph 2, 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."

CDDH/II/12
11 March 1974
Original: French

Belgium, France

In paragraphs 2, 3 and 4 replace the words "shelter, care or assistance" by the words "shelter, aid and care."

CDDH/II/14
11 March 1974
Original: English

Israel

In paragraph 1, after the words "wounded and the sick" insert "and combatants hors de combat".

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975.)

CDDH/II/16
11 March 1974
Original: French

Romania

Redraft the opening phrase of paragraph 2 to read as follows: "The civilian population and relief societies such as the national Red Cross (Red Crescent and Red Lion and Sun) Societies shall be permitted,".

Draft Protocol I, Article 17 (continued)

CDDH/II/19
11 March 1974

Original: English

Bulgaria, Byelorussian Soviet Socialist Republic, German Democratic Republic, Hungary, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics

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

CDDH/II/25
11 March 1974

Original: Spanish

Cuba

In paragraphs 4 and 5 replace the word "charity" by "humanitarian feelings".

CDDH/II/34
12 March 1974

Original: English

Australia

1. 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."

2. 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."

3. Redraft paragraph 4 as follows:

"4. The Parties to the conflict may appeal to the charity of the civilian population or of relief societies to offer, under their supervision, voluntary shelter, care and assistance to the wounded and the sick and shall, in such 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."

Draft Protocol I, Article 17 (continued)

CDDH/II/34 (concluded)

4. Redraft paragraph 5 as follows:

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

(This amendment was withdrawn at the seventeenth meeting of Committee II, on 11 February 1975, in favour of amendment CDDH/II/203.)

CDDH/II/54

12 March 1974

Original: English

Australia, Canada, Germany, Federal Republic of, Italy, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America

1. Change title to: "Role of the civilian population and relief societies".
2. In paragraphs 2, 3 and 4, replace the words "shelter, care and assistance" by the words "shelter and care".
3. Amend the second sentence of paragraph 4 by deleting the period and adding the following: "for so long as they are needed".

CDDH/II/203

10 February 1975

Original: English

Australia

1. In paragraph 1, omit the words "even if they belong to the adverse Party".
2. In paragraph 2, replace the words "shelter, care and assistance" by the words "medical assistance or care."
3. Redraft paragraph 3 as follows:

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

Draft Protocol I, Article 17 (concluded)

CDDH/II/203 (concluded)

4. Redraft paragraph 4 as follows:

"4. 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."

5. Amend paragraph 5 to read:

"5. 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."

CDDH/II/256
10 March 1975
Original: English

New Zealand, Nigeria, United Kingdom of
Great Britain and Northern Ireland

In the text of Article 17 submitted in document CDDH/II/240/Add.1 delete "to collect the dead" and substitute "to search for and report the location of the dead".

For draft amendment CDDH/II/89 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 18 - IDENTIFICATION
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/19
11 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist
Republic, German Democratic Republic,
Hungary, Poland, Ukrainian Soviet
Socialist Republic, Union of Soviet
Socialist Republics

Delete the last sentence of paragraph 4 beginning with
the words "In case of an emergency ...".

(This amendment was withdrawn at the eighteenth meeting of
Committee II, on 12 February 1975.)

CDDH/II/33
12 March 1974
Original: English

Australia

1. Insert "medical" before the words "personnel, units and
transports" wherever these expressions appear in the
Article.

2. Redraft paragraph 4 as follows:

"4. Besides the distinctive emblem, a Party to the
conflict may authorize the use of distinctive signals to
distinguish medical units and means of transport. In case
of an emergency, temporary means of medical transport may
be distinguished by such signals without being marked with
the distinctive emblem."

(The amendment to paragraph 4 was withdrawn at the eighteenth meeting
of Committee II, on 12 February 1975.)

Draft Protocol I, Article 18 (continued)

CDDH/II/55
12 March 1974

Original: English

Australia, Canada, Netherlands, United
Kingdom of Great Britain and Northern
Ireland, United States of America

1. Amend paragraph 1 to read:

"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."

2. In paragraph 2, for "The High Contracting Party" read "Each Party to the conflict".

3. Amend paragraph 4 to read:

"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."

4. Amend paragraph 5 to read:

"5. The application of the provisions of paragraphs 1 to 4 of the present Article is governed by Chapters I to III of the Annex. 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."

5. In paragraph 6, insert "and of the present Protocol" after the word "Conventions".

(The amendment to paragraph 1 was withdrawn at the eighteenth meeting of Committee II, on 12 February 1975. At the same meeting Australia withdrew as co-sponsor of amendments CDDH/II/55 to paragraphs 1 and 4 in favour of amendments CDDH/II/210 below.)

Draft Protocol I, Article 18 (concluded)

CDDH/II/84
11 September 1974
Original: English

German Democratic Republic

Delete the last sentence of paragraph 4 reading as follows:

"In case of an emergency, temporary means of medical transport may be signalized by such signals without being marked with the distinctive emblem."

CDDH/II/210
11 February 1975
Original: English

Australia

1. 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."

2. Amend paragraph 4 as follows:

"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."

ARTICLE 18 bis - MISSING AND DEAD; GRAVES

For amendments to this Article see New Section I bis, page 98.

ARTICLE 18 bis - REVISION OF THE ANNEX*
(adopted by Committee II at the third session
and by the Conference
at the forty-eighth plenary meeting, on 1 June 1977)

NOTE. This Article was initially Article 16 of the Annex to draft Protocol I, entitled "Procedure". It was subsequently transferred to the main body of Protocol I as Article 18 bis - Revision of the Annex (see CDDH/II/SR.77).

CDDH/II/68
13 March 1974

Canada, United States of America

Original: English

Amend paragraphs 1 to 5 to read:

"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.

* Title in Final Act: Article 98 - Revision of Annex I.

Draft Protocol I, Article 18 bis (continued)

CDDH/II/68 (concluded)

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."

(This amendment was replaced by amendment CDDH/II/359.)

CDDH/II/357
30 April 1976

United Kingdom of Great Britain and
Northern Ireland

Original: English

Delete paragraphs 3, 4 and 5 of the amendment proposed by Canada and the United States of America (CDDH/II/68) and substitute the following:

"3. Amendments to this Annex may be adopted at such a conference by a two-thirds majority of the Parties present and voting.

4. The depositary shall communicate any amendment so adopted to the Parties. 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 an objection to the amendment has been communicated to the depositary by not less than one third of the 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 Parties with the exception of those which before that date have made a declaration of non-acceptance of the said amendment. 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 shall inform the Parties of the entry into force of any amendment, the Parties bound thereby and of the date of entry into force in relation to each Party."

(This amendment was withdrawn at the seventy-seventh meeting of Committee II, on 1 June 1976, in favour of amendment CDDH/II/359.)

Draft Protocol I, Article 18 bis (concluded)

CDDH/II/359

3 May 1976

Original: English

Canada, United Kingdom of Great Britain
and Northern Ireland, United States of
America

Redraft the amendment proposed by Canada and the United States of America (CDDH/II/68) to read:

"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 High Contracting Parties, the International Committee of the Red Cross shall convene 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.

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 and one third of the High Contracting Parties so requests.

3. Amendments to this Annex may be adopted at such a conference by a two-thirds majority of the High Contracting Parties present and voting.

4. The depositary shall communicate any amendment so adopted to the High Contracting Parties. 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 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. 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 shall inform the High Contracting Parties of the entry into force of any amendment, the Parties bound thereby and of the date of entry into force in relation to each Party."

ARTICLE 19 - STATES NOT PARTIES TO A CONFLICT*
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/4 Austria
7 March 1974
Original: English

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

(This amendment was withdrawn at the twentieth meeting of
Committee II, on 14 February, 1975.)

CDDH/II/32 Australia
12 March 1974
Original: English

Replace the comma after the word "wounded" by the
word "and".

(This amendment was replaced by amendment CDDH/II/215.)

CDDH/II/52 United Kingdom of Great Britain and
Northern Ireland
12 March 1974
Original: English

Redraft Article 19 as follows:

"Article 19 - States not Parties to the conflict

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."

* Title in Final Act: Article 19 - Neutral and other States not
Parties to a conflict.

Draft Protocol I, Article 19 (concluded)

CDDH/45
18 March 1974
Original: French

Austria, Finland, Sweden, Switzerland,
United Kingdom of Great Britain and
Northern Ireland

Replace the words "States not Parties to a conflict"
by "Neutral or other States not Parties to a conflict".

CDDH/II/215
13 February 1975
Original: English

Australia

Redraft Article 19 as follows:

"Article 19 - States not Parties to the conflict

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."

CDDH/II/242
25 February 1975
Original: English

Australia, Canada, New Zealand, United
Kingdom of Great Britain and Northern
Ireland

Amend Article 19 as submitted in document CDDH/II/240
as follows:

"/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."

ARTICLE 20 - PROHIBITION OF REPRISALS
(adopted by Committee II at the second session
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

CDDH/II/4
7 March 1974

Austria

Original: English

In Article 20 for "the wounded, the sick and the shipwrecked" read "the wounded and the sick."

CDDH/II/24
11 March 1974

United States of America

Original: English

1. For "wounded, the sick and the shipwrecked" read "wounded and sick".
2. Replace the words "mentioned in this Part" by "protected by this Part of the present Protocol".

(This amendment was withdrawn at the twentieth meeting of Committee II, on 14 February 1975, in favour of amendment CDDH/II/214.)

CDDH/II/31
11 March 1974

Australia

Original: English

1. Replace the comma after the word "wounded" by "and".
2. Replace the words "mentioned in" by the words "protected by".

(This amendment was replaced by amendment CDDH/II/214.)

Draft Protocol I, Article 20 (concluded)

CDDH/II/213

New Zealand

13 February 1975

Original: English

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

(This amendment was withdrawn at the twentieth meeting of
Committee II, on 14 February 1975, in favour of amendment
CDDH/II/214.)

CDDH/II/214

Australia

13 February 1975

Original: English

Replace existing Article 20 by the following:

"Article 20 - Prohibition of reprisals

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

SECTION I bis - INFORMATION ON THE VICTIMS OF A CONFLICT
AND REMAINS OF DECEASED*

(adopted by Committee II at the third and fourth sessions
and by the Conference
at the thirty-seventh plenary meeting, on 24 May 1977)

NOTE. Section I bis was first presented as a proposal for a new Article 18 bis - Missing and dead; graves. Amendments CDDH/II/56, CDDH/II/56/Rev.1, CDDH/II/204, CDDH/II/220 and CDDH/II/221 were submitted to this Article, which was then redrafted as Section I bis (see document CDDH/221/Rev.1, paras. 120 and 124). The remaining amendments were submitted to this Section, which was adopted by Committee II as Section I bis - Information on the victims of a conflict and remains of the deceased, comprising Article 20 bis - PURPOSE, Article 20 ter - MISSING PERSONS and Article 20 quater - REMAINS OF DECEASED (see document CDDH/II/385).

CDDH/II/56
12 March 1974
Original: English

Germany, Federal Republic of, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Add the following new Article:

"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.

* Title in Final Act: SECTION III - MISSING AND DEAD PERSONS
Article 32 - General principle
Article 33 - Missing persons
Article 34 - Remains of deceased

Draft Protocol I, Section I bis (continued)

CDDH/II/56 (continued)

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.

Draft Protocol I, Section I bis (continued)

CDDH/II/56 (concluded)

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."

CDDH/II/56/Rev.1
7 February 1975
Original: English

United Kingdom of Great Britain and
Northern Ireland

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."

Draft Protocol I, Section I bis (continued)

CDDH/II/204

Canada, New Zealand

10 February 1975

Original: English

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."

CDDH/II/220

New Zealand

13 February 1975

Original: English

In paragraph 1 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."

(This amendment was withdrawn at the thirty-fourth meeting of Committee II, on 11 March 1975.)

Draft Protocol I, Section I bis (continued)

CDDH/II/221

Italy

13 February 1975

Original: English

1. Add the following words at the end of paragraph 4:
"... in such a way that, whenever possible, the identity of the deceased person should always be recognizable."
2. Add the following words at the end of paragraph 5(b):
"... however, the return to the home State of the remains and personal effects concerns exclusively the official Graves Registration Service of the home State."

CDDH/II/259 and

Cyprus, France, Greece, Holy See

Add.1

11 March 1975

Original: French

Add the following sentence at the head of the Article, before Section I as proposed in document CDDH/II/244/Rev.1:

"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."

(In document CDDH/II/259/Add.1, Greece joined as co-sponsor.)

CDDH/II/261

United Kingdom of Great Britain and Northern Ireland

11 March 1975

Original: English

Replace the first sentence of paragraph 11 proposed in document CDDH/II/244/Rev.1 by the following: "The provisions of this / Part / do not impose obligations on a Party in respect of its own nationals."

Draft Protocol I, Section I bis (continued)

CDDH/II/260

12 March 1975

Original: English

Canada, Germany, Federal Republic of,
Nigeria, Spain, United Kingdom of Great
Britain and Northern Ireland

Replace the first sentence of paragraph 7(c) proposed in document CDDH/II/244/Rev.1 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."

CDDH/II/263

12 March 1975

Original: English

United States of America

Amend the first sentence of sub-paragraph 4(a) proposed in document CDDH/II/244/Rev.1 to 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."

CDDH/II/262

13 March 1975

Original: Spanish

Spain

1. Redraft Part I of document CDDH/II/244/Rev.1 to read:

"I. 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:

Draft Protocol I, Section I bis (continued)

CDDH/II/262 (continued)

(a) Each Party to the conflict shall communicate to the Central Tracing Agency and, either directly or through the Protecting Power or the International Committee of the Red Cross, 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 subparagraph, 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 International Committee of the Red Cross, 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 the 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.

Draft Protocol I, Section I bis (continued)

CDDH/II/262 (concluded)

(c) The particulars referred to in the preceding subparagraph shall be communicated to the Central Tracing Agency and, either directly or through the Protecting Power or the International Committee of the Red Cross, 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.

CDDH/II/354 and

Add.1

28 April 1976

Original: French

Austria, Cyprus, France, Greece, Holy See,
Nicaragua, Spain

Replace paragraph 1 of Chapter I (CDDH/221/Rev.1, para. 124, Text of the new Section I bis) by the following:

"In the implementation of the provisions of this Chapter, the activity of the High Contracting Parties and of the international agencies shall be mainly prompted by the right of families to know what has happened to their relatives, and by the desire to spare them moral suffering."

(In document CDDH/II/354/Add.1, Cyprus joined as co-sponsor.)

CDDH/II/355

30 April 1976

Original: English

United States of America

Amend the text proposed in document CDDH/II/271 and Add.1 as follows:

"SECTION I bis - INFORMATION ON THE VICTIMS OF A
CONFLICT AND REMAINS OF DECEASED"

Article 20 bis - Recording and search

1. In addition to the requirements imposed upon it by Part V of the Third Convention and Section V of Part III of the Fourth Convention to record information on certain persons protected by the Conventions each Party to the conflict shall record information on any other person who has been

Draft Protocol I, Section I bis (continued)

CDDH/II/355 (continued)

detained, imprisoned or otherwise held in captivity by it for more than two weeks as a result of hostilities or occupation, or who dies during any period of detention. Such information shall not be less than that provided for in Article 138 of the Fourth Convention.

2. In addition to the requirements imposed upon it by Articles 15 and 16 of the First Convention, Articles 18 and 19 of the Second Convention, and Chapter XI, Section IV of Part III of the Fourth Convention, each Party to the conflict shall, to the fullest extent possible, facilitate, and, if need be, carry out the search for any persons who have died as a result of hostilities of occupation.

3. Each Party to the conflict shall to the fullest extent possible facilitate and, if need be, carry out the search for, and recording of information on, persons who have been reported as missing by a High Contracting Power as soon as circumstances permit and at the latest from the end of active hostilities. The information shall be provided with the least possible delay to the requesting Party or to a Central Information Agency provided for in Article 123 of the Third Convention or Article 140 of the Fourth Convention as appropriate or to both."

"Article 20 ter - Graves

1. The remains of persons who have died as a result of occupation, or in detention resulting from occupation or hostilities and the remains 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 shall be respected, maintained and marked as provided for in Article 130 of the Fourth Convention.

2. The High Contracting Parties in whose territories such gravesites are situated shall:

(a) permit access to such gravesites by representatives of the official graves registration services of the country on whom the deceased person depended and by representatives of an international humanitarian organization as referred to elsewhere in the Conventions and the present Protocol. Access to such gravesites by relatives of such deceased shall also be permitted and facilitated as soon as circumstances permit;

Draft Protocol I, Section I bis (continued)

CDDH/II/355 (concluded)

(b) endeavour to agree on arrangements with the country on whom the deceased persons depended for the permanent protection and maintenance of such gravesites;

(c) at the request of the country on whom such deceased person depended or, unless it 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.

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

(a) in accordance with paragraph 2(c) of this Section; or,

(b) with the agreement of the country on whom such deceased person depended; or,

(c) where there exists an overriding public necessity for exhumation, and, in particular where there is a compelling medical or investigative need for exhumation, in which case the High Contracting Party shall at all times respect the remains, and shall give notice to the country on whom the deceased depended of its intention to exhume and shall specify the intended place of reinterment. Reinterment shall be in accordance with paragraph 1 of this Article.

4. Notwithstanding the provisions of the preceding paragraph, in the absence of arrangements as provided for in paragraph 2(b) of this Article, and if the country on whom such deceased persons depended is not willing to arrange at its own expense for the maintenance of such graves, the High Contracting Party in whose territory the gravesites described in this Article are situated may offer to facilitate the return to the country on whom such deceased persons depended, 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 that country, may adopt the arrangements laid down in its own laws on cemeteries and gravesites."

Draft Protocol I, Section I bis (continued)

CDDH/II/356

German Democratic Republic

30 April 1976

Original: English

Proposed new text for Article 18 bis new Section I bis.

"Article 18 bis - 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 the adverse Party.

2. This adverse Party shall transmit in its request the name, special characteristics and other information on such persons in order to facilitate such searches.

3. Such requests and the results thereof 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."

"Article 18 ter - Remains of deceased

1. 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 on grounds of hostilities or during occupation or in detention, are situated, shall endeavour to agree on arrangements in order to:

(a) permanently protect and maintain such graves and other locations,

(b) facilitate the return of the remains and personal effects of such deceased persons,

(c) settle the access to such graves and other locations by the relatives of such deceased persons.

Draft Protocol I, Section I bis (concluded)

CDDH/II/356 (concluded)

2. In the absence of agreements as provided for in paragraph 1 and where the High Contracting Party on whose territory such graves and other locations are situated has offered 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.

3. 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 1 and 2, 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.

4. The provisions of this Article shall not apply to graves of persons who have been legally sentenced for war crimes or crimes against humanity or members of an organization who have been declared criminal by a relevant tribunal."

For draft amendment CDDH/II/257 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

SECTION II - MEDICAL TRANSPORTS*

CDDH/II/265
17 March 1975
Original: English

Hungary

Proposal for the composition of Part II, Section II
and for the basis of discussion thereof.

Article No.		Proposed title of article	Basis for discussion	Amendments
ICRC	Proposed new			

SECTION II
MEDICAL TRANSPORTS AND TRANSPORTATION
CHAPTER I
JOINT PROVISIONS

21	21	Definitions	Art. 21 of ICRC	CDDH/56, page 139-141; CDDH/II/251
25	22	Notification	Art. 25 of ICRC	CDDH/II/249; CDDH/II/254
24	23	General protection of medical transports	Art. 24 of ICRC	CDDH/II/253

* Title in Final Act: SECTION II - MEDICAL TRANSPORTATION

Draft Protocol I, Section II (continued)

CDDH/II/265 (continued)

Article No.		Proposed title of article	Basis for discussion	Amendments
ICRC	Proposed new			

CHAPTER II

PROTECTION OF MEDICAL TRANSPORTS

-	24	Protection of medical vehicles	CDDH/II/249, para. 2 of Art. 23	
23	25	Protection medical ships, craft and amphibious vehicles	Art. 23 of ICRC	CDDH/II/249, Art. 24 and 25; CDDH/II/249/Corr.1; CDDH/II/252 CDDH/II/249/Add.1 and 2
29	26	Protection of medical aircraft	Art. 29 of ICRC Art. 36 of First Convention	CDDH/II/82 in CDDH/56, page 158, Article 29

Draft Protocol I, Section II (concluded)

CDDH/II/265 (concluded)

Article No.		Proposed title of article	Basis for discussion	Amendments
ICRC	Proposed new			

CHAPTER III

SPECIAL PROVISIONS FOR MEDICAL AIRCRAFT

26	27	Areas controlled by friendly forces	Art. 26 of ICRC	CDDH/II/14 and CDDH/II/81 in CDDH/56, page 146, CDDH/II/82, Art. 26 bis in CDDH/56, page 156
27	28	Contact zone	Art. 27 of ICRC	CDDH/II/82, Art. 27, CDDH/II/1, CDDH/II/14; CDDH/II/81 in CDDH/56, page 147-150, 157
28	29	Areas controlled by enemy forces	Art. 28 of ICRC	CDDH/II/81 and CDDH/II/82, Art. 28, in CDDH/56, page 150, 157
30	30	Agreements and notifications	Art. 30 of ICRC	GDR Amend. in CDDH/56, page 152; CDDH/II/82, Art. 30, CDDH/56, page 159
31	31	Landing and inspection	Art. 31 of ICRC	CDDH/II/14 and CDDH/II/82, Art. 31 in CDDH/56, page 154, 159-161
32	32	Neutral or other states not parties to the conflict	Art. 32 of ICRC	CDDH/45, CDDH/II/82 in CDDH/56, page 156, 161; CDDH/II/247

Draft Protocol I, Article 21 (concluded)

CDDH/II/79 (concluded)

(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 one or more medical transportation missions while devoted exclusively to the performance of such mission;

(c) '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;"

2. In paragraphs (d) and (e), delete the words "any means of".

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

CDDH/II/251
10 March 1975

Australia

Original: English

1. Delete paragraph (a) and insert:

"(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."

2. Delete paragraph (b) and insert:

"(b) 'Medical transport' is any means of transportation such as hospital ships, lifeboats 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 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."

3. Delete paragraphs (c), (d), (e).

ARTICLE 22 - SEARCH FOR WOUNDED

Replaced by ARTICLE 22 - MEDICAL VEHICLES*
(adopted by Committee II at the second session
and by the Conference
at the thirty-eighth plenary meeting, on 24 May 1977)

NOTE. Committee II considered Articles 22 to 25 together. At the second and third sessions, it deleted Article 22 and replaced Articles 23 to 25 by three articles entitled Medical vehicles, Hospital ships and coastal rescue craft, and Other medical ships and craft, which it numbered 22 to 24 (see CDDH/II/296; CDDH/221/Rev.1, paras. 210-211; CDDH/235/Rev.1, para. 32). Owing to these changes, some of the amendments submitted to and listed under ICRC Articles 23, 24 and 25 relate to the articles the Committee adopted in their place as Articles 22 to 24. The corresponding cross-references are given at the beginning and end of the list of Amendments to the articles in question.

CDDH/II/4 Austria
7 March 1974
Original: English

In Article 22 for "the wounded, the sick and the shipwrecked", read "the wounded and the sick".

(This amendment was withdrawn at the thirty-seventh meeting of Committee II, on 17 March 1975.)

CDDH/II/80 Belgium, Canada, Netherlands, United
19 March 1974 Kingdom of Great Britain and Northern
Original: English Ireland, United States of America

Delete Article 22 and substitute the following new Article:

"Article 22 - Notification

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."

(This amendment was replaced by document CDDH/II/249.)

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

* Article 21 of the Final Act.

Draft Protocol I, Article 22 (continued)

CDDH/II/249
4 March 1975
Original: French

Belgium, Canada, France, Norway, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 22 and substitute the following new
Article:

"Article 22 - Notification

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."

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/249/Add.3
14 March 1975
Original: English

United States of America

To facilitate discussion of ICRC draft Articles 22-25 the co-sponsors of CDDH/II/249 offer the following explanation of the relationship of their amendment to the ICRC text:

<u>ICRC Text</u>	<u>CDDH/II/249</u>
<u>Art. 22 - Search for wounded</u>	DELETE ARTICLE
<u>Art. 23 - Application</u>	AMENDED BY ARTICLES 24 and 25
<u>Art. 24 - Protection</u>	AMENDED BY ARTICLE 23 as to protection of land-vehicles AMENDED BY ARTICLES 24 and 25 as to protection of medi- cal ships and craft AMENDED BY ARTICLE 26 CDDH/II/82 as to protection of medical aircraft
<u>Art. 25 - Notification</u>	AMENDED BY ARTICLE 22

Draft Protocol I, Article 22 (concluded)

CDDH/II/254

Cuba

6 March 1975

Original: Spanish

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.

For amendments CDDH/II/80 and CDDH/II/249, relating to the article on MEDICAL VEHICLES, see pages 118-199 below.

ARTICLE 23 - APPLICATION

Replaced by ARTICLE 23 - HOSPITAL SHIPS
AND COASTAL RESCUE CRAFT*
(adopted by Committee II
at the second, third and fourth sessions
and by the Conference
at the thirty-eighth plenary meeting, on 24 May 1977)

CDDH/II/80
19 March 1974
Original: English

Belgium, Canada, Netherlands, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 23 and substitute the following new
Article and Chapter:

"CHAPTER II - MEDICAL VEHICLES

Article 23 - 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, and Article 13 of the present Protocol shall apply by analogy to civilian medical vehicles."

(This amendment was replaced by amendment CDDH/II/249.)

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

* Article 22 of the Final Act.

Draft Protocol I, Article 23 (continued)

CDDH/II/249 and
Add.3*
4 March 1975
Original: French

Belgium, Canada, France, Norway, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 23 and substitute the following Article and Chapter:

"CHAPTER II - MEDICAL VEHICLES

Article 23 - 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, and Article 13 of the present Protocol shall apply by analogy to civilian medical vehicles."

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/252
10 March 1975
Original: English

Australia

1. 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 Convention and by the relevant provisions of the present Protocol.

* For document CDDH/II/249/Add.3, see Article 22 above, page 116.

Draft Protocol I, Article 23 (continued)

CDDH/II/252 (concluded)

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."

2. In paragraph 4, delete the words "exclusively to civilian and military hospital ships" and in lieu thereof insert the words "to hospital ships only."

CDDH/II/258 and
Add.1

Germany, Federal Republic of

12 March 1975

Original: English

The following proposals are amendments to Articles 24 and 25 as contained in document CDDH/II/249:

Redraft Articles 24 and 25 as follows:

"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.

Draft Protocol I, Article 23 (concluded)

CDDH/II/258 and Add.1 (concluded)

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."

(In document CDDH/II/258/Add.1, the sponsor specified that the proposed amendment related to Article 23 of the ICRC text.)

For amendments CDDH/II/80, CDDH/II/249 and Corr.1 and CDDH/II/249/Add.2, relating to the article on HOSPITAL SHIPS AND COASTAL RESCUE CRAFT, see pages 122-124 below.

ARTICLE 24 - PROTECTION

Replaced by ARTICLE 24 - OTHER MEDICAL SHIPS AND CRAFT *
(adopted by Committee II at the third session
and by the Conference
at the thirty-eighth plenary meeting, on 24 May 1977)

CDDH/II/80
19 March 1974

Original: English

Belgium, Canada, Netherlands, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 24 and substitute the following new
Article and Chapter:

"CHAPTER III - MEDICAL SHIPS AND CRAFT

Article 24 - Hospital ships

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.

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."

(This amendment was replaced by document CDDH/II/249.)

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

* Article 23 of the Final Act.

Draft Protocol I, Article 24 (continued)

CDDH/II/249 and
Corr.1 and
CDDH/II/249/Add.3
4 March 1975
Original: French

Belgium, Canada, France, Norway, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 24 and substitute the following new
Article and Chapter:

"CHAPTER III - MEDICAL SHIPS AND CRAFT

Article 24 - Hospital ships

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.

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."

(Document CDDH/II/249/Corr.1 amended the title of the Chapter and the Article.)

(For document CDDH/II/249/Add.3, see Article 22 above, page 116.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

Draft Protocol I, Article 24 (continued)

CDDH/II/249/Add.2
6 March 1975
Original: English

Sweden

Accepting in principle the text of Articles 22-25 of Protocol I proposed in document CDDH/II/249, the Swedish Delegation suggests that paragraph 4 in Article 24 be amended to read:

"4. The provisions under Article 25 of the Second Convention shall (by analogy*) 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."

CDDH/II/253.
10 March 1975
Original: English

Australia

Delete existing Article and insert:

"Article 24 - Protection

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.

* This wording should be avoided.

Draft Protocol I, Article 24 (concluded)

CDDH/II/253 (concluded)

3. The protection afforded to medical aircraft is subject to Articles 27, 28, 29 and 32 of the present Protocol."

For amendments CDDH/II/80 and CDDH/II/249 and Add.1, relating to the article on OTHER MEDICAL SHIPS AND CRAFT, see pages 126-127 below.

ARTICLE 25 - NOTIFICATION

(deleted by Committee II at the third session)

CDDH/II/80
19 March 1974
Original: English

Belgium, Canada, Netherlands, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 25 and substitute the following new
Article:

"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."

(This amendment was replaced by amendment CDDH/II/249.)

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

Draft Protocol I, Article 25

CDDH/II/249 and
Add.3*
4 March 1975
Original: French

Belgium, Canada, France, Norway, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Delete Article 25 and substitute the following new
Article:

"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."

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/249/Add.1
6 March 1975
Original: English

Norway

In Article 25, paragraph 3, in document CDDH/II/249, insert the words "such other" after "to".

* For document CDDH/II/249/Add.3, see Article 22 above, page 116.

CHAPTER II - MEDICAL AIR TRANSPORT

CDDH/II/80
19 March 1974

Original: English

Belgium, Canada, Netherlands, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Replace the heading "CHAPTER II, MEDICAL AIR TRANSPORT"
by the heading "CHAPTER IV, MEDICAL AIRCRAFT".

(This amendment was replaced by document CDDH/II/249.)

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

CDDH/II/249
4 March 1975

Original: French

Belgium, Canada, France, Norway, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Replace the title "CHAPTER II - MEDICAL AIR TRANSPORT"
by the title "CHAPTER IV - MEDICAL AIRCRAFT".

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

ARTICLE 26 - SECTORS CONTROLLED BY NATIONAL OR ALLIED FORCES
(adopted as Article 26 bis - MEDICAL AIRCRAFT IN
AREAS NOT CONTROLLED BY AN ADVERSE PARTY
by Committee II at the second session
and by the Conference
at the thirty-eighth plenary meeting, on 24 May 1977)*

NOTE. This article was renumbered Article 26 bis to permit the insertion of a new Article 26 (see page 131). The first two amendments listed below, CDDH/II/14 and CDDH/II/81, were submitted to the original Article 26 and the rest to the renumbered article.

CDDH/II/14 Israel
11 March 1974
Original: English

Replace the words "may fly" by "shall not be deprived of protection by reason of their flying".

(This amendment was withdrawn at the forty-sixth meeting of Committee II, on 4 April 1975.)

CDDH/II/81 Republic of Korea
22 March 1974
Original: English

Delete the second sentence which reads "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".

(This amendment was withdrawn at the forty-sixth meeting of Committee II, on 4 April 1975.)

* Article 25 of the Final Act.

Draft Protocol I, Article 26 (concluded)

CDDH/II/82
25 March 1974

Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend Article 26 bis to read:

"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 document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/82/Rev.1
20 March 1975
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend Article 26 bis to read:

"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."

NEW ARTICLE 26 - PROTECTION OF MEDICAL AIRCRAFT *
(adopted by Committee II at the second session
and by the Conference
at the thirty-eighth plenary meeting, on 24 May 1977)

NOTE. For Article 26 - Sectors controlled by national and allied forces, see page 129.

CDDH/II/82
25 March 1974
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend Chapter II of Section II of Part II to read as follows:

"CHAPTER IV - MEDICAL AIR TRANSPORT

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."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

* Article 24 of the Final Act.

Draft Protocol I, New Article 26 (concluded)

CDDH/II/82/Rev.1
20 March 1975
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend Chapter II of Section II of Part II to read as follows:

"CHAPTER IV - MEDICAL AIR TRANSPORT

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."

ARTICLE 27 - CONTACT ZONE*
(adopted by Committee II at the second session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/II/1
27 February 1974
Original: French

Belgium

Redraft Article 27 to read:

"1. (a) Any parts of a land or sea contact zone effectively controlled by national or allied troops may in principle be flown over by medical aircraft of such forces without prior agreement of the adverse Party. To ensure the safety of such aircraft, however, an agreement is recommended.

(b) In any parts of a land or sea contact zone 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.

(c) No particular form of such agreement is prescribed."

Replace paragraph 2 by a new article to be inserted after Articles 27 and 28, reading, more or less as follows:

"In the absence of the agreements referred to in Articles 27 and 28, the adverse Party shall respect medical aircraft as soon as it has identified them. It shall take all necessary security measures (summons to land or alight on water, as appropriate, for inspection, etc.) before having recourse to any extreme measures."

N.B. Alternatively a wording on these lines might be included in Article 24 on Protection.

(This amendment was withdrawn at the forty-sixth meeting of Committee II, on 4 April 1975.)

* Title in Final Act: Article 26 - Medical aircraft in contact or similar zones.

Draft Protocol 1, Article 27 (concluded)

CDDH/II/82 (concluded)

2. 'Contact zone' means any area on land upon which opposing forces are in direct contact with each other."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/85

German Democratic Republic

11 September 1974

Original: English

Delete paragraph 2.

CDDH/II/82/Rev.1

20 March 1975

Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 27 to read:

"Article 27 - Contact zone

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 / after / they have been recognized.

2. Contact zone means any area on land upon which opposing forces are in direct contact with each other."

Draft Protocol I, Article 28 (concluded)

CDDH/II/82/Rev.1
20 March 1975
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 28 to read:

"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."

ARTICLE 29 - RESTRICTIONS*
(adopted by Committee II at the second session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/II/1
27 February 1974
Original: French

Belgium

The term "photographic equipment" is too restrictive in view of the modern methods available nowadays to intelligence services. We suggest that the sentence be expanded, as indeed it was in the original drafts, by the inclusion of the words: "or other equipment for the collection of intelligence".

(This amendment was withdrawn at the forty-seventh meeting of Committee II, on 5 April 1975.)

CDDH/II/14
11 March 1974
Original: English

Israel

Following the words "photographic equipment" add "or electronic and similar devices the use of which is prejudicial to the adverse Party".

(This amendment was withdrawn at the forty-sixth meeting of Committee II, on 4 April 1975.)

CDDH/II/81
22 March 1974
Original: English

Republic of Korea

After the words "unless previously" insert the words "so notified to, or".

(This amendment was withdrawn at the forty-sixth meeting of Committee II, on 4 April 1975.)

* Title in Final Act: Article 28 - Restrictions on operations of medical aircraft.

Draft Protocol I, Article 29 (continued)

CDDH/II/82

25 March 1974

Original: English

Belgium, Canada, France, Netherlands,

Norway, United Kingdom of Great Britain and

Northern Ireland, United States of America

Redraft Article 29 to read:

"Article 29 - Restrictions

1. The Parties to a conflict are prohibited from using their medical aircraft 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."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

Draft Protocol I, Article 29 (concluded)

CDDH/II/82/Rev.1
20 March 1975
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 29 to read:

"Article 29 - Restrictions

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."

Draft Protocol I, Article 30 (continued)

CDDH/II/82 (concluded)

2. The Parties to the conflict shall take necessary measures so that the substance of any such agreements and notifications is disseminated to the troops concerned and shall instruct such troops concerning the means of identification that will be used by medical aircraft of the adverse Party."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/86
11 September 1974
Original: English

German Democratic Republic

Replace Article 30 by the following:

"The agreements and notifications provided for in Articles 26, 27, 28 and 29 shall contain the following: the number of medical aircraft, their flight routes, their flight altitude, their flying times and the means of identification that they will be using."

(This amendment was withdrawn at the forty-seventh meeting of Committee II, on 5 April 1975.)

Draft Protocol I, Article 30 (concluded)

CDDH/II/82/Rev.1
20 March 1975
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend Article 30 to read:

"Article 30 - Agreements and notifications

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."

CDDH/II/273
20 March 1975
Original: English

Sweden

Amend paragraph 1 in new Article 30, as contained in document CDDH/II/82 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."

ARTICLE 31 - LANDING*
(adopted by Committee II at the third session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/II/14
11 March 1974
Original: English

Israel

In paragraph 2, delete the words "or if it has flown
without prior agreement".

(This amendment was withdrawn at the forty-sixth meeting of
Committee II, on 4 April 1975.)

CDDH/II/82
25 March 1974
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 31 to read:

"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. If the inspecting party requires the wounded and sick to be removed from the aircraft to facilitate the inspection, it shall ensure that the condition of such wounded and sick is not prejudiced by such removal.

* Title in Final Act: Article 30 - Landing and inspection of medical aircraft.

Draft Protocol I, Article 31 (continued)

CDDH/II/82 (concluded)

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, or has complied with the obligation laid down in Article 28 of the present Protocol, 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; or

(c) has flown without or in breach of a prior agreement where such agreement is required; or if it has flown without notification where notification is required,

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."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

Draft Protocol I, Article 31 (continued)

CDDH/II/82/Rev.1

20 March 1975

Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 31 to read:

"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.

Draft Protocol I, Article 31 (concluded)

CDDH/II/82/Rev.1 (concluded)

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."

ARTICLE 32 - STATES NOT PARTIES TO THE CONFLICT*
(adopted by Committee II at the third session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/45
18 March 1974
Original: French

Austria, Finland, Sweden, Switzerland,
United Kingdom of Great Britain and
Northern Ireland

In paragraphs 1 to 4, replace the expression "a State not Party to the conflict" by "a neutral or other State not Party to the conflict"; in paragraph 5 replace the expression "The States not Parties to the conflict" by "Neutral or other States not Parties to the conflict."

(This amendment was withdrawn at the forty-eighth meeting of Committee II, on 7 April 1975.)

CDDH/II/82
25 March 1974
Original: English

Belgium, Canada, France, Netherlands,
Norway, United Kingdom of Great Britain and
Northern Ireland, United States of America

Redraft Article 32 to read:

"Article 32 - Neutral or other States not Parties to the conflict

1. Except by prior agreement, a 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 before having recourse to extreme measures.

* Title in Final Act: Article 31 - Neutral or other States not Parties to the conflict.

Draft Protocol I, Article 32 (continued)

CDDH/II/82 (concluded)

3. If such an aircraft lands, or alights on water, in the territory of a neutral or other State not Party to the conflict, whether forced or in compliance with a summons, the aircraft, with its occupants, may resume its flight after inspection, if any. 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 condition of these persons is not prejudiced by such removal."

(In document CDDH/II/217, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/255, Norway became a co-sponsor of this amendment.)

(In document CDDH/II/264, France became a co-sponsor of this amendment.)

CDDH/II/247

3 March 1975

Original: English

Belgium, Canada, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America

Proposed amendment to Article 32 - Neutral or other States not Parties to the conflict (CDDH/II/82) as amended by adding after the proposed paragraph 3, the following: No change is proposed to paragraphs 4 and 5 of the ICRC text.

CDDH/II/82/Rev.1

20 March 1975

Original: English

Belgium, Canada, France, Netherlands, Norway, United Kingdom of Great Britain and Northern Ireland, United States of America

Redraft Article 32 to read:

"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.

Draft Protocol I, Article 32 (continued)

CDDH/II/82/Rev.1 (concluded)

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."

Draft Protocol I, Article 32 (continued)

CDDH/II/290
21 March 1975

Original: English

Austria, Finland, Sweden, Switzerland,
Yugoslavia

"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.

Draft Protocol I, Article 32 (concluded)

CDDH/II/290 (concluded)

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."

For draft amendment CDDH/II/90 submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

PART III - METHODS AND MEANS OF COMBAT -
PRISONER-OF-WAR STATUS*

SECTION I - METHODS AND MEANS OF COMBAT**

NEW ARTICLE TO BE INSERTED BEFORE ARTICLE 33 - AGGSSION AND
NON-DISCRIMINATORY APPLICATION OF HUMANITARIAN LAW***
(withdrawn)

CDDH/III/284
4 April 1975
Original: English/
Russian

Algeria, Arab Republic of Egypt, Bangladesh,
Bulgaria, Byelorussian Soviet Socialist
Republic, Czechoslovakia, Democratic
People's Republic of Korea, Democratic
Republic of Viet-Nam, German Democratic
Republic, Hungary, Iraq, Mongolia, Poland,
Sudan, Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics,
Yugoslavia, Palestine Liberation
Organization

Insert a new article before Article 33 worded as follows:

"1. The High Contracting Parties recognize the importance of the definition of aggression as adopted by the United Nations General Assembly at its twenty-ninth session, which inter alia serves to save humanity from the horrors of the war and to strengthen the protection of the civilian population and civilian objects and affirm their conviction that acceptance of the rules of international humanitarian law set forth in the Geneva Conventions and this Protocol cannot be construed as justifying and legitimatizing in any way acts of aggression.

2. They agree that the protections accorded by the Geneva Conventions on the protection of victims of war of 1949 and by this Protocol shall be extended without any discrimination to all victims of the conflict without regard to the causes espoused by the Party to which they belong."

(This amendment was withdrawn by its sponsors. See document CDDH/407/Rev.1, paragraph 12.)

* Title in Final Act: PART III - METHODS AND MEANS OF WARFARE - COMBATANT AND PRISONER-OF-WAR STATUS.

** Title in Final Act: SECTION I - METHODS AND MEANS OF WARFARE.

*** Provisional title suggested by the Secretariat.

ARTICLE 33 - PROHIBITION OF UNNECESSARY INJURY*
(adopted by Committee III at the second session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/7
11 March 1974
Original: Spanish

Uruguay

Delete the word "disabled" in paragraph 2.

CDDH/III/11
12 March 1974
Original: English

Pakistan

Replace the present Article by the following:

"It is forbidden to use weapons and methods of warfare which are likely to affect combatants and civilians indiscriminately.

The High Contracting Parties shall meet under the auspices of the International Committee of the Red Cross to prohibit weapons, projectiles, substances, methods and means which uselessly aggravate the suffering of disabled adversaries or render their death inevitable in all circumstances. The High Contracting Parties shall also meet with the object of specifying and prohibiting weapons and methods of warfare which are likely to affect combatants and civilians indiscriminately."

* Title in Final Act: Article 35 - Basic rules.

Draft Protocol I, Article 33 (continued)

CDDH/III/108

German Democratic Republic

11 September 1974

Original: English

Replace Articles 33 and 34 by the following text:

"Means and methods of combat

1. The choice of means and methods of combat by the Parties to the conflict and by the combatants is not unlimited.
2. It is forbidden to use means and methods which cause unnecessary suffering or other particularly cruel means and methods.
3. It is forbidden to use means and methods which affect military objectives and protected persons or civilian objects indiscriminately.
4. It is forbidden to use means and methods which destroy natural human environmental conditions.
5. In cases for which no provision is made in the present Protocol, the principle of humanity, the rules and principles of international law and the dictates of the public conscience shall continue to safeguard populations and combatants pending the adoption of fuller regulations."

(This amendment was replaced by document CDDH/III/225.)

CDDH/III/91

Finland

4 October 1974

Original: English

Redraft Article 33 as follows:

"Article 33 - Basic rule

1. The right of Parties to the conflict to adopt methods and means of combat is not unlimited.
2. It is forbidden to employ weapons, projectiles, substances or other methods and means which cause unnecessary suffering or superfluous injury."

Draft Protocol I, Article 33 (continued)

CDDH/III/222
24 February 1975
Original: English

Arab Republic of Egypt, Australia,
Czechoslovakia, Finland, German Democratic
Republic, Hungary, Ireland, Norway, Sudan,
Yugoslavia

Add a paragraph:

"It is forbidden to use methods and means which disturb or alter the ecological balance of the human environment."

CDDH/III/225
24 February 1975
Original: English

German Democratic Republic

Replace Article 33 by the following text:

"Means and methods of combat

1. The choice of means and methods of combat by the Parties to the conflict and by the combatants is not unlimited.
2. It is forbidden to use means and methods which cause unnecessary suffering or other particularly cruel means and methods.
3. It is forbidden to use means and methods which affect military objectives and protected persons or civilian objects indiscriminately.
4. In cases for which no provision is made in the present Protocol, the principle of humanity, the rules and principles of international law and the dictates of the public conscience shall continue to safeguard populations and combatants pending the adoption of fuller regulations."

Draft Protocol I, Article 33 (continued)

CDDH/III/237
25 February 1975
Original: English

Australia

Delete the existing draft Article and substitute in lieu thereof the following:

"Article 33 - Prohibition of unnecessary injury

1. The right of the Parties to the conflict to adopt means of injuring the enemy is not unlimited.
2. It is forbidden to use weapons, projectiles, materials or means calculated to cause unnecessary suffering."

CDDH/III/238 and
Add.1
25 February 1975
Original: French

Democratic Republic of Viet-Nam, Uganda

Add three new paragraphs to Article 33:

"3. It is forbidden to employ methods and means of combat which cause mass extermination or the destruction of entire regions.

4. It is forbidden to employ methods and means of combat designed to subjugate a whole people struggling against colonial domination or foreign occupation or against racist régimes, particularly those which consist in terrorizing the civilian population for the purpose of forcible mass transfer or herding it into camouflaged concentration camps.

5. It is forbidden to employ methods and means of combat which disrupt or destroy the natural conditions of the human environment."

(In document CDDH/III/238/Add.1, Uganda was added as co-sponsor.)

Draft Protocol I, Article 33 (concluded)

CDDH/III/259

Norway

18 March 1975

Original: English

Add a new paragraph:

"Combatants shall distinguish themselves from the civilian population in military operations."

For draft amendment CDDH/41 submitted by the Democratic Republic of Viet-Nam, see Annex III to the Table of Amendments.

ARTICLE 34 - NEW WEAPONS *
(adopted by Committee III at the second session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/28 Ghana
14 March 1974
Original: English

Delete the words "will cause unnecessary injury" and
substitute the words "and the consequences of their use will
cause unnecessary injury, damage or suffering not only to an
adversary, but also to the population of a State not a Party
to a conflict."

(This amendment was withdrawn at the twenty-seventh meeting of
Committee III, on 3 March 1975, in favour of amendment CDDH/III/225
(see Article 33 above).)

CDDH/III/32 Brazil
14 March 1974
Original: French

Replace the text of the Article by the following:

"The High Contracting Parties shall refrain from
developing new weapons whose use is forbidden by
Article 33 (2)."

CDDH/III/108 German Democratic Republic
11 September 1974
Original: English

Replace Articles 33 and 34 by the following text:

"Means and methods of combat

1. The choice of means and methods of combat by the
Parties to the conflict and by the combatants is not
unlimited.

2. It is forbidden to use means and methods which
cause unnecessary suffering or other particularly cruel
means and methods.

* Article 36 of the Final Act.

Draft Protocol I, Article 34 (continued)

CDDH/III/108 (concluded)

3. It is forbidden to use means and methods which affect military objectives and protected persons or civilian objects indiscriminately.

4. It is forbidden to use means and methods which destroy natural human environmental conditions.

5. In cases for which no provision is made in the present Protocol, the principle of humanity, the rules and principles of international law and the dictates of the public conscience shall continue to safeguard populations and combatants pending the adoption of fuller regulations."

(This amendment was replaced by amendment CDDH/III/225; for amendment CDDH/III/225 see Article 33 above.)

CDDH/III/92

Poland

1 October 1974

Original: French

Add the following words at the end of the Article:
"or be a danger to the natural environment."

CDDH/III/226

Netherlands, Norway, Sweden

25 February 1975

Original: English

Replace the text of the Article by the following:

"In the study, development or acquisition of new weapons or other means or new methods of warfare each High Contracting Party shall determine whether their employment would fall under the prohibitions contained in the Articles 33, paragraph 2, or 46, paragraph 3 of this Protocol or be incompatible with any other rules of international law applicable in armed conflict."

Draft Protocol I, Article 34 (concluded)

CDDH/III/231

Byelorussian Soviet Socialist Republic

25 February 1975

Original: Russian

 Add the following words at the end of Article 34:
 "and in cases where it is determined that such weapons or
 methods of their use in fact cause unnecessary suffering,
 they shall transmit the problem of their prohibition to the
 competent international organs for consideration."

CDDH/III/235

Australia

25 February 1975

Original: English

 Delete the existing draft Article and substitute in
 lieu thereof the following:

"Article 34 - New weapons

 In the development of weapons and means of warfare
 States have an obligation to ensure that such weapons and
 means will be compatible with the principles set out in
 Article 33 of the present Protocol."

ARTICLE 35 - PROHIBITION OF PERFIDY *
(adopted by Committee III at the third session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/7
11 March 1974
Original: Spanish

Uruguay

Delete paragraph 2.

CDDH/III/80
11 September 1974
Original: English

Norway

Redraft paragraph 1 as follows:

"1. It is forbidden to kill or injure by resort to perfidy. Acts betraying an enemy's confidence, such as the abuse of an international convention, truce or humanitarian negotiation, the misuse of internationally recognized protective signs, the feigning of surrender, the use in combat of the enemy's distinctive emblems, the creation, prior to attack of an impression with the enemy of being a non-combatant, are deemed to constitute perfidy."

CDDH/III/81
11 September 1974
Original: English

Norway

Add a new paragraph 3:

"3. Attacks from ambush, even if carried out in civilian clothing, are not prohibited."

* Article 37 of the Final Act.

Draft Protocol I, Article 35 (continued)

CDDH/III/93

Poland

1 October 1974

Original: French

Replace the present text of the second and third sentences of paragraph 1 by the following: "Acts inviting the confidence of the adversary with intent to betray that confidence and to cause him to take action in the false belief that he is legally bound to do so, are deemed to constitute perfidy. Such acts include the following:".

CDDH/III/223

Belgium

24 February 1975

Original: French

Amend Article 35 to read:

"Article 35 - Acts of perfidy and ruses of war

1. It is forbidden:

(a) to conceal military activity by the misuse of internationally recognized protective signs or by feigning distress

(b) to attack

- either under cover of a cease-fire, a feigned surrender or a humanitarian negotiation,
- or if disguised in enemy or neutral uniform,
- or if feigning non-combatant status, by disguise in civilian clothing or by any other means.

Such acts are deemed to be acts of perfidy.

2. Ruses of war such as camouflage, traps, mock operations and misinformation, by virtue of the fact that they do not invite the justified confidence of the adversary and so do not in this respect violate any rule of the law of war but are designed solely to mislead him or to induce him to act recklessly, are lawful."

Draft Protocol I, Article 35 (continued)

CDDH/III/232 Indonesia
25 February 1975
Original: English

Delete sub-paragraph 1(c).

CDDH/III/233 Canada, Ireland, United Kingdom of Great
25 February 1975 Britain and Northern Ireland
Original: English

Replace the present text by the following:

"1. ' It is forbidden to kill, injure, or capture an adversary by resort to perfidy. Acts inviting the confidence of the adversary that he is entitled to, or is obliged to accord, protection under international law with intent to betray that confidence shall constitute perfidy. In particular, the following acts when carried out in order to kill, injure or capture an adversary are considered perfidious:

(a) the feigning of a situation of distress, notably through the misuse of an internationally recognized protective sign;

(b) the feigning of a cease-fire, of a humanitarian negotiation or of a surrender:

(c) the feigning by a combatant of non-combatant status, whether by disguising himself in civilian clothing or by any other means.

2. Ruses of war are not considered to be perfidy. Ruses of war are those acts which, while infringing no rule of international law, are intended to mislead the adversary or to induce him to act recklessly."

CDDH/III/234 Australia
25 February 1975
Original: English

Delete paragraph 2 in its entirety.

Draft Protocol 1, Article 35 (concluded)

CDDH/III/236

Democratic Republic of Viet-Nam

25 February 1975

Original: English

Delete sub-paragraph (c) of paragraph 1.

For draft amendment CDDH/III/6 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 36 - RECOGNIZED SIGNS *
(adopted by Committee III at the second session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/75

21 March 1974

Original: Spanish

Venezuela

In paragraph 3 before the words "distinctive sign of
the United Nations" insert the words "emblem and".

* Title in Final Act: Article 38 - Recognized emblems.

Draft Protocol 1, Article 37 (concluded)

CDDH/III/240

United States of America

3 March 1975

Original: English

Redraft the Article to read:

"It is forbidden to make use of the flags or military insignia and uniforms of States that are not Parties to the conflict. It is further forbidden to make use of the flags or military insignia and uniforms of the adversary while engaging in attacks."

ARTICLE 38 - SAFEGUARD OF AN ENEMY HORS DE COMBAT
AND GIVING QUARTER*

NOTE. At the second session, this Article was divided by Committee III into two articles: Article 38 - Safeguard of an enemy hors de combat and Article 38 bis - Quarter. At the third session, the two Articles were adopted by Committee III in the reverse order, the number 38 being given to the Article on Quarter, and 38 bis to the Article on Safeguard. At the thirty-ninth plenary meeting, on 25 May 1977, the Conference adopted the Articles in the same reversed order.

CDDH/III/7 Uruguay
11 March 1974
Original: Spanish

Delete the words "no longer has any means of defence" in paragraph 1.

CDDH/III/214 Brazil
19 February 1975
Original: English

Replace the first paragraph by the following:

"1. It is forbidden to kill, injure, ill-treat or torture an enemy 'hors de combat'. An enemy 'hors de combat' is one who has no longer any possibility of defence or has surrendered. An enemy is considered as having surrendered when, having laid down his arms, has clearly expressed an intention to surrender and abstaining from any hostile act does not attempt to escape."

CDDH/III/241 Afghanistan
4 March 1975
Original: French

Paragraph 3 should become Article 38 bis.

* In the Final Act this Article became: Article 40 - Quarter; Article 41 - Safeguard of an enemy hors de combat.

Draft Protocol 1, Article 38 (concluded)

CDDH/III/242
5 March 1975
Original: English

Belgium, Ireland, United Kingdom of Great
Britain and Northern Ireland

Redraft the Article to read:

"1. It is forbidden to kill or injure a combatant who is hors de combat. For the purposes of this paragraph a combatant is hors de combat if he is not yet in the power of the adverse Party but is unconscious or

(a) is wounded or sick; or

(b) has surrendered or has clearly expressed an intention to surrender;

and, if, in either case, he abstains from any hostile act and does not attempt to escape.

2. Where for operational reasons a commander in the field cannot hold prisoners under humane conditions as required by the Third Convention, he is obliged, when releasing them, to take such precautions as may in the circumstances be reasonable to ensure their safety.

3. It is forbidden to order that there shall be no survivors, to threaten an adversary therewith or to conduct hostilities on such basis."

CDDH/III/243
5 March 1975
Original: English

Canada, New Zealand, United States of
America

Amend paragraph 2 to read:

"2. A Party to a conflict shall issue instructions to forces under its control that when members of the adversary forces have been captured under conditions of combat which prevent such captives from being evacuated as provided for in Part III, Section I of the 1949 Geneva Conventions for the Protection of Prisoners of War, such captives shall be released and such precautions as may in the circumstances be reasonable, shall be taken to ensure their safety."

ARTICLE 38 bis - QUARTER*

See Article 38, NOTE and amendment CDDH/III/241.

* Article 40 of the Final Act.

ARTICLE 39 - AIRCRAFT OCCUPANTS*
(adopted by Committee III at the third and fourth sessions
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/69
20 March 1974
Original: English

Israel

Re-number paragraph 2 to become paragraph 3 and
insert a new paragraph 2 reading as follows:

"2. A person parachuting from an aircraft in distress and whose attitude in the course of his descent is not manifestly hostile shall be considered hors de combat during the course of his descent.

Upon reaching the ground such person shall be given a reasonable opportunity to surrender."

CDDH/III/244
5 March 1975
Original: English

Arab Republic of Egypt, Kuwait, Libyan
Arab Republic, Mauritania, Sudan, United
Arab Emirates

1. Redraft paragraph 1 to read as follows:

"1. Persons parachuting from aircraft in distress shall, during descent, be entitled to the protection enshrined in Article 38 for enemy combatants hors de combat, provided that they are obviously hors de combat. An aircraft is not considered to be in distress solely on account of the fact that its means of combat are out of commission."

2. In paragraph 2, add the following words at the end:
"and shall be considered as acts of perfidy."

CDDH/413
24 May 1977
Original: English

Philippines

At the end of paragraph 1, add: "... unless he commits a hostile act during such descent."

* Title in Final Act: Article 42 - Occupants of aircraft.

Draft Protocol I, Article 39 (concluded)

CDDH/414
24 May 1977
Original: French

Democratic Yemen, Iraq, Jordan, Kuwait,
Lebanon, Mauritania, Morocco, Qatar, Saudi
Arabia, Socialist People's Libyan Arab
Jamahiriya, Somalia, Sudan, Syrian Arab
Republic, Tunisia, United Arab Emirates,
Yemen

At the end of paragraph 1, add the following:
"... unless it is apparent that he will land in territory
controlled by the Party to which he belongs or by an ally
of that Party."

ARTICLE 40 - INDEPENDENT MISSIONS *
(adopted by Committee III at the third session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/217
19 February 1975
Original: English

Brazil

Delete, in paragraphs 1 and 2, the words "... and other combatants referred to in Article 4 of the Third Convention ..." and substitute the following: "... and other persons belonging to the categories referred to in Article 4A (1) (2) (3) and (6) of the Third Convention ...".

CDDH/III/213
21 February 1975
Original: Spanish

Spain

Amend Article 40 to read:

"1. Members of armed forces in uniform and other combatants referred to in Articles 4 of the Third Convention and 42 of the present Protocol, who, in their operations, distinguish themselves from the civilian population by means of fixed badges, permanent and clearly visible, and who, having entered or remained in enemy-controlled territory, gather or attempt to gather military information for further transmission, shall not be considered as spies.

2. Members of the armed forces in uniform and other combatants referred to in Articles 4 of the Third Convention and 42 of the present Protocol, who, in their operations, distinguish themselves from the civilian population by means of fixed badges, permanent and clearly visible, and who, having entered or remained in enemy-occupied territory destroy or attempt to destroy military objectives, shall not be considered as saboteurs.

3. (No change)."

* Title in Final Act: Article 46 - Spies.

Draft Protocol I, Article 40 (concluded)

CDDH/III/245

Democratic Republic of Viet-Nam

10 March 1975

Original: French

In paragraph 1, delete the words "in uniform".

In paragraph 2, delete the words "in uniform".

ARTICLE 41 - ORGANIZATION AND DISCIPLINE *
(adopted by Committee III at the third session
and by the Conference
at the thirty-ninth plenary meeting, on 25 May 1977)

CDDH/III/28
14 March 1974
Original: English

Ghana

After the words "resistance movements", insert the words "and of liberation movements".

(This amendment was replaced by document CDDH/III/324.)

CDDH/III/210
21 February 1975
Original: Spanish

Spain

Redraft the Article to read:

"Armed forces and combatants mentioned in Article 4 of the Third Convention and in Article 42 of the present Protocol shall be organized and subject to an appropriate internal disciplinary system which shall enforce observance of the present rules and of the other rules of international law applicable in armed conflicts".

CDDH/III/259
18 March 1975
Original: English

Norway

Redraft the Article to read as follows:

"Article 41 - Organization and discipline

1. The armed forces of a Party to the conflict may consist of regular armed forces, militias or volunteer corps forming part of such armed forces, other militias and volunteer corps, as well as organized resistance or liberation movements.

* Title in Final Act: Article 43 - Armed forces.

Draft Protocol I, Article 41 (concluded)

CDDH/III/259 (concluded)

2. Such armed forces shall be organized and subject to an appropriate internal disciplinary system. As a minimum they shall be under a command responsible to a Party to the conflict for its subordinates, and their disciplinary system shall be capable of enforcing respect for the rules of international law applicable in armed conflict, including the Conventions and the present Protocol."

CDDH/III/324

Ghana

30 April 1976

Original: English

After the words "resistance movements", insert the words "and of liberation movements".

SECTION II - PRISONER-OF-WAR STATUS *

ARTICLE 42 - NEW CATEGORY OF PRISONERS-OF-WAR **
(adopted by Committee III at the fourth session
and by the Conference
at the fortieth plenary meeting, on 26 May 1977)

CDDH/III/11
12 March 1974
Original: English

Pakistan

1. In paragraph 1, after the words "resistance movements" and before the words "who have fallen" insert the following words: "struggling for the right of self-determination from colonial and alien rule, as recognized under international law".

2. Add the following new clause:

(d) that they are organized and subject to an appropriate internal disciplinary system which ensures respect for the present rules and for the other rules of international law applicable in armed conflicts".

CDDH/III/28
14 March 1974
Original: English

Ghana

Add a new paragraph 3 as suggested by the ICRC with the insertion of the words "so far as is practicable" after the words "who comply".

(This amendment was replaced by document CDDH/III/324 below.)

* Title in Final Act: SECTION II - COMBATANT AND PRISONER-OF-WAR STATUS.

** Title in Final Act: Article 44 - Combatants and prisoners of war.

Draft Protocol I, Article 42 (continued)

CDDH/III/73 and
Add.1

21 March 1974

Original: French

Madagascar, South West Africa People's
Organization

Redraft Article 42 as follows:

"1. In addition to the persons mentioned in Article 4 of the Third Convention, the following persons are considered to be prisoners of war provided they fulfil the conditions set forth in paragraph 2:

(a) members of organized resistance movements who have fallen into the hands of the enemy, provided such members belong to a Party to the conflict, even if that Party is represented by a government or an authority not recognized by the Detaining Power;

(b) members of organized national liberation movements engaged in armed struggle where peoples exercise their right to self-determination as guaranteed by the United Nations Charter and the 'Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations'.

2. Members of the movements designated in paragraph 1 are considered to be prisoners of war if those movements fulfil the following conditions:

(a) that they are under a command responsible to a Party to the conflict for its subordinates;

(b) that they conduct their military operations in accordance with the Conventions and the present Protocol.

3. Non-fulfilment of the aforementioned conditions by individual members of the movements designated in paragraph 1 shall not deprive other members of those movements of the status of prisoners of war. Members of those movements who violate the Conventions and the present Protocol shall, if prosecuted, enjoy the judicial guarantees provided by the Third Convention and, even if sentenced, shall retain the status of prisoners of war."

(In document CDDH/III/73/Add.1, the South West Africa People's Organization was added as a co-sponsor.)

Draft Protocol I, Article 42 (continued)

CDDH/III/82
11 September 1974
Original: English

Norway

Redraft Article 42 as follows:

"1. In the event of their capture, members of militias or volunteer corps, including those of organized resistance or independence movements not belonging to the regular armed forces but belonging to a Party to the conflict, even in the case of a Government or authority not recognized by the Detaining Power, shall be treated as prisoners of war within the meaning of the Third Convention, provided that the following conditions are fulfilled:

(a) that hostilities have reached such a level as to make application of the Protocol a humanitarian necessity;

(b) that the Government or authority in question have declared their willingness to apply the Conventions and the present Protocol in the conflict;

(c) that the members of such militias, volunteer corps or organized resistance or independence movements are under the orders of a commander responsible for the conduct of his subordinates.

2. Combatants who are not covered by the foregoing provisions shall, in the event of their capture, be afforded guarantees not less favourable than those laid down in Article 3 common to the Conventions."

(This amendment was replaced by document CDDH/III/259 below.)

CDDH/III/94
1 October 1974
Original: French

Poland

1. Replace the present title by the following:

"Article 42 - Status of combatant".

Draft Protocol I, Article 42 (continued)

CDDH/III/94 (concluded)

2. Replace paragraph 1 by the following text:

"1. In addition to the persons mentioned in Article 1 of The Hague Regulations of 1907, members of organized resistance movements are considered to be legal combatants, provided that such movements belong to a Party to the conflict, even if that Party is represented by a government or an authority not recognized by the adversary, and provided also that such movements fulfil the following conditions:

(a) that they are under a command responsible to a Party to the conflict for its subordinates;

(b) that they distinguish themselves from the civilian population in military operations;

(c) that they conduct their military operations in accordance with the Conventions and the present Protocol."

3. In the first sentence of paragraph 2 replace the words "status of prisoners of war" by "status of combatant".

4. Add two new paragraphs as follows:

"3. The provisions of the preceding paragraphs apply also to the organized movements mentioned in Article 1, paragraph 2 of the present Protocol.

4. In case of capture the persons mentioned in paragraphs 1 and 3 shall be treated as prisoners of war."

CDDH/III/95
4 October 1974
Original: English

Finland

Amend paragraph 1 to read:

"1. In addition to the persons mentioned in Article 4 of the Third Convention, members of organized armed units, including those of organized resistance movements, not forming part of regular armed forces and operating in or outside their own territory, even if this territory is occupied, are prisoners of war when falling into the power of the enemy,

Draft Protocol I, Article 42 (continued)

CDDH/III/95 (concluded)

provided such units belong to a Party to the conflict, even if that Party is represented by a government or an authority not recognized by the Detaining Power, and provided that such units fulfil the following conditions:

(a) that they are under a command responsible to a Party to the conflict for its subordinates;

(b) that they distinguish themselves from the civilian population in military operations;

(c) that they conduct their military operations in accordance with the Conventions and the present Protocol."

CDDH/III/209

Spain

21 February 1975

Original: Spanish

Redraft Article 42 as follows:

"1. In addition to the persons mentioned in Article 4 of the Third Convention, members of organized resistance movements who have fallen into the hands of the enemy are prisoners of war provided such movements are under the control of one of the contending Parties, even if that Party is a government or an authority not recognized by the Detaining Power, and provided they exercise effective territorial jurisdiction and their members fulfil the following conditions:

(a) that they are under a command responsible to a Party to the conflict for its subordinates;

(b) that they distinguish themselves from the civilian population by means of fixed, permanent and clearly visible emblems;

(c) that they conduct their military operations in accordance with the Conventions and the present Protocol.

2. (Remains unchanged)."

Draft Protocol I, Article 42 (continued)

CDDH/III/253
17 March 1975

Democratic Republic of Viet-Nam

Original: French

Replace the present text by the following:

"All combatants in armed conflicts in which peoples are fighting against colonial domination or foreign occupation or against racist régimes in the exercise of the right of peoples to self-determination shall, if captured, have the status of prisoners of war throughout the period of their detention."

(This amendment was withdrawn at the thirty-third meeting of Committee III, on 19 March 1975.)

CDDH/III/256
18 March 1975

Netherlands

Original: English

Replace the present text by the following:

"1. In addition to the persons mentioned in Article 4 of the Third Convention, members of irregular forces who have fallen into the hands of the enemy are prisoners of war, provided that such forces belong to a Party to the conflict, even if that Party is represented by a government or an authority not recognized by the Detaining Power, and provided that such forces fulfil the following conditions:

(a) that they are organized in accordance with Article 41 and commanded by a person responsible for his subordinates' conduct to a Party to the conflict;

(b) that they distinguish themselves from the civilian population in their military operations by either carrying arms openly or by a distinctive sign recognizable at a distance or by any other equally effective means.

2. Non-fulfilment of condition (a) may only be presumed if it has become clear from declarations or instructions emanating from the responsible command of an irregular force or from declarations of its members that the force is not willing or able to respect the rules and principles of international law applicable in armed conflict.

Draft Protocol I, Article 42 (continued)

CDDH/III/256 (concluded)

3. Non-fulfilment of condition (b) by individual members of irregular forces shall not deprive other members of such forces of their entitlement to be prisoners of war. The provisions of Article 42 bis notwithstanding, individual infringements of condition (b) imply the forfeiture of the offender's right to prisoner-of-war status."

CDDH/III/257
18 March 1975
Original: English

United Kingdom of Great Britain and
Northern Ireland, United States of America

Replace the present text by the following:

"1. In addition to the persons mentioned in Article 4 of the Third Convention, members of irregular forces who have fallen into the hands of the enemy, are prisoners of war provided such forces belong to a Party to the conflict, even if that Party is represented by a government or an authority not recognized by the Detaining Power, and provided that such forces fulfil the following conditions:

(a) that they are organized and commanded by a person responsible for his subordinates' conduct to a Party to the conflict;

(b) that they distinguish themselves from the civilian population in their military operations by carrying arms openly or by a distinctive sign recognizable at a distance or by any other equally effective means;

(c) that they conduct their military operations in accordance with the Conventions and the present Protocol, as well as in accordance with other rules of international law applicable in armed conflict.

2. Non-fulfilment of conditions (b) and (c) by individual members of irregular forces shall not deprive the members of such forces of their entitlement to be prisoners of war, provided that the forces as a whole have complied with those conditions and that the forces have complied with condition (a) of paragraph 1 on all occasions.

Draft Protocol I, Article 42 (continued)

CDDH/III/257 (concluded)

3. In the case of violations of condition (b), offenders are not entitled to be prisoners of war. Other individual infringements of the rules of international law applicable in armed conflict shall not result in forfeiture of entitlement to be a prisoner of war or of the benefits of the Third Convention by any person referred to in Article 4 of the Third Convention or in this Article."

CDDH/III/258 and

Argentina, Nicaragua

Add.1

18 March 1975

Original: Spanish

1. Replace the title of Article 42: "New category of prisoners of war" by "Prisoners of war".

2. For the present text of Article 42, substitute the following:

"In addition to the persons mentioned in Article 4 of the Third Convention, members of organized movements involved in international conflicts referred to in Article 1, paragraph 2, of the present Protocol who have fallen into the hands of the enemy, are prisoners of war, provided that such movements fulfil the conditions established in the above Article 4, paragraph A, subparagraph (2) of the Third Convention."

(In document CDDH/III/258/Add.1, Nicaragua was added as co-sponsor.)

CDDH/III/259

Norway

18 March 1975

Original: English

Redraft Article 42 as follows:

"Article 42 - Status of combatant

1. In addition to the persons mentioned in Article 1 of The Hague Regulations of 1907, members of the armed forces of a Party to the conflict as described in Article 41 of the present Protocol, are considered to be legal combatants, even if that Party is represented by a government or an authority not recognized by the adversary.

Draft Protocol I, Article 42 (concluded)

CDDH/III/259 (concluded)

2. Notwithstanding Article 4 of the Third Convention, all legal combatants who fall into the power of the enemy are entitled to the status of prisoners of war in the sense of that Convention."

CDDH/III/324

Ghana

30 April 1976

Original: English

Add a new paragraph 3 as suggested by ICRC with the insertion of the words "so far as is practicable" after the words "who comply".

For draft amendments CDDH/III/5 and Rev.1 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

For draft amendment CDDH/41, submitted by the Democratic Republic of Viet-Nam, see Annex III to the Table of Amendments.

ARTICLE 42 bis (a) - PROTECTION OF PRISONERS OF WAR

CPDH/III/77
21 March 1974

Israel

Original: English

Add the following Article 42 bis (a):

"1. Prisoners of war shall at all times and in any place whatsoever be protected.

To this end, the following acts in particular are and shall remain prohibited:

- (a) murder;
- (b) torture;
- (c) mutilation and violence of any kind;
- (d) humiliating, cruel and degrading treatment;
- (e) exposure to violence and humiliation by mob action;
- (f) sexual assault;
- (g) deprivation of food and water;
- (h) withholding of medical treatment.

2. The Detaining Power must provide conditions of detention that are humane, and do not impair the mental or physical health of prisoners of war.

3. Immediately on the capture of a prisoner of war, the Detaining Power shall inform the Power on which the prisoner depends, through the International Committee of the Red Cross, of the capture, and give full details of the identity, address and state of health of the prisoner.

4. The fulfilment of the obligations and duties of the Detaining Power according to the Conventions and the present Protocol shall under no circumstances be made conditional upon political and other considerations."

Draft Protocol I, Article 42 bis (a) (concluded)

CDDH/III/254 and
Corr.1
17 March 1975
Original: French

Democratic Republic of Viet-Nam

Add the following Article 42 bis (a):

"Article 42 bis (a) - Protection of prisoners of war

Apart from the provisions of the Third Convention prohibiting all inhumane treatment of prisoners of war, it is strictly prohibited to have recourse against them to acts which are of the nature of reprisals, such as repression by force of arms, detention in penal establishments (prisons, penitentiaries, convict prisons, etc.), the falsification of records so as to represent prisoners of war as prisoners under ordinary law and so forth.

It is prohibited to resort to physical or moral constraints to oblige prisoners of war to renounce their political convictions."

(In document CDDH/III/254/Corr.1 the words "political prisoners" in the second paragraph were replaced by "prisoners of war".)

ARTICLE 42 bis (b) - PROTECTION OF PERSONS TAKING

A PART IN HOSTILITIES *

(adopted by Committee III at the third session
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/260 and
Add.1
25 March 1975
Original: English

Arab Republic of Egypt, Belgium, Canada,
Germany, Federal Republic of, Ghana, Greece,
Ireland, Italy, Netherlands, New Zealand,
Norway, Spain, Sudan, Sweden, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Add a new Article as follows:

"Article 42 bis (b) - Protection of persons taking a
part in hostilities

1. Any person who takes a part in hostilities and who falls into the hands of the adverse Party shall enjoy the benefits of the Third Convention and this Protocol if he claims or appears to be entitled to prisoner-of-war status or should any doubt arise as to such entitlement. Such protection shall cease only if a competent tribunal determines that such person is not entitled to the status of prisoner of war.

2. /Individual infringements/ of the rules of international law applicable in armed conflict shall not result in forfeiture of the right of any person referred to in Chapter I of The Hague Regulations of 1907, Article 4 of the Third Convention or Article 42 of this Protocol to be treated as a lawful combatant, to be entitled to prisoner-of-war status or to receive the benefits of the Third Convention and this Protocol.

3. A person who is not entitled to prisoner-of-war status but who has taken part in hostilities shall nevertheless at all times be entitled to the safeguards and protections contained in Article 65 of this Protocol. In occupied territory, such person shall also be entitled, notwithstanding Article 5 of the Fourth Convention, to benefit at all times from the safeguards and protection contained in Section III of Part III of that Convention. In particular, such person shall at no time be deprived of his rights to communicate with, and be visited by, a representative of the Protecting Power or the International Committee of the Red Cross.

* Title in Final Act: Article 45 - Protection of persons who have taken part in hostilities.

Draft Protocol I, Article 42 bis (b) (concluded)

CDDH/III/260 and Add.1 (concluded)

4. In the event that there is no Protecting Power, any notification required by Article 104 of the Third Convention or by Article 71 of the Fourth Convention shall be given to the International Committee of the Red Cross. On receipt of such a notification, that Committee shall be entitled to exercise all the functions of a Protecting Power in relation to the trial of the person in respect of whom the notification has been given."

(In document CDDH/III/260/Add.1, Ghana, Italy and Spain joined as co-sponsors.)

(At the thirty-fifth meeting of Committee III, on 21 March 1975, the Federal Republic of Germany joined as co-sponsor.)

ARTICLE 42 ter - PERSONS NOT ENTITLED TO
PRISONER-OF-WAR STATUS
(withdrawn)

CDDH/III/254
17 March 1975
Original: French

Democratic Republic of Viet-Nam

Add the following Article 42 ter:

"Article 42 ter - Persons not entitled to prisoner-of-war status

1. Persons taken in flagrante delicto when committing crimes against peace or crimes against humanity, as well as persons prosecuted and sentenced for any such crimes, shall not be entitled to prisoner-of-war status.

2. Nevertheless, the persons mentioned in the foregoing paragraph shall be treated humanely during their detention, shall not be subjected to any attempt on their lives or on their corporal integrity and dignity, shall be fed and housed in average conditions of comfort for nationals of the detaining Party, and shall receive treatment in case of sickness or wounds. Should they be guilty of a serious offence against the law during their detention, their right to legal defence shall be guaranteed and they shall be entitled to a fair and proper trial."

(This amendment was withdrawn by its sponsor. See document CDDH/407/Rev.1, paragraph 12.)

ARTICLE 42 quater - MERCENARIES*
(adopted by Committee III at the fourth session
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/GT/82

13 May 1976

Original: English

Nigeria

(Proposal made in the Working Group)

Add a new Article 42 quater as follows:

"Article 42 quater - Mercenaries

1. The status of combatant or prisoner of war shall not be accorded to any mercenary who takes part in armed conflicts referred to in the Conventions and the present Protocol.
2. A mercenary includes any person not a member of the armed forces of a Party to the conflict who is specially recruited abroad and who is motivated to fight or take part in armed conflict essentially for monetary payment, reward or other private gain."

* Article 47 of the Final Act.

PART IV - CIVILIAN POPULATION

SECTION I - GENERAL PROTECTION AGAINST EFFECTS OF HOSTILITIES

CHAPTER I - BASIC RULE AND FIELD OF APPLICATION

ARTICLE 43 - BASIC RULE *

(adopted by Committee III at the first session
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/9
11 March 1974

Original: French

Czechoslovakia, German Democratic Republic,
Poland

Replace the text of Article 43 by the following:

"In order to ensure respect for the civilian population and civilian objects, the Parties to the conflict shall make a distinction between the civilian population and combatants and between civilian objects and military objectives. Civilian population and civilian objects shall be protected against the dangers of hostilities."

(This amendment was withdrawn at the fourth meeting of Committee III, on 13 March 1974, in favour of CDDH/III/26 below.)

* Article 48 of the Final Act

Draft Protocol I, Article 43 (concluded)

CDDH/III/20
12 March 1974

Ghana

Original: English

Amend Article 43 as follows:

"In order to ensure respect for the civilian population and civilian objects, whether within or outside the State of a Party to a conflict, the Parties to the conflict shall confine their operations to the destruction or weakening of the military resources of the adversary and shall make a distinction between such civilian population and combatants and between such civilian objects and military objectives."

CDDH/III/26
13 March 1974

France, German Democratic Republic

Original: French

Redraft the Article as follows:

"In order fully to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall make a clear distinction between the civilian population and combatants and between civilian objects and objectives constituting the military resources of the adversary."

(At the fourth meeting of Committee III, on 13 March 1974, the German Democratic Republic joined as co-sponsor.)

ARTICLE 44 - FIELD OF APPLICATION *
(adopted by Committee III at the first, second and fourth sessions
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/10
12 March 1974

Romania

Original: French

Delete the words "on land" at the end of the first
paragraph.

CDDH/III/16
12 March 1974

Belgium, United Kingdom of Great Britain
and Northern Ireland

Original: English

Amend the Article to read:

"1. The provisions contained in the present Section
apply to attacks against the adversary on land which may
affect the civilian population, individual civilians or
civilian objects.

2. 'Attacks' means acts of violence committed against
the adversary, whether in defence or offence.

3. Nothing contained in the provisions of the
present Section shall affect the humanitarian protection
given by Part II of the Fourth Convention, by such other
international conventions as may be binding upon the High
Contracting Parties or by other rules of international law,
relating to the protection of civilians and civilian objects
on land, on sea, or in the air against the effects of hos-
tilities."

CDDH/III/19
12 March 1974

Arab Republic of Egypt

Original: French

In the English version of paragraph 1, replace the word
"warfare" by "military operations".

* Title in Final Act: Article 49 - Definition of attacks and scope
of application.

Draft Protocol I, Article 44 (concluded)

CDDH/III/21
12 March 1974

Australia

Original: English

Amend the Article to read:

"1. The provisions contained in the present Section apply to attacks against the adversary on land which may affect the civilian population, individual civilians or civilian objects.

2. 'Attacks' means acts of violence whether in defence or offence.

3. Nothing contained in the provisions of the present Section shall affect the humanitarian protection given by Part II of the Fourth Convention, by such other international conventions as may be binding upon the High Contracting Parties or by other rules of international law, relating to the protection of civilians and civilian objects on land, on sea, or in the air against the effects of hostilities."

CHAPTER II - CIVILIANS AND CIVILIAN POPULATION

ARTICLE 45 - DEFINITION OF CIVILIANS AND

CIVILIAN POPULATION*

(adopted by Committee III at the first session
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/13 and Finland, Sweden
Add.1
12 March 1974
Original: French

1. Paragraph 1, second line: after the words "Article 42",
insert the words "of the present Protocol".
2. Paragraph 2: replace the full stop by a comma and add
the words "whether regarded individually, in groups or as a
whole".

(In document CDDH/III/13/Add.1, Sweden was added as co-sponsor.)

CDDH/III/22 Belgium, United Kingdom of Great Britain
13 March 1974 and Northern Ireland
Original: English

1. Amend paragraph 1 to read:

"1. A civilian is any person who does not belong to one of the categories of combatants referred to in Article 4 (A) (1), (2), (3) and (6) of the Third Convention and in Article 42 of the present Protocol."

2. Amend paragraph 4 to read:

"4. Unless there are reasonable grounds for supposing that he is about to commit a hostile act, a person who appears to be a civilian shall, for the purposes of this Section, be treated as such."

* Article 50 of the Final Act.

Draft Protocol I, Article 45 (concluded)

CDDH/III/25 Brazil
13 March 1974
Original: English

Delete the words "Any person who does not belong to one of the categories of armed forces referred to in", and substitute the following: "For the purposes of the present Protocol, any person who does not belong to one of the categories referred to in".

CDDH/III/30 Romania
14 March 1974
Original: French

Add the following sentence at the end of the first paragraph: "Persons whose activity may contribute directly to the military effort do not for that reason lose their civilian status."

CDDH/III/35 Australia
15 March 1974
Original: English

Delete paragraph 4 and substitute the following:

"4. In cases where doubt arises as to whether a person is a civilian, he shall be presumed to be a civilian until his status is otherwise established."

ARTICLE 46 - PROTECTION OF THE CIVILIAN POPULATION *
(adopted by Committee III at the second and fourth sessions
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/8 and Czechoslovakia, German Democratic Republic,
Corr.1 Hungary, Poland
11 March 1974
Original: French

Delete sub-paragraph 3 (b) and replace by a paragraph
worded as follows:

"The employment of means of combat, and any methods
which indiscriminately strike or affect the civilian popula-
tion and combatants or civilian objects and military objec-
tives, are prohibited. In particular it is forbidden to
attack without distinction, as a single objective, by
bombardment or any other method, a zone containing several
military objectives in populated areas and situated at some
distance from each other."

(In document CDDH/III/8/Corr.1 the opening sentence was amended to
read as follows: "Delete sub-paragraph 3 (b) and replace by a para-
graph worded as follows.")

CDDH/III/10 Romania
12 March 1974
Original: French

Redraft Article 46 as follows:

"1. The civilian population shall always be entitled
to general and effective protection against dangers arising
from military operations.

2. The civilian population in general, and individual
civilians not taking a direct and immediate part in hostili-
ties shall never under any circumstances be made the object
of any form of attack.

* Article 51 of the Final Act.

Draft Protocol I, Article 46 (continued)

CDDH/III/10 (concluded)

3. It is forbidden to employ means of combat and methods which strike or affect indiscriminately the civilian population and combatants, or civilian objects and military objectives, and to attack without distinction, as a single objective, by bombardment or any other method, a zone containing several military objectives which are situated in populated areas and are at some distance from each other.

4. Reprisals against the civilian population or civilians and methods intended to spread terror among the civilian population are prohibited.

5. (Unchanged).

6. The deportation of the civilian population, individually or in groups, beyond the national frontiers of the country of origin is strictly forbidden."

CDDH/III/13 and
Add.1

Finland, Sweden

12 March 1974

Original: French

In paragraph 4, replace the word "or" by a comma and insert after the word "civilians" the words "or civilian objects".

(In document CDDH/III/13/Add.1, Sweden joined as co-sponsor.)

CDDH/III/27

13 March 1974

Original: English

Brazil, Canada, Germany, Federal Republic
of, Nicaragua

1. In paragraph 1, second sentence, for the word "methods" substitute the word "attacks".

2. Amend paragraph 2 to read:

"Civilians shall enjoy the protection afforded by this Section except when they commit hostile acts or take a direct part in military operations."

Draft Protocol I, Article 46 (continued)

CDDH/III/27 (concluded)

3. Amend paragraph 3 to read:

"It is forbidden to attack an adversary by using methods or means of combat which strike indiscriminately at the civilian population and combatants or civilian objects and military objectives. In particular, it is forbidden:

(a) to attack by bombardment as a single military objective a zone comprising a populated area containing several military objectives if such objectives are so distant from one another that it is reasonably possible to attack them individually;

(b) to attack a military objective if the attack may be expected to entail losses among the civilian population, or cause the destruction of civilian objects, in the immediate vicinity of that objective to an extent disproportionate to the military advantage sought."

4. In paragraph 5:

i. Amend the first sentence to read: "The presence or movements of the civilian population or individual civilians shall not be used in attempts to shield military objectives from attack or to shield military operations."

ii. Delete the second sentence.

CDDH/III/28

Ghana

14 March 1974

Original: English

1. In paragraph 1 after the word "methods" insert the words "including propaganda in whatever form".

2. In sub-paragraph 3(b) after the words "incidental losses", insert the words "or hardship", and for the word "and" substitute the word "or".

(This amendment was withdrawn at the seventh meeting of Committee III, on 18 March 1974, in favour of amendment CDDH/III/38.)

Draft Protocol I, Article 46 (continued)

CDDH/III/38
15 March 1974

Ghana, Nigeria, Uganda, United Republic of
Tanzania

Original: English

In paragraph 1, after the words "In particular" at the beginning of the second sentence, delete the words "methods intended to spread" and substitute the words "acts capable of spreading".

CDDH/III/43
18 March 1974

Australia

Original: English

1. Replace paragraph 2 by the following:

"2. Civilians shall enjoy the protection afforded by this Article unless they are taking a direct part in hostilities."

2. Replace paragraph 3 by the following:

"3. The employment of means of combat, and any methods which strike at or affect indiscriminately the civilian population and combatants, or civilian objects and military objectives, are prohibited. In particular it is forbidden:

(a) to attack without distinction, as one single objective, by bombardment or any other method, a zone containing several military objectives, which are situated in populated areas, and are at such a distance from each other that they could reasonably be attacked individually;

(b) to launch attacks which may be expected to entail incidental losses among the civilian population and to cause the destruction of civilian objects to an extent disproportionate to the direct and substantial military advantage anticipated."

Draft Protocol I, Article 46 (continued)

CDDH/III/43/Rev.1
20 March 1974
Original: English

Australia

Amend paragraphs 2 and 3 to read:

"2. Civilians shall enjoy the protection afforded by this Section unless they are taking a direct part in hostilities.

3. The employment of means of combat, and any methods which strike at or affect indiscriminately the civilian population and combatants, or civilian objects and military objectives, are prohibited. In particular it is forbidden:

(a) to attack without distinction, as one single objective, by bombardment or any other method, a zone containing several military objectives, which are situated in populated areas, and are at such a distance from each other that they are capable of being attacked individually;

(b) to attack a military objective when the attack may be expected to entail incidental losses among the civilian population or to cause the destruction of civilian objects to an extent disproportionate to the direct and substantial military advantage sought."

CDDH/III/44
18 March 1974
Original: English

Sweden

Reword sub-paragraph 3(b) as follows to form a new paragraph 4, and renumber the subsequent paragraphs accordingly:

"4. It is forbidden to launch attacks even upon a military objective, when such attacks may be expected to entail losses among the civilian population or cause the destruction of civilian objects beyond the immediate vicinity of the military objective or, to cause such losses or such destruction within the immediate vicinity of the military objective, to an extent disproportionate to the direct and substantial military advantage anticipated."

Draft Protocol I, Article 46 (continued)

CDDH/III/48
18 March 1974
Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Iraq, Kuwait, Libyan
Arab Republic, Morocco, Sudan, Syrian
Arab Republic, United Arab Emirates

1. In paragraph 1, second line, delete the words "intend to" and substitute the word "that".
2. In sub-paragraph 3(b), second line, delete the word "and" and substitute the word "or".
3. Insert a full stop after the word "objects" and delete the rest of the paragraph.
4. Add a new paragraph reading:

"The following acts against the civilian population of individual civilians are particularly prohibited in all circumstances:

(a) individual or mass forcible transfers, deportations or expulsions outside their own territory;

(b) torture, collective punishments, arbitrary administrative detention, family splitting, corporal punishment or any similar act of physical or mental brutality;

(c) destruction of houses, shops or buildings, pillage, arbitrary expropriation or any act directed against civilian persons or civilian objects."

CDDH/III/48/Rev.1 and
Add.1 and 2
18 March 1974
Original: English

Algeria, Arab Republic of Egypt,
Democratic Yemen, Iraq, Kuwait, Libyan Arab
Republic, Mali, Mauritania, Morocco, Sudan,
Syrian Arab Republic, United Arab Emirates

1. In paragraph 1, delete the words "intended to" in the second line, and replace them by the word "that".
2. In sub-paragraph 3(b) substitute the word "or" for the word "and" in the second line.
3. Put a full stop after the word "objects" in the same line, and delete the rest of the paragraph.

Draft Protocol I, Article 46 (concluded)

CDDH/III/48/Rev.1 and Add.1 and 2 (concluded)

4. Add a new paragraph 5:

"5. The following acts against the civilian population or individual civilians are particularly prohibited in all circumstances:

(a) individual or mass forcible transfers, deportations or expulsions outside their own territory;

(b) torture, collective punishments, arbitrary administrative detention, family splitting, corporal punishment or any similar act of physical or mental brutality;

(c) destruction of houses, shops or buildings, pillage, arbitrary expropriation or any act directed against civilian persons or civilian objects."

(In document CDDH/III/48/Rev.1/Add. 1 and 2, Mali and Mauritania joined as co-sponsors.)

CDDH/III/51
18 March 1974

Philippines

Original: English

1. Redraft paragraph 1 as follows:

"1. It is prohibited to attack, or commit acts capable of spreading terror amongst the civilian population and individual civilians."

2. Redraft paragraph 2 as follows:

"2. Civilians shall enjoy the protection afforded by this Article except when they take a direct part in hostilities."

3. In sub-paragraph 3(b), delete the phrase "to an extent disproportionate to the direct and substantial military advantage anticipated."

CHAPTER III - CIVILIAN OBJECTS

PROPOSED NEW ARTICLE BEFORE ARTICLE 47 -
DEFINITION OF CIVILIAN OBJECTS

CDDH/III/10
12 March 1974
Original: French

Romania

Insert the following new Article before the present
Article 47:

"Article ... - Definition of civilian objects

All objects which do not directly serve to produce weapons, military equipment or methods of combat, or which are not directly and immediately used by the armed forces shall be deemed to be civilian objects even if some change in their use should later cause them to acquire a predominantly military nature."

ARTICLE 47 - GENERAL PROTECTION OF CIVILIAN OBJECTS *
(adopted by Committee III at the second and fourth sessions
and by the Conference
at the forty-first plenary meeting, on 26 May 1977)

CDDH/III/10
12 March 1974
Original: French

Romania

Redraft Article 47 as follows:

"1. Civilian objects shall be effectively and generally protected against the ravages of war; they shall not be made the object of reprisals, neither shall they be damaged, destroyed or attacked, provided that they are not used directly or immediately in the conduct of military operations.

2. Objects which are indispensable to the survival of the civilian population, namely: foodstuffs and food-producing areas, crops, livestock, drinking water supplies, irrigation systems, objects of national economic interest, objects designed for civilian use such as houses, dwellings, installations, means of transport, and all objects which are not military objectives, shall be generally and effectively protected unless mainly used as military objectives. It is strictly forbidden to direct any action against the aforesaid objects, whether to starve out civilians or for any other reason.

3. It is strictly forbidden to move civilian objects or installations across the national borders of their country of origin."

CDDH/III/17 and
CDDH/III/17/Rev.1 and 2
18 March 1974
Original: French

Amendments concerning Article 47, paragraph 3, proposed by Greece, Holy See, Jordan, Spain, Uruguay and Venezuela, see Article 47 bis below.

* Article 52 of the Final Act.

Draft Protocol I, Article 47 (continued)

CDDH/III/39

Holy See

15 March 1974

Original: French

In paragraph 2, insert the words "churches and places of worship," after "such as houses, dwellings,".

(This amendment was incorporated in amendment CDDH/III/17. See Article 47 bis.)

CDDH/III/41

France

15 March 1974

Original: French

1. Replace paragraph 1 by the following:

"1. Attacks shall be strictly limited to military objectives. An objective shall be considered a military objective if by its nature or use it contributes directly or indirectly to the maintenance or development of the military potential of the adverse Party."

2. Delete the word "mainly" in the third line of paragraph 2.

CDDH/III/49

Australia

18 March 1974

Original: English

Amend the Article to read:

"1. Attacks shall be strictly limited to military objectives, namely, those objectives the total or partial destruction of which, in the circumstances ruling at the time, offer a distinct and substantial military advantage.

2. Consequently, objects designed for civilian use, such as houses, dwellings, installations and means of transport, and all objects which are not military objectives, shall not be made the object of attack, except if they are used in support of the military effort."

Draft Protocol I, Article 47 (continued)

CDDH/III/52
18 March 1974
Original: English

Romania, Sweden

Add a new paragraph 3 reading:

"3. In case of doubt as to whether an object is civilian, it shall be presumed to be so."

(Romania joined as co-sponsor at the fifteenth meeting of Committee III, on 7 February 1975.)

CDDH/III/56
19 March 1974
Original: English

Netherlands

Replace Article 47 as drafted by the following:

"1. Attacks shall be strictly limited to military objectives, namely those which by their nature or use effectively contribute to the military effort of an adverse Party or whose complete or partial destruction, capture or neutralization in the circumstances ruling at the time offers a distinct military advantage.

2. Objects which are not military objectives as defined in paragraph 1 are civilian objects."

CDDH/III/57
19 March 1974
Original: English

Arab Republic of Egypt, Austria, Mexico,
Netherlands, Norway, Philippines, Union
of Soviet Socialist Republics

Add a new paragraph 3 reading as follows:

"3. Attacks against civilian objects by way of reprisals are prohibited."

Draft Protocol I, Article 47 (continued)

CDDH/III/58
19 March 1974

Czechoslovakia, German Democratic Republic

Original: French

Delete paragraph 1 and substitute the following:

"1. Civilian objects shall not be the object of attack or of reprisals."

CDDH/III/63
19 March 1974
Original: English

Arab Republic of Egypt, Democratic Yemen, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Morocco, Qatar, Syrian Arab Republic, United Arab Emirates, Yemen

1. In paragraph 1, delete the whole of the following clause: "... namely, to those objectives which are, by their nature, purpose or use, recognized to be of military interest and whose total or partial destruction in the circumstances ruling at the time, offers a distinct and substantial military advantage."
2. In paragraph 2, delete the following clause: "... except if they are used mainly in support of the military effort." Add the following sentence: "These objects shall not be made the object of reprisals."
3. Article 47 will then read as follows:

"Attacks shall be strictly limited to military objectives. Consequently, objects designed for civilian use, such as houses, dwellings, installations and means of transport, and all objects which are not military objectives, shall not be made the object of attack. These objects shall not be made the object of reprisals."

Draft Protocol I, Article 47 (concluded)

CDDH/III/79

Canada

25 March 1974

Original: English

Amend the Article to read:

"Attacks shall be strictly limited to military objectives, namely to those objectives which are by their nature, purpose or use recognized to be of military interest or whose total or partial destruction, in the circumstances ruling at the time, offers a distinct military advantage."

(This amendment was withdrawn at the fourteenth meeting of Committee III, on 6 February 1975, in favour of document CDDH/III/56.)

ARTICLE 47 bis - CULTURAL OBJECTS*
(adopted by Committee III at the second and fourth sessions
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

NOTE. Article 47 bis originated as amendment CDDH/III/17 proposing a new Article 48 bis. In documents CDDH/III/17/Rev.1 and 2, it was proposed that this amendment should become paragraph 3 of Article 47. The amendment was then redrafted by the Working Group as Article 47 bis and adopted as such.

CDDH/III/17 Greece
13 March 1974
Original: French

After Article 48, insert a new Article (48 bis)
entitled "Cultural objects", reading as follows:

"It is forbidden to attack historic monuments and to destroy or endanger works of art which constitute the cultural heritage of a country. Such objects shall not be made the object of reprisals."

CDDH/III/17/Rev.1 Greece, Jordan, Spain
18 March 1974
Original: French

Amendment CDDH/III/17 proposed by Greece, concerning Article 48 bis, should become paragraph 3 of Article 47, to read as follows:

"3. It is forbidden to attack historic monuments and to destroy or endanger works of art which constitute the cultural heritage of a country. Such objects shall not be made the object of reprisals."

* Title in Final Act: Article 53 - Protection of cultural objects and of places of worship.

Draft Protocol I, Article 47 bis (continued)

CDDH/III/17/Rev.2
10 February 1975
Original: French

Greece, Holy See, Jordan, Spain, Uruguay,
Venezuela

Replace amendment CDDH/III/17/Rev.1 by the following:

"Article 47 - General protection of civilian, cultural
and religious objects

1.

2.

3. It is also forbidden to use historic monuments in support of the military effort or to attack them or to destroy or endanger works of art which constitute the cultural heritage of mankind, or places of worship. Such objects shall not be made the object of reprisals."

(Jordan and Spain, and the Holy See, Uruguay and Venezuela, became co-sponsors of amendments CDDH/III/17/Rev.1 and Rev.2 respectively at the time these documents were issued.)

CDDH/412
24 May 1977
Original: English

Afghanistan, Algeria, Democratic Yemen,
Egypt, Holy See, Iraq, Iran, Jordan, Kuwait,
Oman, Pakistan, Qatar, Saudi Arabia,
Socialist People's Libyan Arab Jamahiriya,
Somalia, Syrian Arab Republic, United Arab
Emirates, Yemen

Amend sub-paragraph (a) (Article 47 bis) to read:

"(a) To commit any acts of hostility directed against those historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples."

Draft Protocol I, Article 47 bis (concluded)

CDDH/412/Rev.1
25 May 1977
Original: English

Afghanistan, Algeria, Democratic Yemen,
Egypt, Holy See, Iraq, Iran, Italy, Jordan,
Kuwait, Oman, Pakistan, Qatar, Saudi
Arabia, Socialist People's Libyan Arab
Jamahiriya, Somalia, Syrian Arab Republic,
United Arab Emirates, Yemen

1. Amend the title to read: "Protection of cultural objects and of places of worship".
2. Amend sub-paragraph (a) to read:

"(a) To commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples."

CDDH/412/Rev.2
25 May 1977

This document concerns the French version only.

CDDH/412/Rev.3
26 May 1977

Afghanistan, Algeria, Democratic Yemen,
Egypt, Holy See, Iraq, Iran, Italy, Jordan,
Kuwait, Oman, Pakistan, Qatar, Saudi
Arabia, Socialist People's Libyan Arab
Jamahiriya, Somalia, Syrian Arab Republic,
United Arab Emirates, Yemen

Amend sub-paragraph (a) to read:

"(a) To commit any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples."

ARTICLE 48 - OBJECTS INDISPENSABLE TO THE SURVIVAL
OF THE CIVILIAN POPULATION *
(adopted by Committee III at the second and fourth sessions
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/10 Romania
12 March 1974
Original: French

Delete Article 48.

CDDH/III/13 and Finland, Sweden
Add.1
12 March 1974
Original: French

1. After the word "Attack" replace the word "or" by a comma and insert after the word "destroy" the words "or render useless".
2. Delete the comma after the word "namely" and replace that word by the words "such as".

(In document CDDH/III/13/Add.1, Sweden joined as co-sponsor.)

CDDH/III/28 Ghana
14 March 1974
Original: English

After the words "irrigation works", insert the words "and means of communication, such as arterial roads essential to the supply of such indispensable works".

* Article 54 of the Final Act.

Draft Protocol I, Article 48 (continued)

CDDH/III/49

Australia

18 March 1974

Original: English

Delete the existing text and substitute the following:

"Article 48 - Protection of foodstuffs and food producing areas"

It is forbidden to attack or to destroy objects such as foodstuffs and food producing areas, crops, livestock, drinking water supplies and irrigation works so as to prejudice the survival of the civilian population."

CDDH/III/50

United States of America

18 March 1974

Original: English

Delete the whole Article and substitute the following:

"In order to avoid the deliberate starvation of civilians and without prejudice to the rights of High Contracting Parties in their own territory, it is forbidden to attack, destroy, remove or render useless, crops, drinking water supplies, irrigation works, livestock, food stuffs or food producing areas for the purpose of denying them to the enemy or the civilian population unless they serve a direct military purpose, such as shielding the enemy from observation or attack."

CDDH/III/63 and

Add.1

19 March 1974

Original: English

Arab Republic of Egypt, Democratic Yemen, Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Mauritania, Morocco, Qatar, Saudi Arabia, Syrian Arab Republic, Yemen

1. Delete the word "namely" and substitute the words "such as".
2. After the words "drinking water" insert the word "installations".
3. Before the words "irrigation works", delete the word "and".
4. After the words "irrigation works" insert the words "fuel reservoirs and refineries".

Draft Protocol I, Article 48 (continued)

CDDH/III/63 and Add.1 (concluded)

5. Article 48 will then read as follows:

"It is forbidden to attack or destroy objects indispensable to the survival of the civilian population, such as foodstuffs and food producing areas, crops, livestock, drinking water installations and supplies, irrigation works, fuel reservoirs and refineries, whether it is to starve out civilians, to cause them to move away or for any other reason. These objects shall not be made the object of reprisals."

(In document CDDH/III/63/Add.1, Saudi Arabia joined as co-sponsor.)

CDDH/III/64
19 March 1974
Original: French

See Article 48 bis.

CDDH/III/67
19 March 1974
Original: English

Belgium, United Kingdom of Great Britain
and Northern Ireland

Revise Article 48 to read as follows:

"1. Starvation of civilians as a method of warfare is prohibited.

2. Consequently, without prejudice to the rights of High Contracting Parties on their own territory, it is forbidden to attack, destroy, remove or render useless, crops, drinking water supplies, irrigation works, livestock, foodstuffs or food producing areas for the purpose of denying them to the enemy or the civilian population unless they serve a direct military purpose such as shielding the enemy from observation or attack."

Draft Protocol I, Article 48 (concluded)

CDDH/III/74

21 March 1974

Original: English

Ukrainian Soviet Socialist Republic

Add the following paragraph as a second paragraph:

"2. The use of any of these objects by one of the Parties to the conflict for military purposes deprives that object of the full protection envisaged by the present Section."

ARTICLE 48 bis - PROTECTION OF THE NATURAL ENVIRONMENT *
(adopted by Committee III at the second session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/17 and
Rev.1 and 2
13 March 1974
Original: French

See Article 47 bis.

CDDH/III/60
19 March 1974
Original: English

Australia

Insert a new provision as follows:

"Article 49 bis - Protection of the natural environ-
ment

1. Without prejudice to the rights of a High Contracting Party in its own territory, it is forbidden to spoil the natural environment as a technique of warfare.
2. Attacks against the natural environment by way of reprisal are prohibited.
3. A breach of this Article shall constitute a grave breach of the present Protocol."

(This proposed new Article 49 bis was renumbered Article 48 bis by the Working Group.)

* Article 55 of the Final Act.

Draft Protocol I, Article 48 bis (concluded)

CDDH/III/64
19 March 1974

Original: French

Czechoslovakia, German Democratic Republic,
Hungary

Add the following new paragraph to Article 48:

"It is forbidden to impair or destroy the natural environment as such by any means or methods whatsoever, since the maintenance of a balanced environment is essential for the survival of the civilian population. The natural environment shall not be made the object of reprisals."

(This amendment was proposed as a new paragraph to Article 48, before becoming part of Article 48 bis.)

ARTICLE 49 - WORKS AND INSTALLATIONS CONTAINING
DANGEROUS FORCES *

(adopted by Committee III at the second and fourth sessions
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/10

Romania

12 March 1974

Original: French

1. Redraft paragraph 1 as follows:

"1. Works and installations containing dangerous forces such as dams, dykes and nuclear-powered electric generating plants shall at all times be protected. It is strictly forbidden to attack, destroy or damage such works and installations or to make them the object of reprisals or hostile action."

2. Add the following to the end of paragraph 2:

"Military protection of these objects should not serve as a pretext for the contravention of the protective measures laid down in paragraph 1."

CDDH/III/49

Australia

18 March 1974

Original: English

Delete the existing text and substitute the following:

"Article 49 - Avoidance of unnecessary damage

1. The High Contracting Parties are invited, in order to spare the civilian population and in order to avoid unnecessary damage to property,

(a) to agree, in time of peace, on means which will provide protection against unwarranted attacks on works and installations, damage to or the destruction of which would result in the release of dangerous or destructive forces;

* Title in Final Act: Article 56 - Protection of works and installations containing dangerous forces.

Draft Protocol I, Article 49 (continued)

CDDH/III/49 (concluded)

(b) to agree, in time of armed conflict, on means by which, so long as they are not used for military purposes, such works and installations shall be immune from attack; and

(c) to agree on the means of identification of such works and installations.

2. When such works or installations become liable to attack as military objectives the Party ordering or launching the attack shall pay particular heed to the precautionary measures stipulated by Articles 50 and 51 of the present Protocol.

3. The Parties to the conflict shall endeavour to avoid locating any military objectives in the immediate vicinity of works and installations of the kind mentioned in paragraph 1."

CDDH/III/59
19 March 1974

Belgium, Netherlands

Original: French

Delete paragraph 1 and substitute the following:

"1. Without prejudice to the rights of the High Contracting Parties in their own territories, it is forbidden to attack or destroy engineering works designed for use by the civilian population or installations containing dangerous forces, such as dams, dykes and nuclear generating stations, when the partial or total destruction of these objects would endanger the civilian population in the vicinity."

Draft Protocol I, Article 49 (continued)

CDDH/III/65 and Arab Republic of Egypt, Democratic Yemen,
Corr.1 and Iraq, Jordan, Kuwait, Lebanon, Libyan Arab
CDDH/III/65/Add.1 Republic, Mali, Mauritania, Morocco, Qatar,
19 March 1974 Sudan, Sweden, Switzerland, Syrian Arab
Original: English Republic, United Arab Emirates, Yemen

Add a second sentence to paragraph 2 reading as follows:
"Installations erected for the sole purpose of defending the
protected objects from attack shall not deprive such objects
of their immunity".

(Document CDDH/III/65/Corr.1 indicated that the Syrian Arab Republic
had been omitted from the list of sponsors.)

(In document CDDH/III/65/Add.1, Mali joined as co-sponsor.)

CDDH/III/74 Ukrainian Soviet Socialist Republic
21 March 1974
Original: English

Add the following paragraph as a second paragraph:

"2. The use of any of these objects by one of the
Parties to the conflict for military purposes deprives that
object of the full protection envisaged by the present
Section."

CDDH/III/76 and Arab Republic of Egypt, Democratic Yemen,
Add.1 Iraq, Jordan, Kuwait, Lebanon, Libyan Arab
21 March 1974 Republic, Mauritania, Morocco, Qatar,
Original: English Sudan, Syrian Arab Republic, United Arab
Emirates, Yemen

In paragraph 1, replace the word "namely" by the words
"such as".

(In document CDDH/III/76/Add.1, the Syrian Arab Republic was added as
co-sponsor.)

Draft Protocol I, Article 49 (concluded)

CDDH/III/79

Canada

25 March 1974

Original: English

Delete paragraph 1 and replace with:

"1. Unless the military advantage to be obtained is proportionately greater than the foreseeable damage to the civilian population, it is forbidden to attack or destroy works or installations containing dangerous forces, namely, dams, dykes and nuclear generating stations."

CDDH/III/202

United States of America

6 February 1975

Original: English

1. Amend paragraph 1 to read:

"1. It is prohibited to attack or destroy civilian works or installations containing dangerous forces, namely, dams, dykes and nuclear generating stations, where such attack or destruction would be likely to result in the release of such forces, unless the damage or destruction of such works or installations offers a distinct military advantage and damage to civilians or civilian objects would not be disproportionate to the direct military advantage anticipated."

2. Delete paragraph 3.

CDDH/III/59/Rev.1

Belgium, Netherlands

7 February 1975

Original: English/
French/Spanish

Delete paragraph 1 and substitute the following:

"1. Without prejudice to the rights of the High Contracting Parties in their own territories, it is forbidden to attack or destroy engineering works or installations containing dangerous forces, such as dams, dykes and nuclear generating stations, when the partial or total destruction of these objects would endanger the civilian population in the vicinity."

For draft amendment CDDH/III/4 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

NEW ARTICLE 49 bis - PROTECTION OF THE NATURAL ENVIRONMENT

See Article 48 bis, amendment CDDH/III/60.

CHAPTER IV - PRECAUTIONARY MEASURES

ARTICLE 50 - PRECAUTIONS IN ATTACK *
(adopted by Committee III at the second session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/10

Romania

12 March 1974

Original: French

1. In Proposal I of sub-paragraph (a) replace the words "within the meaning of paragraph 1 of Article 47" by the words "that is to say, objectives which directly and immediately produce weapons, military equipment and means of combat or which are used directly and immediately by armed forces."

2. Reword sub-paragraphs 1(b) and (c) as follows:

"(b) Those who launch an attack shall cancel or suspend it if it becomes apparent that the objective is not a military one, or that the attack could cause incidental losses in civilian lives or damage to civilian objects.

(c) Those who plan or decide upon an attack shall give advance warning by effective means of their intention to attack a military objective, in order that civilians may evacuate the area of the objective. However, such a warning shall in no way diminish the obligations cited above."

CDDH/III/13 and

Finland, Sweden

Add.1

12 March 1974

Original: French

In sub-paragraph 1(b) delete the words "if possible".

(In document CDDH/III/13/Add.1, Sweden was added as co-sponsor.)

* Article 57 of the Final Act.

Draft Protocol I, Article 50 (continued)

CDDH/III/24
15 March 1974
Original: French

Brazil

In sub-paragraph 1(b), replace the words "those who launch an attack shall, if possible, cancel or suspend it if it becomes apparent that the objective is not ..." by the words "those who launch an attack shall cancel or suspend it if they perceive that the objective is not ...".

CDDH/III/28
14 March 1974
Original: English

Ghana

In sub-paragraph 1(b), after the words "losses in", insert the words "or hardship to"; and for the words "disproportionate to the direct and substantial advantage anticipated" substitute the words "caused thereby".

CDDH/III/79
25 March 1974
Original: English

Canada

Amend paragraph 3 to read:

"3. When a choice is possible between several objectives for obtaining a similar military advantage, the objective to be selected shall be that which it is reasonable to expect will cause the least damage to civilian lives and objects."

CDDH/III/83
11 September 1974
Original: English

German Democratic Republic

Redraft paragraph 1 as follows:

"1. Constant care shall be taken, when conducting military operations, to spare the civilian population, civilians and civilian objects.

Those who plan, order or launch an attack shall take the following precautionary measures:

Draft Protocol I, Article 50 (continued)

CDDH/III/83. (concluded)

(a) They shall make sure that the objectives to be attacked are neither civilian nor objects of civilian character;

(b) They shall stop the attack when it becomes apparent that the objective is not a military one;

(c) They shall do everything in their power to warn the civilians threatened by the attack. This warning does not, however, in any way limit the scope of the obligations laid down in the preceding paragraphs."

CDDH/III/203

Australia

13 February 1975

Original: English

1. In paragraph 1 delete proposal I in sub-paragraph (a) and insert in sub-paragraph (b) the word "military" after the word "substantial" in the last line.
2. In paragraph 2, delete the word "necessary" and insert in lieu thereof the word "reasonable".
3. In paragraph 2, delete the words "not to cause" and insert in lieu thereof the words "to minimise".

CDDH/III/203/Rev.1

Australia

18 February 1975

Original: English

1. In paragraph 1, sub-paragraph (a), delete proposal I of this provision and retain proposal II.
2. In paragraph 1, sub-paragraph (b), insert the word "military" after the word "substantial" in the last line.
3. In paragraph 2 delete the word "necessary" and insert in lieu thereof the word "reasonable".
4. In paragraph 2, delete the words "not to cause" and insert in lieu thereof the words "to minimise".

Draft Protocol I, Article 50 (continued)

CDDH/III/205
17 February 1975
Original: English

Arab Republic of Egypt, Jordan, Kuwait,
Libyan Arab Republic, Mauritania, Qatar,
Sudan, United Arab Emirates

1. Redraft sub-paragraph 1(a) (proposal I) to read:

"Those who plan or decide upon an attack shall ensure that the objectives to be attacked are duly identified as military objectives within the meaning of paragraph 1 of Article 47 and may be attacked without causing incidental losses in civilian lives and damage to civilian objects."

2. In sub-paragraph 1(b), delete the words "if possible", and delete the second part of the sentence beginning with "or that incidental losses ...".

3. In sub-paragraph 1(c), after the words "shall be given" insert the words, "by effective means and naming a reasonable time limit,".

CDDH/III/207
17 February 1975
Original: English

United Kingdom of Great Britain and Northern
Ireland

Amend the Article to read:

"1. Constant care shall be taken, when conducting military operations, to spare the civilian population, civilians and civilian objects. In the planning, deciding and execution of an attack the following precautions shall be taken:

(a) Those who plan or decide upon an attack shall take all reasonable steps to ensure that the objectives to be attacked are effectively identified as military objectives within the meaning of Article 47 and that the risks to civilian lives and objects are not disproportionate to the military advantage anticipated;

(b) Attacks shall, if possible, be cancelled or suspended if it becomes apparent that the objective is not a military one or that incidental losses in civilian lives and damage to civilian objects would be disproportionate to the military advantage anticipated;

Draft Protocol I, Article 50 (concluded)

CDDH/III/207 (concluded)

(c) Whenever the circumstances, including operational and technical requirements, permit, advance warning shall be given of attacks which may affect the civilian population. Such warnings do not, however, in any way limit the scope of the obligations laid down in the preceding paragraphs.

2. All reasonable precautions shall be taken in the choice of weapons and methods of attack so as to minimise losses in civilian lives and damage to civilian objects in the immediate vicinity of military objectives to be attacked."

For draft amendment CDDH/III/3 to this Article submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

For draft amendment CDDH/41 submitted by the Democratic Republic of Viet-Nam, see Annex III to the Table of Amendments.

ARTICLE 51 - PRECAUTIONS AGAINST THE EFFECTS OF ATTACKS*
(adopted by Committee III at the second session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/10
12 March 1974
Original: French

Romania

In paragraph 1, delete "to the maximum extent feasible"
and insert "all" after the word "take".

CDDH/III/79
25 March 1974
Original: English

Canada

1. In paragraph 1, delete "authority" and replace with
"control".

2. Delete paragraph 2 and add the following as para-
graphs 2 and 3:

"2. Subject to Article 49 of the Fourth Convention,
the Parties to the conflict shall endeavour to remove the
civilian population, individual civilians and civilian
objects from the proximity of military objects.

3. The Parties should endeavour to avoid siting
military objects within or near densely populated areas."

(The second part of this amendment was withdrawn at the twenty-second
meeting of Committee III, on 18 February 1975, in favour of amend-
ment CDDH/III/208.)

* Article 58 of the Final Act.

Draft Protocol I, Article 51 (continued)

CDDH/III/204

Australia

13 February 1975

Original: English

Delete the existing paragraph 2 and insert in lieu thereof a new paragraph as follows:

"2. Subject to Article 49 of the Fourth Convention the Parties to the conflict shall endeavour to remove the civilian population, individual civilians and civilian objects under their authority from the proximity of military objectives, and shall ensure that as far as practicable military objectives are not kept within or near densely populated areas."

CDDH/III/206

Arab Republic of Egypt, Libyan Arab

17 February 1975

Republic, Mauritania, Kuwait, Qatar, Sudan,

Original: English

United Arab Emirates

Redraft the Article to read:

"The Parties to the conflict shall, to the maximum extent feasible:

(a) take the necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against dangers resulting from military operations.

(b) remove them from the proximity of military objectives, subject to Article 49 of the Fourth Convention, or avoid that any military objectives be kept within or near populated areas."

CDDH/III/208

Canada, Ireland

17 February 1975

Original: English

Delete the present paragraph 2 and substitute the following:

"Subject to Article 49 of the Fourth Convention, the Parties to the conflict shall, as far as it is practicable, remove the civilian population, individual civilians and

Draft Protocol I, Article 51 (concluded)

CDDH/III/208 (concluded)

civilian objects under their control from the vicinity of military objectives and, shall, as far as it is practicable, ensure that military objectives are not sited within or near densely populated areas."

CHAPTER V - LOCALITIES UNDER SPECIAL PROTECTION *

ARTICLE 52 - NON-DEFENDED LOCALITIES **
(adopted by Committee III at the second session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/11
12 March 1974
Original: English

Pakistan

1. In the first line of paragraph 2 replace the word "this" appearing after the words "observance of" and before the word "rule" by the word "the".

2. Replace paragraph 3 by the following:

"3. The declaration by a Party of a non-defended locality shall be respected by the other Party or Parties to the dispute, if it fulfils the conditions contained in paragraph 2, whose existence shall be confirmed by the Protecting Power or an impartial humanitarian organization."

CDDH/III/61
19 March 1974
Original: Spanish

Uruguay

Amend the Article to read:

"Article 52 - Protected localities

1. The Parties to the conflict may grant the status of specially protected locality to places which are inhabited or are of particular interest from the artistic, archeological, historical or religious point of view.

2. The grant of such status may be made by an agreement, concluded in writing or verbally, either directly or through a Protecting Power or any impartial humanitarian body. The agreement shall define the protected locality and lay down the methods of supervision.

* Title in Final Act: CHAPTER V - Localities and zones under special protection.

** Article 59 of the Final Act.

Draft Protocol I, Article 52 (continued)

CDDH/III/61 (concluded)

3. A Party to the conflict shall be understood to have tacitly agreed to grant to a place the status of specially protected locality if, after receiving a proposal to that effect either directly from the adversary or through a Protecting Power or an impartial humanitarian body, it does not communicate its objection within ... days of the date of receipt of the proposal. The proposal shall define the locality and lay down the methods of supervision.

4. Once a place has been given the status of a specially protected locality, armed forces and other combatants, weapons and mobile military equipment shall be evacuated immediately from that locality. The Parties to the conflict shall take all appropriate steps to ensure that the fixed military installations or establishments in the protected locality are not put to hostile use and that the authorities or population do not commit acts of warfare against one of the Parties to the conflict.

5. The presence in protected localities of military medical personnel, civil defence personnel, civilian police forces, wounded and sick military personnel, as well as military chaplains, is not contrary to the conditions stipulated in the preceding paragraph.

6. The Party in whose power a protected locality lies shall mark it by means of signs consisting of two oblique red bands on a white ground displayed where they are clearly visible, especially on its perimeter and on highways.

7. It is forbidden for the Parties to the conflict to attack, by any means whatsoever, protected localities, nor may they defend them or effect a military occupation of them or unilaterally repeal their status.

8. Agreements concerning specially protected localities may be concluded either in peace time or after the outbreak of hostilities."

Draft Protocol I, Article 52 (continued)

CDDH/III/70 Brazil
21 March 1974
Original: English

1. In paragraph 5, delete the word "civilian".
2. In paragraph 7, delete the words "or when it is occupied militarily".

CDDH/III/79 Canada
25 March 1974
Original: English

Delete Article 52.

(This amendment was replaced by document CDDH/III/219.)

CDDH/III/96 Poland
1 October 1974
Original: French

Delete paragraph 3.

CDDH/III/211 Spain
19 February 1975
Original: Spanish

Redraft the Article to read:

"Article 52 - Non-defended zones

1. It is forbidden for the Parties to the conflict to attack, by any means whatsoever, non-defended zones.
2. Any one of the contending Parties may, by communication addressed to the Protecting Power or Powers of the other Party or Parties, declare as non-defended zones those which are near or in an area where armed forces are in contact. Armed forces and all other combatants, as well as mobile weapons and mobile military equipment must have been evacuated. No hostile use shall be made of fixed military installations or establishments and no acts of warfare shall be committed by the authorities or the population.

Draft Protocol I, Article 52 (continued)

CDDH/III/211 (concluded)

3. The contending Party or Parties to which such a declaration is addressed shall accept it unless the Protecting Power or Powers designated by it or them objects or object to such acceptance on the grounds of non-fulfilment of the requirements of the foregoing paragraph.

4, 5 and 6 - same as in draft Protocol I, "locality" and "non-defended locality" being replaced by "zone" and "non-defended zone".

7. Non-defended zones shall lose their status as such if, subsequent to the declaration, objection is made, as provided for in paragraph 3, on the grounds of non-fulfilment of the requirements laid down in paragraph 2, or when they are militarily occupied."

CDDH/III/218
19 February 1975
Original: English

Germany, Federal Republic of

1. Amend paragraph 2 to read:

"2. A non-defended locality means any inhabited place under the control of a Party to the conflict in which:

(a) there are present no armed forces, other combatants, mobile weapons or mobile military equipment;

(b) no hostile use is made of fixed military installations or establishments; and

(c) no activities linked to the military effort are performed by the authorities or the civilian population."

2. Replace paragraph 3 by paragraph 5.

3. Amend paragraph 4 to read:

"4. To facilitate the observation of paragraph 1 a Party to the conflict may declare any inhabited place which is under its control and fulfils the conditions stipulated in paragraph 2 to be a non-defended locality. The declaration must include the assurance without any reservation that the said locality is open to an independent and impartial supervision."

Draft Protocol I, Article 52 (continued)

CDDH/III/218 (concluded)

4. Replace paragraph 5 by paragraph 3. Add the following sentences: "Such a refusal is only admissible where circumstances warrant the assumption that the locality in question does not fulfil the conditions stipulated in paragraph 2. The refusal ceases to have effect if at any time a Protecting Power or an impartial humanitarian body declares that the locality does fulfil the said conditions."

5. Add a new paragraph 8 to read:

"8. The provisions of the present Article shall in no way affect international legal obligations already in existence, resulting particularly from Article 25 of the regulations respecting the laws and customs of a war on land; annexed to the Fourth Hague Convention of 18 October 1907, Article 23 of the First Convention or Articles 14 or 15 of the Fourth Convention."

CDDH/III/219

Canada

19 February 1975

Original: English

It is proposed that a new Article 52 should be substituted to provide a system for:

1. the making of a declaration by a commander that he did not intend to defend a locality even though at the time of the declaration, forces under his command were in occupation of the locality,

2. permitting negotiation of an orderly withdrawal of the defending forces and a peaceful occupation by the attacking forces, following that declaration,

3. the prohibition of attacks in the locality while such negotiation (up to some minimum period of time), or withdrawal and occupation in accordance with agreed procedures are taking place.

ARTICLE 53 - NEUTRALIZED LOCALITIES *
(adopted by Committee III at the second session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/III/61 Uruguay
19 March 1974
Original: Spanish

Delete Article 53.

CDDH/III/71 Brazil
21 March 1974
Original: English

1. In paragraph 4, delete the word "civilian".
2. In paragraph 6, delete the existing text and substitute the following:

"6. If the fighting draws near to a neutralized locality, none of the Parties to the conflict may conduct military operations within such a locality or unilaterally repeal its status."

CDDH/III/84 German Democratic Republic
11 September 1974
Original: English

In paragraph 1 use the term "area" instead of "locality".

CDDH/III/85 German Democratic Republic
11 September 1974
Original: English

Amend the first sentence of paragraph 3 to read:

"The subject of such an agreement may be any area situated inside or outside a military zone of operation where armed forces are in contact."

* Title in Final Act: Article 60 - Demilitarized zones.

Draft Protocol I, Article 53 (continued)

CDDH/III/97

Poland

1 October 1974

Original: French

The provisions of this Article should provide not only for the protection of neutralized localities but also of neutralized zones.

CDDH/III/212

Spain

19 February 1975

Original: Spanish

Redraft the Article to read:

"Article 53 - Neutralized zones

1. It is forbidden for the Parties to the conflict to attack, in any way whatsoever, zones which enjoy the status of neutralized zones.

2. The status of a neutralized zone shall be established, either in time of war or in time of peace, though preferably in time of peace, by means of a unilateral declaration by a State, or where appropriate, by one of the contending Parties. If the status of neutralized zone is established in time of war, it shall only apply to zones where combatants are not in contact with each other. Every neutralized zone shall be subject to international control.

3. Any zone in the territory of a State or any zone controlled by one of the Parties to the conflict may be given the status of neutralized zone, provided it contains no military objectives and regardless of its size.

4. Combatants shall be prohibited from entering neutralized zones and from crossing them.

5. If the fighting draws nearer to a neutralized zone, none of the Parties to the conflict may effect a military occupation of such a zone or unilaterally repeal its status.

Draft Protocol I, Article 53 (concluded)

CDDH/III/212 (concluded)

6. Any breach of the provisions governing the status of neutralized zone, or of the conditions established by paragraphs 3 and 4 of this Article, committed by the State or the contending Party which established it, shall exempt the other Party or Parties from the obligation laid down in paragraph 1, without prejudice to the provisions of the first three Chapters of this Part."

CDDH/III/218
19 February 1975
Original: English

Germany, Federal Republic of

In paragraph 3, first sentence, delete the words
"situated outside a zone where armed forces are in contact".

CHAPTER VI - CIVIL DEFENCE

CDDH/II/351

Canada

28 April 1976

Original: English

Throughout this Chapter replace the words "Civil Defence" by "Civil Emergency Measures".

ARTICLE 54 - DEFINITION *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/II/44
11 March 1974
Original: English

Philippines

Redraft Article 54 as follows:

"Civil defence, for the purpose of the present Chapter, covers humanitarian tasks intended to safeguard the civilian population against the effects arising from hostilities, civil strife or disasters, to ensure its survival and to provide the conditions necessary for its existence. Civil defence includes, inter alia:

(a) rescue, first-aid, conveyance of wounded, inter ment of the dead, fire-fighting;

(c) provision of emergency material, social assistance and welfare services to the civilian population;

(f) preventive measures, such as warning the civilian population, evacuation, provision of shelters, designation of safe centres or settlement sites."

CDDH/II/318
14 April 1975
Original: English

Denmark, Germany, Federal Republic of,
Uganda, United Kingdom of Great Britain and
Northern Ireland, United States of America

Amend the beginning of the second sentence to read:
"Civil defence covers some or all of the following:".

(This amendment was withdrawn at the sixty-first meeting of Committee II, on 3 May 1976, in favour of document CDDH/II/321.)

* Title in Final Act: Article 61 - Definitions and scope.

Draft Protocol I, Article 54 (continued)

CDDH/II/321

Denmark

14 November 1975

Original: English

Amend Article 54 to read:

"Article 54 - Scope of civil defence

Civil defence, for the purpose of the present Chapter, covers humanitarian tasks intended to help the civilian population to avoid or recover from the effects of attacks or disasters, and thereby to provide the conditions necessary for its existence and survival. Civil defence includes some or all of the following:

(a) rescue, medical services, including first-aid, fire-fighting;

(b) provision of emergency material and social assistance necessary to the survival of the civilian population;

(c) emergency repair of public services indispensable to the civilian population;

(d) restoration of normal functions in devastated areas;

(e) preventive measures for the protection of the civilian population such as warning, evacuation, and the provision of shelters; and

(f) detection and marking of danger areas."

(This amendment was replaced by amendment CDDH/II/402 and Add.1 below.)

CDDH/II/336

Australia

26 April 1976

Original: English

Amend Article 54 as follows:

"Civil defence, for the purpose of the present Chapter, covers humanitarian tasks intended to safeguard the civilian population against the effects arising from disasters during a period of armed conflict or hostilities, to ensure its survival and to provide the conditions necessary for its existence. Civil defence includes, inter alia:

Draft Protocol I, Article 54 (continued)

CDDH/II/336 (concluded)

- (a) rescue, first-aid, conveyance of wounded and disposal of the dead from the civilian population;
- (b) fire-fighting and the safeguarding of objects indispensable to the survival of the civilian population;
- (c) provision of emergency material, equipment and supplies, welfare services and social assistance to the civilian population;
- (d) emergency repair of public services indispensable to the civilian population;
- (e) safeguarding of life and property in disaster areas;
- (f) preventive measures, such as warning the civilian population, evacuation, provision of shelters;
- (g) detection and marking of danger areas."

CDDH/II/344
27 April 1976
Original: English

Finland, Norway, Sweden

1. Amend the beginning of the second sentence to read:
"Civil defence includes some or all of the following:".
2. Amend sub-paragraph (e) in the second sentence to read:
"assistance in the restoration of public order in devastated areas".
3. Add a new sub-paragraph (h) to the second sentence:
"other humanitarian tasks of a similar nature".

Draft Protocol I, Article 54 (continued)

CDDH/II/402 and
Add.1

12 November 1976

Original: English

Denmark, Finland, Iceland, Norway, Sweden

Amend Article 54 as follows:

"Article 54 - Definitions and scope

For the purposes of this Protocol:

(a) '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 recover from the immediate effects of hostilities or disasters and also to provide the conditions necessary for its survival. These tasks are:

- i. warning, evacuation, and the management of shelters;
- ii. rescue and fire-fighting;
- iii. provision of emergency accommodation and supplies, emergency repair of indispensable public utilities, detection and marking of danger areas, emergency disposal of the dead;
- iv. complementary or incidental activities necessary for the performance of any of the tasks enumerated above.

Medical services and assistance, including first-aid rendered by civil defence personnel, are covered by Part II of this Protocol.

(b) 'Units of civil defence' are those establishments and other units organized or recognized by their governments, which are assigned to and exclusively devoted to the discharge of any of the tasks mentioned in (a)."

(In document CDDH/II/402/Add.1, Finland, Iceland, Norway and Sweden became co-sponsors of this amendment.)

Draft Protocol I, Article 54 (continued)

CDDH/II/413

Austria, Colombia, Holy See

18 April 1977

Original: French

1. Taking the ICRC text as a basis, this amendment finds its place in paragraph (a) of Article 54, which would then read:

(a) rescue, medical and religious first aid, conveyance of wounded, fire-fighting."

2. Taking the Interim Report CDDH/II/384/Rev.1, or the new Danish proposal CDDH/II/402, as a basis, the amendment would fall at the end of Article 54 in the following form:

"Medical and religious services and services of assistance, including first aid rendered by civil defence personnel, are covered in Part II of this Protocol."

(At the eighty-fifth meeting of Committee II, on 19 April 1977, Austria and Colombia became co-sponsors of this amendment.)

CDDH/II/414

Zaire

18 April 1977

Original: English/French

Amend the Article as follows:

"For the purposes of this Protocol, civil defence is the performance of some or all of the following humanitarian tasks intended to protect and help the civilian population to avoid the dangers and recover from the effects of hostilities or disasters and to provide the conditions necessary for its survival:

- (a) warning;
- (b) evacuation;
- (c) management of shelters;
- (d) blackout;
- (e) rescue and fire-fighting;
- (f) first aid and medical services;

Draft Protocol I, Article 54 (concluded)

CDDH/II/414. (concluded)

- (g) detection and marking of danger areas;
- (h) provision of emergency accommodation and supplies;
- (i) co-ordination of restoration and maintenance of order in distressed areas;
- (j) emergency measures for the repair of recognized indispensable public utilities such as gas, water, power stations;
- (k) emergency disposal of the dead;
- (l) conservation of objects indispensable for survival;
- (m) complementary or incidental activities necessary to carry out the aforementioned tasks.

Medical services and assistance including first aid rendered by civil defence bodies and personnel are covered by Part II of this Protocol."

CDDH/II/416

Indonesia

18 April 1977

Original: English

Reword sub-paragraph (a) iv. in amendment CDDH/II/402 as follows:

"iv. complementary or incidental activities necessary to meet situations not covered by the tasks mentioned above."

CDDH/II/423

Romania

18 April 1977

Original: French

Amend sub-paragraph 1(f) as it appears in the interim report CDDH/235/Rev.1 (page 70) to read:

"1. (f) fire-fighting, rescue work in floods and other calamities; participation in activities to avert the effects of fires, floods and other calamities;"

ARTICLE 55 - ZONES OF MILITARY OPERATIONS *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/II/234 Spain
18 February 1975
Original: Spanish

Delete the word "civilian" in the first line of
paragraph 1.

(This amendment was withdrawn at the sixty-third meeting of
Committee II, on 5 May 1976, in favour of document CDDH/II/335
proposing a new Article 59 ter.)

CDDH/II/236 Denmark
19 February 1975
Original: English

Add a new paragraph 2 bis:

"2 bis. Personnel belonging to the armed forces, but
carrying out civil defence tasks, shall if they fall into
the power of the enemy, be considered as prisoners of war.
Civil defence personnel having permanently resigned from the
armed forces should not be captured and consequently not
become prisoners of war."

Note: This draft amendment is proposed as a substitute for the draft
paragraph contained in the foot-note to Article 55.

(This amendment was withdrawn at the sixty-third meeting of
Committee II, on 5 May 1976, in favour of document CDDH/II/325/Rev.1
proposing a new Article 57 bis.)

CDDH/II/307 Denmark, Finland, Norway, Sweden, United
10 April 1975 Republic of Tanzania, Yugoslavia
Original: English

Delete the word "intentionally" in paragraphs 1 and 3
of this Article.

(Denmark and Sweden withdrew as co-sponsors at the sixty-third meeting
of Committee II, on 5 May 1976, in favour of document CDDH/II/322
below.)

* Title in Final Act: Article 62 - General protection.

Draft Protocol I, Article 55 (continued)

CDDH/II/319

14 April 1975

Original: English

Denmark, Germany, Federal Republic of,
Uganda, United Kingdom of Great Britain
and Northern Ireland

1. Add at the end of the first sentence of paragraph 1:
"... provided (except for policemen in uniform) they do not carry arms or ammunition."
2. Amend paragraph 2 as follows: "civilians, whether or not they are members of civil defence bodies, who respond to an appeal ...".

(Denmark withdrew as co-sponsor at the sixty-third meeting of Committee II, on 5 May 1976, in favour of document CDDH/II/322.)

CDDH/II/322

14 November 1975

Original: English

Denmark

Amend Article 55 to read:

"Article 55 - Land fighting areas

In areas where land fighting is taking place:

(a) the civilian bodies which are established or recognized by their governments shall, while devoted exclusively to the discharge of any of the humanitarian tasks included in Article 54, be permitted freely to discharge these tasks, except in case of imperative military necessity. Their personnel shall not be armed and not be the object of attack;

(b) civilians who, although not members of the civilian bodies mentioned in (a), respond to an appeal from the competent authorities and carry out any of such civil defence tasks under the control of those authorities shall, while devoted exclusively to the discharge of such humanitarian tasks, likewise be permitted freely to discharge these tasks, except in case of imperative military necessity. Such personnel shall not be armed and not be the object of attack;

Draft Protocol I, Article 55 (continued)

CDDH/II/322 (concluded)

(c) buildings, or parts of buildings, matériel, vehicles and watercraft used exclusively for civil defence purposes shall not be the object of attack nor may such objects be destroyed except where destruction is rendered absolutely necessary by military operations."

(This amendment was replaced by amendment CDDH/II/403 and Add.1 below.)

CDDH/II/341
27 April 1976
Original: English

Netherlands

Add a new paragraph 2 bis:

"2 bis. Personnel of military units assigned permanently and exclusively to civil defence tasks shall not be intentionally attacked provided they display the international distinctive sign of civil defence specified in Article 59 below, and bear only small arms. If they fall into the power of the enemy they shall be considered to be prisoners of war."

NOTE: It is proposed that this draft amendment should replace the draft sub-paragraph contained in the footnote to Article 55 on page 115 of document CDDH/226 and the draft amendment of Denmark of 19 February 1975 (CDDH/II/236) proposing a paragraph 2 bis of Article 55.

CDDH/II/358
3 May 1976
Original: English

Yugoslavia

In paragraph 3, after the word "transport", insert the words "and the means of communication".

Draft Protocol I, Article 55 (concluded)

CDDH/II/403 and
Add.1

Denmark, Finland, Iceland, Norway, Sweden

12 November 1976

Original: English

Amend Article 55 as follows:

"Article 55 - General protection of civil defence

1. 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.
2. Civilian units of civil defence and their personnel shall be allowed, except in case of imperative military necessity, to carry out their civil defence tasks. The immunity from attack provided by this Protocol can only be effective if such personnel are unarmed.
3. The provisions of paragraph 2 shall also apply to civilians who, although not members of civilian units of civil defence, respond to an appeal from the competent authorities and carry out civil defence tasks under their control.
4. Buildings and matériel used for civil defence purposes and shelters provided for the civilian population are civilian objects within the meaning of this Protocol. Objects used for civil defence purposes may not be destroyed or diverted from their proper use except in the case of imperative military necessity."

(In document CDDH/II/403/Add.1, Finland, Iceland, Norway and Sweden became co-sponsors of this amendment.)

CDDH/417

25 May 1977

Original: English

Canada, Egypt, Sudan

In paragraph 3, delete the words "in the case of imperative military necessity,".

ARTICLE 56 - OCCUPIED TERRITORIES *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/II/70
13 March 1974
Original: English

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

Replace the first sentence of paragraph 2 by the
following: "The Occupying Power shall neither requisition
nor divert buildings ...".

CDDH/II/234
18 February 1975
Original: Spanish

Spain

Delete the word "civilian" in the first line of para-
graph 1.

CDDH/II/307
10 April 1975
Original: English

Denmark, Finland, Norway, Sweden, United
Republic of Tanzania, Yugoslavia

Amend paragraph 2 of this Article to read:

"2. The Occupying Power shall not divert buildings,
including public shelters, material and means of transport
belonging to civil defence bodies from their assignment.
Nor shall such buildings, material and means of transport be
requisitioned if such requisition might jeopardize the
protection of the civilian population."

(Denmark and Yugoslavia withdrew their sponsorship at the sixty-fifth
meeting of Committee II, on 7 May 1976, in favour of document
CDDH/II/323.)

* Title in Final Act: Article 63 - Civil defence in occupied
territories.

Draft Protocol I, Article 56 (continued)

CDDH/II/323

Denmark

14 November 1975

Original: English

Amend the Article to read:

"1. In occupied territories, the civilian bodies assigned to the discharge of the tasks mentioned in Article 54 shall to the extent feasible receive from the authorities the facilities necessary for the discharge of those tasks. In no circumstances shall their personnel be compelled to perform activities which will make it impossible for them to perform their civil defence functions. The Occupying Power shall not change the structure or personnel of such 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 bodies, which remain governed by Article 63 of the Fourth Convention, shall not be required by the Occupying Power to give priority to nationals or the interests of that Power.

2. The Occupying Power shall not divert or requisition buildings, matériel and transports belonging to or in use by civil defence bodies from their assignment if that diversion or requisition would jeopardize the efficient discharge of their civil defence mission."

(This amendment was replaced by document CDDH/II/404 and Add.1 below.)

CDDH/II/340

Yugoslavia

27 April 1976

Original: English

Add a new paragraph 3:

"3. The Occupying Power shall not compel civil defence bodies to perform their activities."

Draft Protocol I, Article 56 (continued)

CDDH/II/346

United States of America

27 April 1976

Original: English

Add to the provisions proposed in CDDH/II/323 the following paragraph:

"3. If any portion of occupied territory becomes an area where land fighting is taking place, the provisions of Article 55 of this Protocol shall apply without derogation, but, in such areas the provisions of the present Article are subject to such temporary and exceptional measures in derogation as may be necessary for urgent reasons of security of the Occupying Power."

CDDH/II/352

Byelorussian Soviet Socialist Republic,

28 April 1976

Ukrainian Soviet Socialist Republic, Union

Original: Russian

of Soviet Socialist Republics

Amend the first two sentences of paragraph 1 to read:

"1. In occupied territories, the civil defence bodies assigned to the discharge of the tasks mentioned in Article 54 shall carry out their functions with the permission and under the supervision of the Occupying Power. At the same time, they shall receive every facility from the authorities for the discharge of these tasks." Continue as in the text.

CDDH/II/358

Yugoslavia

3 May 1976

Original: English

Delete the last sentence of paragraph 1.

Draft Protocol I, Article 56 (continued)

CDDH/II/404 and

Denmark, Finland, Iceland, Norway, Sweden

Add.1

12 November 1976

Original: English

Amend Article 56 as follows:

"Article 56 - Civil defence in occupied territories

1. In occupied territories, subject to the provisions of Article 55, civilian units of civil defence 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 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 discharge of their mission. Civilian units of civil defence shall not be required to give priority to the nationals or interests of that power.

2. The Occupying Power shall neither divert from their proper use nor requisition buildings or material belonging to or in use by civilian units of civil defence if such diversion or requisition would prejudice the protection or needs of the civilian population. It shall not divert or requisition shelters so long as they are needed by the civilian population."

(In document CDDH/II/404/Add.1, Finland, Iceland, Norway and Sweden became co-sponsors of this amendment.)

CDDH/II/424

Romania

18 April 1977

Original: French

Delete the last words of the third sentence of paragraph 1 of the ICRC draft, namely: "1. ... in any way which might jeopardize the efficient discharge of their mission."

Draft Protocol I, Article 56 (concluded)

CDDH/II/425

19 April 1977

Original: English/
French

Algeria, Cyprus, Egypt, Iraq, Jordan,
Kuwait, Lebanon, Saudi Arabia, Sudan,
Syrian Arab Republic, Tunisia, Zaire

Amend Article 56 as follows:

"1. In occupied territories, the civil defence bodies and units shall 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 bodies and units in any way which might jeopardize the efficient discharge of their mission. Civil defence bodies and units, which also remain governed by Article 63 of the Fourth Convention, shall not be required to give priority to the nationals or interests of that power.

2. The Occupying Power shall neither divert from their assignment nor requisition buildings, equipment, supplies and transports belonging to, or in use by civil defence bodies and units. It shall neither divert nor requisition shelters."

(At the eighty-sixth meeting of Committee II, on 21 April 1977, Cyprus joined as co-sponsor.)

Draft Protocol I, Article 57 (continued)

CDDH/II/324 (concluded)

2. In occupied areas, the Occupying Power may exclude or restrict the activities of civilian bodies 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."

(This amendment was replaced by document CDDH/II/405 and Add.1 below.)

CDDH/II/337

Australia

26 April 1976

Original: English

Substitute for the French word "matériel" the word "material".

CDDH/II/345

Finland, Norway, Sweden

27 April 1976

Original: English

1. Replace the present title by the following:

"Article 57 - Civilian bodies of neutral or other States not Parties to a conflict and international bodies."

2. Replace in paragraph 1 the expression "civil defence bodies" by "civilian bodies".

CDDH/II/349

Indonesia

27 April 1976

Original: English

In paragraph 1, replace the words "with the agreement of," by the words "with the agreement of all conflicting Parties concerned" and delete the sentence "after notification to the adverse Party".

Draft Protocol I, Article 57 (continued)

CDDH/II/405 and
Add.1

Denmark, Finland, Iceland, Norway, Sweden

12 November 1976

Original: English

Amend Article 57 as follows:

"Article 57 - Civilian units of civil defence of
neutral or other States not Parties to the conflict

1. Articles 55, 56, 58 and 59 of this Protocol also apply to the personnel and matériel of civilian units of civil defence of neutral or other States not Parties to the conflict which carry out the civil defence tasks mentioned in Article 54 of this Protocol on the territory of a Party to the conflict and under its control. Whenever possible, any adverse Party concerned should be notified of such activity, but in no case shall this activity be deemed to be an act of interference in the conflict.

2. In occupied territories the Occupying Power may not exclude or restrict the activities of the units of civil defence mentioned in paragraph 1 if it is unable to ensure the adequate performance of civil defence tasks, either from its own resources or from those of the occupied territory."

(In document CDDH/II/405/Add.1, Finland, Iceland, Norway, Sweden became co-sponsors of this amendment.)

Draft Protocol I, Article 57 (concluded)

CDDH/II/426 and
Add.1

20 April 1977

Original: English/
French

Algeria, Egypt, Lebanon, Mauritania,
Morocco, Saudi Arabia, Socialist People's
Libyan Arab Jamahiriya, Syrian Arab
Republic, Tunisia, United Republic of
Cameroon, Zaire

Amend Article 57 as follows:

"Article 57 - Civil defence bodies and units of neutral
or other States not Parties to the conflict and inter-
national bodies

1. Articles 55, 56, 58 and 59 of this Protocol also apply to the personnel, equipment, supplies and transports of established or recognized civilian bodies and units of neutral or other States not Parties to the conflict and of international civilian bodies 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 consent of any adverse Party concerned. In this case, notification shall be given to any adverse Party concerned. In no circumstances shall such activity be deemed to be interference in the conflict.

2. In occupied territories, the Occupying Power may exclude or restrict the activities of civilian bodies and units 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."

(In document CDDH/II/426/Add.1, Algeria, Egypt, Lebanon, Mauritania, Morocco, Saudi Arabia, Socialist People's Libyan Arab Jamahiriya, Syrian Arab Republic, Tunisia, became co-sponsors of this amendment.)

(At the ninety-second meeting of Committee II, on 11 May 1977, the United Republic of Cameroon became co-sponsor of this amendment.)

NEW ARTICLE 57 bis - GENERAL PROTECTION

CDDH/II/325

Denmark

14 November 1975

Original: English

Add the following new Article 57 bis:

"Article 57 bis - General protection

1. 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.

2. Personnel whose liability to military service has definitely and finally ceased are protected civilians, unless and for such time as they take a direct part in hostilities. If they carry out civil defence tasks they shall be covered by this Chapter."

CDDH/II/325/Rev.1

Denmark

23 April 1976

Original: English

Add the following new Article 57 bis:

"Article 57 bis - General protection

1. 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.

2. Personnel whose liability to military service has definitely and finally ceased are protected civilians, unless and for such time as they take a direct part in hostilities. If they carry out civil defence tasks they shall be covered by this Chapter.

3. Personnel belonging to the armed forces, but carrying out civil defence tasks, shall not be covered by this Chapter. If they fall into the power of the enemy, they shall be prisoners of war."

Draft Protocol I, Article 57 bis (concluded)

CDDH/II/342

27 April 1976

Original: English

Finland, Norway, Sweden

Amend the second paragraph of document
CDDH/II/325/Rev.1 to read:

"2. Personnel who are no longer active members of the military organizations are civilians. If they carry out civil defence tasks they shall be covered by this Chapter."

ARTICLE 58 - CESSATION OF PROTECTION *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-second plenary meeting, on 27 May 1977)

CDDH/II/70
13 March 1974
Original: English

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

In paragraph 1, replace the word "harmful" by
"hostile", so that it reads "acts hostile to the enemy".

CDDH/II/320
14 April 1975
Original: English

Denmark, Germany, Federal Republic of,
Uganda, United Kingdom of Great Britain
and Northern Ireland

Amend paragraph 2(c) to read:

"(c) carry, outside zones of military operations
(save for policemen in uniform who may carry them anywhere
until disarmed) small arms and ammunition for the purpose
of maintaining order in a stricken area."

CDDH/II/326
14 November 1975
Original: English

Denmark

Amend Article 58 to read:

"1. The protection due to persons, buildings,
matériel, vehicles and watercraft engaged in civil defence
tasks shall not cease unless they are used to commit, out-
side those duties, acts harmful to the enemy. Protection
may, however, cease only after a warning, specifying in all
appropriate cases a reasonable time-limit, has remained
unheeded.

2. The fact that civil defence personnel:

(a) receive instructions from military authorities,

* Article 65 of the Final Act.

Draft Protocol I, Article 58 (continued)

CDDH/II/326 (amended)

(b) co-operate in the discharge of their tasks with military personnel,

(c) bear small-arms outside areas where fighting is taking place for the purpose specified in Article 54 (d), unless previously ordered to be disarmed, or

(d) may, in the performance of their tasks, incidentally benefit military victims, particularly those who are hors de combat,

shall not be considered to be harmful to the enemy.

3. Similarly, the organization of civilian bodies along military lines, and compulsory service in them, shall not deprive them of the protection conferred by the present Chapter."

(This amendment was replaced by document CDDH/II/406 and Add.1 below.)

CDDH/II/338

Australia

26 April 1976

Original: English

Amend Article 58 to read:

1. The protection due to persons, buildings, materials and means of transport engaged in civil defence tasks shall not cease unless they are used to commit, outside those duties, acts harmful to the enemy. Protection may, however, cease only after a warning in all appropriate cases specifying a reasonable time-limit, has remained unheeded.

2. The fact that civil defence personnel:

(a) receive instructions from military authorities;

(b) co-operate in the discharge of their tasks with military personnel;

(c) bear personal small-arms for the purpose of safeguarding life and property; or

(d) carry out their tasks for the benefit of non-civilian victims,

Draft Protocol I, Article 58 (continued)

CDDH/II/338 (concluded)

shall not be considered to be harmful to the enemy.

3. Similarly, the organization of civil defence bodies along military lines, and compulsory service in them, shall not deprive them of the protection conferred by the present Chapter."

CDDH/II/343
27 April 1976

Finland, Norway, Sweden

Original: English

Replace in paragraph 3 the expression "civil defence bodies" by "civilian bodies".

CDDH/II/347
27 April 1976

Belgium

Original: French

Amend paragraph 2 and 3 to read:

"2. The fact that civil defence personnel

(a) in the discharge of their tasks co-operate as an exceptional measure with military personnel, in so far as such co-operation is indispensable for the protection of the civilian population,

(b) bear personal small-arms for the purpose of ensuring their own defence or that of the civilian population for which they are responsible, or

(c) occasionally carry out their tasks for the benefit of military victims,

shall not be considered to be harmful to the enemy.

3. Similarly, the organization of civil defence bodies along military lines shall not deprive them of the protection conferred by the present Chapter."

Draft Protocol I, Article 58 (continued)

CDDH/II/353
28 April 1976
Original: Russian

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

Add a new paragraph 4:

"4. With due regard for the provisions of this Article, the Occupying Power may disarm and disband civil defence bodies. When this occurs, the military personnel of such bodies shall be treated as prisoners of war, and their non-military personnel shall be considered to be civilians."

CDDH/II/406 and
Add.1
12 November 1976
Original: English

Denmark, Finland, Iceland, Norway, Sweden

Amend Article 58 as follows:

"Article 58 - Cessation of protection

1. The protection to which civilian units of civil defence and 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 provided:

(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 discharge of civil defence tasks, or that some military personnel are attached to civilian units of civil defence for technical purposes.

(c) that the performance of civil defence tasks may incidentally benefit military victims, particularly those who are hors de combat.

Draft Protocol I, Article 58 (concluded)

CDDH/II/406 and Add.1 (concluded)

3. Similarly, the organization of civilian units of civil defence along military lines, and compulsory service in them, shall not deprive them of the protection conferred by the present Chapter.

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.

(In document CDDH/II/406/Add.1, Finland, Iceland, Norway and Sweden became co-sponsors of this amendment.)

CDDH/II/418

Indonesia

18 April 1977

Original: English

Amend document CDDH/II/406 as follows: insert in paragraph 4 between the first and last sentence a new sentence reading: "However, if they have fallen into the power of an adverse Party, they shall be treated as prisoners of war."

ARTICLE 58 bis - MILITARY PERSONNEL
ENGAGED IN CIVIL DEFENCE TASKS

See New Article 59 bis, page 277.

ARTICLE 59 - IDENTIFICATION *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/II/237
19 February 1975
Original: English

Denmark

Add a new paragraph 7 bis:

"7 bis. In time of peace the international distinctive sign of civil defence may, with the consent of the competent national authorities and on conditions laid down by those, be employed to identify civil defence personnel, buildings, material and transports."

(This amendment was replaced by document CDDH/II/327.)

CDDH/II/327
14 November 1975
Original: English

Denmark

Amend Article 59 to read:

"1. Each Party to a conflict shall endeavour to ensure the identification of civil defence personnel as mentioned in Article 55 (a) and (b), and civil defence buildings, matériel, vehicles and watercraft.

2. Each Party to a conflict shall also endeavour to adopt and implement reasonable methods and procedures for the recognition of civil defence buildings, vehicles and watercraft using the international distinctive emblem of civil defence.

3. In occupied territory and in areas where fighting is taking place or is likely to take place, civil defence personnel should be recognizable by the international distinctive emblem of civil defence and an identity card certifying their status.

4. The international distinctive emblem of civil defence is an equilateral blue triangle on an orange background.

* Article 66 of the Final Act.

Draft Protocol I, Article 59 (continued)

CDDH/II/327 (concluded)

5. In addition to the distinctive emblem, Parties to the conflict may agree upon the use of distinctive signals to identify civil defence buildings and transports. Such signals shall not be used for any purpose other than to identify civil defence buildings and transports.

6. The application of the provisions of paragraphs 1 to 4 of this Article is governed by Chapter V of the Annex to this Protocol.

7. In time of peace the international distinctive emblem of civil defence may, with the consent of the competent national authorities and on conditions laid down by them, be used to identify civil defence personnel, buildings, matériel, vehicles and watercraft.

8. The identification of civil defence medical services is governed by Article 18 of the present Protocol.

9. The High Contracting Parties shall take the measures necessary to supervise the display of the international distinctive emblem of civil defence and to prevent and repress any misuse thereof."

(This amendment was replaced by document CDDH/II/408 and Add.1 below.)

CDDH/II/339

Australia

26 April 1976

Original: English

Amend the Article to read:

"1. Each Party shall endeavour to adopt and implement reasonable methods and procedures to ensure the identification of personnel, buildings, material and means of transport engaged in civil defence tasks.

2. Parties shall issue for permanent civil defence personnel and means of transport permanently assigned to civil defence tasks a document attesting to their character. With the consent of the competent authority, personnel, buildings, materials and means of transport engaged in civil defence tasks shall, also, display the international distinctive signals for identification. The implementation of the provisions of this paragraph is governed by paragraph 3 and Chapter IV of the Annex.

Draft Protocol I, Article 59 (continued)

CDDH/II/339 (concluded)

3. The international distinctive sign of civil defence is an equilateral light blue triangle on a light orange background.

4. Personnel, buildings, material and means of transport temporarily engaged in civil defence tasks may display the international distinctive sign of civil defence only for the duration of their assignment.

5. Article 18 shall apply to the identification of civil defence medical services.

6. The use by individuals, societies, firms or companies either public or private, other than those entitled to use the distinctive sign of civil defence or any sign or designation constituting an imitation thereof, whatever the object of such use and irrespective of the date of its adoption, shall be prohibited at all times. Nevertheless Parties may grant to prior users of the sign or marks designated in the preceding paragraph a time-limit not exceeding three years from the coming into force of the present Protocol to discontinue such use, provided that the said use shall not be such as would appear, in time of armed conflict, to confer the protection of the Protocol.

7. With the exception of the cases mentioned in this paragraph and paragraphs 1, 2, 5 and 6 the distinctive sign of civil defence may not be employed either in time of peace or in time of armed conflict. National organizations carrying out civil defence tasks may, in time of peace and with the consent of the competent national authority, use the international distinctive sign of civil defence to identify civil defence personnel, buildings, material and means of transport."

CDDH/II/348 and
Corr.1
27 April 1976
Original: English

Indonesia

In paragraphs 3 and 4, amend "international distinctive sign" to read "internationally accepted distinctive sign".

(In document CDDH/II/348/Corr.1 "internationally distinctive sign" was corrected to read "international distinctive sign".)

Draft Protocol I, Article 59 (continued)

CDDH/II/408 and
Add.1

12 November 1976

Original: English

Denmark, Finland, Iceland, Norway, Sweden

Amend Article 59 as follows:

"Article 59 - Identification

1. Each Party to the conflict shall endeavour to ensure that its civilian units of civil defence, their personnel 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 and matériel on which the international distinctive sign of civil defence is displayed.
3. In occupied territory 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 civilian civil defence units, their 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 of this Article is governed by Chapter V of the 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. Identification of civil defence medical services is governed by Article 18 of this Protocol.

Draft Protocol I, Article 59 (concluded)

CDDH/II/408 and Add.1 (concluded)

9. 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."

(In document CDDH/II/408/Add.1, Finland, Iceland, Norway and Sweden became co-sponsors of this amendment.)

CDDH/II/427 and

Add.1

20 April 1977

Original: English/
French

Algeria, Egypt, Lebanon, Mauritania,
Morocco, Saudi Arabia, Socialist People's
Libyan Arab Jamahiriya, Syrian Arab
Republic, Tunisia, Zaire

Amend paragraph 4 as follows:

"4. The international distinctive sign of civil defence is: two oblique red bands on a yellow background."

(In document CDDH/II/427/Add.1, Algeria, Egypt, Lebanon, Mauritania, Morocco, Saudi Arabia, Socialist People's Libyan Arab Jamahiriya, Syrian Arab Republic and Tunisia became co-sponsors of this amendment.)

For draft amendment CDDH/II/9 submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 59 bis - PROTECTION OF CIVILIANS

AND CIVILIAN OBJECTS*
(withdrawn)

CDDH/II/317
14 April 1975
Original: English

Denmark, Germany, Federal Republic of,
Uganda, United Kingdom of Great Britain
and Northern Ireland

Add a new Article 59 bis:

"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."

(This amendment was withdrawn at the sixty-seventh meeting of Committee II, on 10 May 1976, in favour of document CDDH/II/325/Rev.1 (see Article 57 bis.)

* Provisional title suggested by the Secretariat.

NEW ARTICLE 59 bis - MEMBERS OF THE ARMED FORCES AND
MILITARY UNITS ASSIGNED TO CIVIL DEFENCE ORGANIZATIONS*
(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

NOTE. At the fourth session Committee II decided to combine two proposals for a new Article 58 bis (CDDH/II/407 and CDDH/II/419) and an amendment proposing a new Article 59 ter (CDDH/II/335) in a New Article 59 bis - Members of the armed forces and military units assigned to civil defence organizations.

CDDH/II/335
26 April 1976

Switzerland

Original: French

Add a new Article 59 ter:

"1. Military units assigned exclusively to tasks mentioned in Article 54 shall enjoy the same status and be subject to the same rules as civilian bodies assigned to civil defence tasks, if

(a) they display the international distinctive sign of civil defence specified in Article 59,

(b) they bear only small arms,

(c) they refrain from any hostile act.

2. If personnel of such units fall into the hands of the enemy, they may be disarmed but shall not be considered prisoners of war.

3. The enemy or Occupying Power shall not divert buildings, material and means of transport belonging to or used by such units from their assignment, if such diversion or requisition jeopardizes the efficient discharge of their mission for the benefit of the population or the civilian bodies responsible for civil defence."

* Article 67 of the Final Act.

Draft Protocol I, New Article 59 bis (concluded)

CDDH/II/407 and
Add.1

Denmark, Finland, Iceland, Norway, Sweden

12 November 1976

Original: English

Add the following new Article 58 bis:

"Article 58 bis - Military personnel engaged in civil
defence tasks

1. Members of the armed forces, who are carrying out civil defence tasks enumerated in Article 54 (a) at the time they come in contact with and fall into the hands of an adverse Party shall be prisoners of war. They may be employed on civil defence tasks in occupied territory in so far as the need arises, provided that if such work is dangerous, they volunteer therefor.

2. Other prisoners of war, if they have appropriate skills, may also be employed on civil defence tasks under the same conditions."

(In document CDDH/II/407/Add.1, Finland, Iceland, Norway, Sweden became co-sponsors of this amendment.)

CDDH/II/419
18 April 1977

Indonesia

Original: English

Amend CDDH/II/407 as follows:

1. The title should read:

"Military units and military personnel engaged in civil defence tasks."

2. Delete the second sentence of paragraph 1, and delete paragraph 2.

NEW ARTICLE 59 ter - STATUS OF MILITARY UNITS
ASSIGNED EXCLUSIVELY TO CIVIL DEFENCE TASKS

See New Article 59 bis, page 277.

SECTION II - RELIEF IN FAVOUR OF THE CIVILIAN POPULATION

ARTICLE 60 - FIELD OF APPLICATION *

(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/II/398 and

Add.1

9 June 1976

Original: English/
French

Austria, Canada, Denmark, Finland, France,
Greece, Indonesia, Monaco, Netherlands,
Norway, Sweden, United Kingdom of Great
Britain and Northern Ireland, United States
of America

Amend the Article to read:

"The provisions of this Section apply to the civilian population as defined in this Protocol and are supplementary to such international rules concerning relief as may be binding upon High Contracting Parties, in particular Articles 23, 55 and 59 to 62 of the Fourth Convention."

(In document CDDH/II/398/Add.1, the Netherlands became co-sponsor of this amendment.)

* Article 68 of the Final Act.

ARTICLE 61 - SUPPLIES *

(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/II/70
13 March 1974
Original: English

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

Replace the existing provision by:

"The Parties to the conflict shall ensure the provision of foodstuffs, clothing, medical and hospital stores, means of shelter, and any other essential supplies for the civilian population."

CDDH/II/398 and
Add.1
9 June 1976
Original: English/
French

Austria, Canada, Denmark, Finland, France,
Greece, Indonesia, Monaco, Netherlands,
Norway, Sweden, United Kingdom of Great
Britain and Northern Ireland, United States
of America

Amend the Article as follows:

"Article 61 - Basic needs in occupied territories

In addition to the duties specified in Article 55 of the Fourth Convention, the Occupying Power shall facilitate, to the fullest extent of the means available to it and without any adverse distinction, the provision of clothing, bedding and shelter for the civilian population of the occupied territory."

(In document CDDH/II/398/Add.1, the Netherlands became co-sponsor of this amendment.)

* Title in Final Act: Article 69 - Basic needs in occupied territories.

ARTICLE 62 - RELIEF ACTIONS *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/II/78
19 March 1974
Original: English

Finland, Norway

1. In paragraph 3, delete the full stop and add "supplies and personnel".
2. In paragraph 4, add after "relief" the words "supplies and personnel".
3. Add a new paragraph 6 reading:

"6. The Parties to the conflict and any High Contracting Party should accept as international relief Co-ordinator the United Nations Disaster Relief Co-ordinator (UNDRO) and the International Red Cross in co-operation with other impartial international relief organizations."

(In document CDDH/III/98, Finland became co-sponsor of this amendment.)

(This amendment was withdrawn at the eighty-fourth meeting of Committee II, on 15 April 1977, in favour of document CDDH/II/398.)

CDDH/II/398 and
Add.1
9 June 1976
Original: English/
French

Austria, Canada, Denmark, Finland, France,
Greece, Holy See, Indonesia, Monaco,
Netherlands, Norway, Sweden, United
Kingdom of Great Britain and Northern
Ireland, United States of America

Amend Article 62 as follows:

"1. If the civilian population is inadequately supplied, in particular with food-stuffs, clothing, bedding, medical and hospital stores, means of shelter or objects necessary for religious worship, each Party to the conflict shall agree to, and shall facilitate relief actions which

* Article 70 of the Final Act.

Draft Protocol I, Article 62 (continued)

CDDH/II/398 and Add.1 (concluded)

are humanitarian and impartial in character and conducted exclusively for the civilian population without any adverse distinction. Offers of relief fulfilling the above conditions shall not be regarded as interference in the armed conflict or as an unfriendly act. In the distribution of such 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, personnel and equipment provided in accordance with paragraph 1, 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, personnel and equipment in accordance with paragraph 2

(a) shall have the right to prescribe the technical arrangements under which such passage is allowed;

(b) may make such permission conditional on the distribution to the persons benefiting thereby being made under the local supervision of the Protecting Power or of an impartial humanitarian body;

(c) shall, in no way whatsoever, divert relief consignments from the purposes for which they are intended nor delay their forwarding.

4. The Parties to the conflict shall guarantee the protection of relief consignments and facilitate the rapid distribution of such consignments.

5. The Parties to the conflict and each High Contracting Party shall encourage and facilitate effective international co-ordination of the relief actions referred to in paragraph 1."

(In document CDDH/II/398/Add.1, the Netherlands became a co-sponsor of this amendment.)

(In document CDDH/II/409, the Holy See became a co-sponsor of this amendment.)

Draft Protocol I, Article 62 (concluded)

CDDH/II/410
15 April 1977
Original: French

Germany, Federal Republic of

Amend paragraph 4 of document CDDH/II/398 to read:

"The Parties to the conflict shall guarantee the protection of relief actions and facilitate the rapid distribution of consignments."

For draft amendment CDDH/II/8 submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 62 bis - RELIEF PERSONNEL *
(adopted by Committee II at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/II/430
27 April 1977 .

Working Group text

Original: English/
French/Spanish

"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 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 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."

* Title in Final Act: Article 71 - Personnel participating in relief actions.

SECTION III - TREATMENT OF PERSONS IN THE POWER OF
A PARTY TO THE CONFLICT

CHAPTER I - FIELD OF APPLICATION AND PROTECTION OF
PERSONS AND OBJECTS

ARTICLE 63 - FIELD OF APPLICATION *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/313

United States of America

28 April 1976

Original: English

Revise the Article to read:

"1. Articles 64, 66, 67 and 69 supplement Parts I and III of the Fourth Convention with respect to the protection of civilians and civilian objects in the power of a Party to the conflict of which they are not nationals.

2. Articles 65 and 68 supplement Part II of the Fourth Convention with respect to the whole of the populations of the Parties to the conflict."

* Article 72 of the Final Act.

ARTICLE 64 - REFUGEES AND STATELESS PERSONS *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/306
27 April 1976
Original: Russian

Union of Soviet Socialist Republics

Add a new paragraph:

"The provisions of international instruments relating to stateless persons and refugees shall be valid only for States which are Parties to those instruments or recognize them as binding."

* Article 73 of the Final Act.

ARTICLE 64 bis - REUNION OF DISPERSED FAMILIES *
(adopted by Committee III at the third session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/329
11 May 1976
Former symbol
CDDH/I/297
17 April 1975
Original: English/
French

Australia, Austria, Belgium, Cyprus,
Denmark, Egypt, Finland, Germany, Federal
Republic of, Ghana, Greece, Guatemala,
Holy See, Iran, Iraq, Jordan, Lebanon,
Liechtenstein, Libyan Arab Republic,
Monaco, Oman, Pakistan, Qatar, Saudi
Arabia, Spain, Sudan, Yugoslavia

Add the following new Article 64 bis:

"Article 64 bis - Reunion of dispersed families

The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and the present Protocol and in conformity with their respective security regulations."

* Article 74 of the Final Act.

ARTICLE 65 - FUNDAMENTAL GUARANTEES *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/99
4 October 1974
Original: English

Finland

Redraft paragraph 1 to read:

"1. Persons who would not receive more favourable treatment under the Conventions or the present Protocol, namely nationals of States not bound by the Conventions, the Parties' own nationals and nationals of neutral or co-belligerent States having normal diplomatic representation with the Party in whose power they are shall, in all circumstances, be treated humanely by that Party and without any adverse distinction. The present Article also applies to persons who are in situations under Article 5 of the Fourth Convention. All these persons shall enjoy at least the provisions laid down in the following paragraphs:".

(This amendment was replaced by document CDDH/III/319.)

CDDH/III/100
1 October 1974
Original: French

Poland

Insert the following words in sub-paragraph 3(b) after the words "no person may be prosecuted or punished": "by the legal authorities of the same High Contracting Party".

(This amendment was replaced by document CDDH/III/320 below.)

* Article 75 of the Final Act.

Draft Protocol I, Article 65 (continued)

CDDH/III/305

26 April 1976

Former symbol

CDDH/I/226

25 February 1975

Original: French

Democratic Republic of Viet-Nam

1. In paragraph 2, insert a new sub-paragraph (b) (paragraph 2 would then comprise 7 sub-paragraphs - (a) to (g)):

"(b) Violence to love of country, to the right to freedom and to the other democratic rights."

2. In the present sub-paragraph 2(b) (which would become the new (c)), delete the semi-colon and add the following: ", or to force the renunciation of political or religious convictions,".

3. Insert a new paragraph 3 (Article 65 would then comprise 6 paragraphs), reading:

"3. If, in the course of military operations, a civilian is arrested, he must be released as soon as possible. During the period of his detention, he shall be entitled to treatment at least equal to that accorded to prisoners of war under the Third Convention."

CDDH/III/307

27 April 1976

Original: French

Austria, Belgium

In paragraph 3 insert before the present sub-paragraph (a) the following new sub-paragraphs

"The court may not assume at the beginning of proceedings that the accused is not entitled to prisoner-of-war status unless a conclusive judgement to this effect has already been given by a court functioning in accordance with the principles hereinbefore set forth and unless the accused has had the possibility of appealing against such a decision by a court of first instance.

Draft Protocol I, Article 65 (continued)

CDDH/III/307 (concluded)

Subject to this proviso, the accused shall be free to use any facts and arguments and any legal recourses aimed at establishing his combatant capacity under Article 4 of the Third Convention and Article 42 of the present Protocol, and consequently his right to prisoner-of-war status.

Even if the accused makes no use of the possibility mentioned in the previous sub-paragraph, the court must automatically, and depending on the circumstances, either give a decision on the status of the accused or confirm that his status has already been properly determined, and give judgement accordingly."

CDDH/III/308

Ireland

28 April 1976

Original: English

Amend paragraph 2 as follows:

"2. The following acts are and shall remain prohibited at any time and in any place whatsoever whether committed by civilian or military agents for any reason whatsoever:

(a) Torture;

(b) Violence to the life, health and physical or mental well-being of persons, in particular murder, corporal punishment, mutilation and moral coercion;"

(c), (d), (e) and (f) as in ICRC draft.

CDDH/III/310

Austria, Holy See

28 April 1976

Original: French

In Article 65, paragraph 1, after the words "without any adverse distinction", add the following words: "based on race, colour, religion or creed, sex, birth or wealth, or any similar criterion".

The rest of paragraph 1 remains unchanged.

Draft Protocol I, Article 65 (continued)

CDDH/III/311
28 April 1976
Original: English

Australia, Canada, Egypt, Ireland, Jordan,
Saudi Arabia, Thailand, United States of
America, Yugoslavia

In paragraph 4, delete the third sentence and replace it with another sentence so that the paragraph shall read:

"4. Women whose liberty has been restricted shall be held in quarters separated from men's quarters. They shall be under the immediate supervision of women. Nevertheless families held in the same place of internment shall be accommodated as a family unit."

CDDH/III/312
28 April 1976
Original: English

Australia, Egypt

Amend paragraph 5 to read:

"5. Without prejudice to the provisions of paragraph 2 of Article 3 of the present Protocol, persons referred to in paragraph 1, detained by reason of a situation referred to in Article 2 common to the Conventions, shall enjoy the protection provided by the present Article even after the general close of military operations."

CDDH/III/314
28 April 1976
Original: English

Australia, United States of America

1. Amend paragraph 1 to read:

"1. The present Article applies to persons who are nationals of States not Parties to the Conventions, persons who are the Party's own nationals, and any other persons who would not receive more favourable treatment under the Conventions or the present Protocol (including persons referred to in Article 5 of the Fourth Convention), who are captured, interned or detained for activity in relation to the armed conflict. All these persons shall be treated humanely by the Party in whose power they may be and shall enjoy at least the provisions laid down in the following paragraphs."

2. Delete sub-paragraph (b) of paragraph 2.

Draft Protocol I, Article 65 (continued)

CDDH/III/315 and
Add.1
28 April 1976
Original: Russian

Bulgaria, Byelorussian Soviet Socialist
Republic, Czechoslovakia, Democratic
People's Republic of Korea, Democratic
Republic of Viet-Nam, German Democratic
Republic, Hungary, Mongolia, Poland,
Republic of South Viet-Nam, Ukrainian
Soviet Socialist Republic, Union of Soviet
Socialist Republics

Add a new paragraph 6:

"6. None of the provisions of this Protocol may be used to prevent the prosecution and punishment of persons accused of war crimes and crimes against humanity."

(In document CDDH/III/315/Add.1, the Democratic People's Republic of Korea joined as co-sponsor.)

CDDH/III/316
29 April 1976
Former symbol
CDDH/I/224
25 February 1975
Original: Spanish

Spain

Reword paragraph 3 to read:

"3. No sentence may be imposed or penalty executed on any of the persons covered by the situations referred to in Article 2 common to the Conventions except in pursuance of a judgement of a court constituted in accordance with the law, which affords the following essential guarantees:"

(Rest of the paragraph unchanged).

Draft Protocol I, Article 65 (continued)

CDDH/III/317
29 April 1976
Former symbol
CDDH/I/225 and
Add.1

Netherlands, Switzerland

25 February 1975
Original: English

Amend paragraph 3 to read:

"3. No sentence may be passed or penalty executed on a person found guilty of a criminal offence related to a situation referred to in Article 1 of this Protocol, except in pursuance of a previous judgement pronounced by an impartial and properly constituted tribunal in accordance with the generally recognized principles of a judicial procedure. The following guarantees shall be afforded in all circumstances:

(a) No person may be punished for an offence he or she has not personally committed; collective penalties are prohibited.

(b) No person shall be accused of a criminal offence, whether by act or omission, which did not constitute a criminal offence under the law he was subject to at the time when it was committed, nor shall a heavier penalty be imposed than the one applicable at the time when the offence was committed, subject to later more favourable provisions.

(c) Everyone charged with an offence shall be informed of the nature and cause of the accusation against him; he shall be presumed innocent until proved guilty according to law. He shall have the right to defend himself in person or through legal assistance and have assistance of an interpreter if he cannot understand or speak the language used in court. Judgement shall be pronounced publicly.

(d) No person may be prosecuted or punished for an offence in respect of which a final judgement has been previously passed under the same law acquitting or convicting that person.

(e) Everyone provisionally detained or arrested shall be tried without undue delay."

Draft Protocol I, Article 65 (concluded)

CDDH/III/318
29 April 1976
Former symbol
CDDH/I/234
12 March 1975
Original: French

Belgium

Redraft paragraph 3 to read:

"3. Any person deprived of his freedom shall be informed at the time of his arrest of the reasons for his arrest. Except in case of arrest and detention for a criminal offence, such person shall be released with the minimum delay and in any case as soon as the circumstances justifying the arrest have ceased to exist."

CDDH/III/319
29 April 1976
Original: English

Finland

Redraft paragraph 1 to read:

"1. Persons who would not receive more favourable treatment under the Conventions or the present Protocol, namely nationals of States not bound by the Conventions, the Parties' own nationals and nationals of neutral or co-belligerent States having normal diplomatic representation with the Party in whose power they are shall, in all circumstances, be treated humanely by that Party and without any adverse distinction. The present Article also applies to persons who are in situations under Article 5 of the Fourth Convention. All these persons shall enjoy at least the provisions laid down in the following paragraphs:"

CDDH/III/320
29 April 1976
Original: French

Poland

Insert the following words in paragraph 3(b) after the words "no person may be prosecuted or punished": "by the legal authorities of the same High Contracting Party".

ARTICLE 66 - OBJECTS INDISPENSABLE TO THE SURVIVAL
OF THE CIVILIAN POPULATION
(adopted by Committee III at the fourth session)

NOTE. Pursuant to the decision of Committee III (CDDH/407/Rev.1, para. 53), the two paragraphs of Article 66 as adopted by Committee III were incorporated, paragraph 1 with Article 44, and paragraph 2 with Article 48 (Articles 54 and 59 respectively of the Final Act.)

CDDH/III/28
14 March 1974
Original: English

Ghana

After the words "irrigation works", insert the words "and the means of communications, such as arterial roads essential to the supply of such indispensable objects".

(This amendment was replaced by amendment CDDH/III/324.)

CDDH/III/101
4 October 1974
Original: English

Finland

Reword the existing text as follows:

"It is forbidden to destroy, render useless or remove objects indispensable to the survival of the civilian population, such as food-stuffs and food-producing areas, crops, live stock, drinking water supplies and irrigation works, whether it is to starve out civilians, to cause them to move away or for any other reason. These objects shall not be made the object of reprisals."

Draft Protocol I, Article 66 (concluded)

CDDH/III/261

24 March 1975

Original: English

Netherlands, United Kingdom of Great
Britain and Northern Ireland, United
States of America

Replace the present text by the following:

"1. The provisions of this Protocol with respect to attacks, as defined in paragraph 2 of Article 44, apply to attacks wheresoever conducted, including the national territory belonging to a Party to the conflict but under the control of an adversary.

2. The prohibitions contained in paragraph 2 of Article 48 apply in the national territory of a Party to the conflict under its own control, except where a derogation therefrom is required by imperative military necessity."

CDDH/III/324

30 April 1976

Original: English

Ghana

After the words "irrigation works", insert the words "and the means of communications, such as arterial roads essential to the supply of such indispensable objects".

CHAPTER II - MEASURES IN FAVOUR OF WOMEN AND CHILDREN

ARTICLE 67 - PROTECTION OF WOMEN *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/86 German Democratic Republic
11 September 1974
Original: English

Redraft paragraph 2 as follows:

"2. The death penalty shall not be pronounced on mothers of infants and on women or old persons responsible for their care. It shall not be pronounced and carried out on pregnant women."

(This amendment was replaced by document CDDH/III/321.)

CDDH/III/102 Poland
1 October 1974
Original: French

In paragraph 2, replace the words "shall not be executed on pregnant women" by "shall not be pronounced or executed on pregnant women".

(This amendment was replaced by document CDDH/III/322.)

CDDH/III/321 German Democratic Republic
30 April 1976
Original: English

Redraft paragraph 2 as follows:

"2. The death penalty shall not be pronounced on mothers of infants and on women or old persons responsible for their care. It shall not be pronounced and carried out on pregnant women."

* Article 76 of the Final Act.

Draft Protocol I, Article 67 (concluded)

CDDH/III/322
30 April 1976
Original: French

Poland

In paragraph 2, replace the words "shall not be executed on pregnant women" by "shall not be pronounced or executed on pregnant women".

CDDH/III/323
30 April 1976
Former symbol
CDDH/I/227
26 February 1975
Original: French

Democratic Republic of Viet-Nam

Add the following sentence to paragraph 1:

"Pregnant women who have been arrested for their patriotism or for their political non-submission shall be set free as soon as possible and before other civilians."

ARTICLE 68 - PROTECTION OF CHILDREN *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/28 Ghana
14 March 1974
Original: English

In paragraph 1, for the words "their age and situation
require" substitute the words "which they need".

(This amendment was replaced by document CDDH/III/324.)

CDDH/III/304 Democratic Republic of Viet-Nam
26 April 1976
Former symbol
CDDH/I/228
26 February 1975
Original: French

In paragraph 1, add the following sentence:

"Persons under eighteen who have been arrested for
their patriotism or for their political non-submission shall
be set free as soon as possible and before other civilians."

CDDH/III/324 Ghana
30 April 1976
Original: English

In paragraph 1, for the words "their age and situation
require" substitute the words "which they need".

* Article 77 of the Final Act.

Draft Protocol I, Article 68 (concluded)

CDDH/III/325

Brazil

30 April 1976

Former symbol

CDDH/I/300

2 June 1975

Original: French

1. In paragraph 2, replace "... children aged under fifteen years ..." by "... persons aged under eighteen years ...".

2. In paragraph 3, add the following sentence:

"Penal proceedings shall not be taken against, and sentence shall not be pronounced on, persons who were under sixteen years of age at the time the offence was committed."

ARTICLE 69 - EVACUATION OF CHILDREN *
(adopted by Committee III at the fourth session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/III/326
30 April 1976
Former symbol
CDDH/I/298
18 April 1975
Original: French

Holy See

1. In paragraph 2, delete the words ", if possible," and after the words "the children's education to be continued in the language", replace the word "and" by a comma and the word "the", and after the word "culture", insert the words "and the religion".

2. In paragraph 3, after "(f) the child's nationality:" add "(g) the child's religion", and renumber the subparagraphs accordingly.

* Article 78 of the Final Act.

NEW ARTICLE TO BE ADDED AFTER ARTICLE 69:

PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS *
(adopted by Committee I, as prepared by an
Ad Hoc Working Group (CDDH/219/Rev.1, paras. 181-190 ter),
at the second session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/I/242
20 March 1975

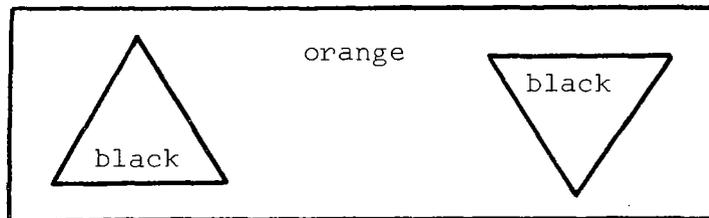
Venezuela

Original: Spanish

Add a new paragraph reading as follows:

"2. In addition to carrying an identity card as mentioned in paragraph 1 above, persons covered by the said paragraph shall wear a clearly visible and distinctive symbol or emblem by which they can be identified at a distance as journalists engaged in dangerous missions within the meaning of this Article."

Identity symbol or emblem



Characteristics:

1. Two black equilateral triangles, one pointing upwards, the other downwards, on a bright orange and if possible luminous background.
2. Made of strong, water- and heat-resistant material.

* Title in Final Act: CHAPTER III - JOURNALISTS
Article 79 - Measures of protection for journalists.

PART V - EXECUTION OF THE CONVENTIONS AND
OF THE PRESENT PROTOCOL*

SECTION I - GENERAL PROVISIONS

NEW ARTICLE TO BE INSERTED BEFORE ARTICLE 70 - GRAVE VIOLATIONS**
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

CDDH/I/74
20 March 1974
Original: French

Syrian Arab Republic

Insert the following new article before Article 70:

"1. Any grave violation of the basic provisions of the Conventions and of the present Protocol shall be regarded as a crime against humanity.

2. For the purpose of remedying the situations referred to in paragraph 1 of this Article, the High Contracting Parties undertake to act jointly or individually, in co-operation with the United Nations and within the framework of the United Nations Charter."

NOTE. At the fourth session, the sponsors of amendments CDDH/I/74 and CDDH/III/103 (see Article 70 bis (b) below) drafted an alternative new article before (or after) Article 70. At the seventy-second meeting of Committee I, on 13 May 1977, paragraph 1 of this proposal was withdrawn and paragraph 2 of the same proposal was adopted as the new article before (or after) Article 70. The amendment given below (CDDH/I/348) was submitted as an amendment to the combined proposal (see CDDH/405/Rev.1, paras. 20-30).

* Title in Final Act: PART V - EXECUTION OF THE CONVENTIONS AND OF THIS PROTOCOL.

** Provisional title suggested by the Secretariat.
Title in Final Act: Article 89 - Co-operation.

Draft Protocol I, new article before Article 70 (continued)

CDDH/I/348

Norway

5 May 1977

Original: English

Redraft the Article as follows:

"Article 70 bis - Redressment of violations

1. In the event that a Party to the conflict commits serious, manifest and deliberate breaches of its obligations under the Conventions and present Protocol, the High Contracting Parties undertake to act jointly or individually, in co-operation with the United Nations and within the framework of the United Nations Charter, with a view to induce compliance with the Conventions and present Protocol.

2. In the case of such serious, manifest and deliberate breaches of Articles /46/, 47, 48 or 49, joint or individual action as described in paragraph 1 of this Article may include measures which would otherwise be prohibited by the same Articles. Such measures may not involve any of the actions prohibited by the Conventions or by other Articles of the present Protocol.

3. The measures described in paragraph 2 of this Article may be taken only when the following conditions are met:

(a) The measures may be taken only when other efforts to induce the adverse Party to comply with the law have failed or are not feasible, and the victimized Party clearly has no other means of ending the breach;

(b) The decision to have recourse to such measures must be taken at the highest level of government of the victimized Party;

(c) The Party committing the breach must be given specific, formal and prior warning that such measures will be taken if the breach is continued or renewed;

(d) The nature of the breach and the intention to resort to such measures, must have been notified to the United Nations Security Council.

Draft Protocol I, new article before Article 70 (concluded)

CDDH/I/348 (concluded)

4. The measures described in paragraph 2 of this Article shall, with regard to their extent and means of application, in no case exceed the extent of the breach which they are designed to end.

5. The measures described in paragraph 2 of this Article must in all events cease:

(a) when they have achieved their objective, namely, cessation of the breach which prompted the measure;

(b) when action is taken by the United Nations Security Council;

(c) if the United Nations Security Council orders the measures to be ceased.

6. Measures of reprisal against persons and objects protected by the Conventions and the present Protocol are prohibited."

(This amendment was withdrawn at the seventy-second meeting of Committee I, on 13 May 1977.)

ARTICLE 70 - MEASURES FOR EXECUTION *
(adopted by Committee I at the second and fourth sessions
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/I/281
4 April 1975
Original: French

Democratic Republic of Viet-Nam

In paragraph 1, delete the last phrase "without
availing themselves of special circumstances or of any
advantages which a postponement might bring them."

* Article 80 of the Final Act.

ARTICLE 70 bis (a) - RED CROSS INSTITUTIONS AND
OTHER HUMANITARIAN BODIES *
(adopted by Committee I at the second session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/I/2
5 March 1974

Philippines

Original: English

Add a new article after Article 70 as follows:

"Red Cross institutions and other humanitarian bodies

1. Under the reservation of the measures deemed essential to guarantee their security or to meet any other reasonable need, the Parties to the conflict and the Detaining Powers shall accord the best attention to facilitate and encourage the humanitarian activities of the national Red Cross Societies and other bodies of the International Red Cross, including relief societies, as well as humanitarian and religious bodies.
2. These humanitarian activities in aid of the wounded, sick, shipwrecked, prisoners of war, internees, refugees, children, old people, the handicapped and all other conflict victims in particular, consist of preparing medical and social welfare personnel, providing assistance to medical and social welfare establishments and units, as well as devoting attention to blood transfusion services, social welfare assistance, relief services, the collection, transport and distribution of relief supplies, the tracing service (information bureau) and the reunion of families.
3. The humanitarian activities for protected persons of the national Red Cross Societies and their duly authorized personnel should be in conformity with the Red Cross principles as laid down by International Conferences of the Red Cross.
4. The humanitarian activities specified for the International Committee of the Red Cross by the Geneva Conventions and by the present Protocol shall at all times be respected and encouraged."

(This amendment was withdrawn by document CDDH/I/10.)

* Title in Final Act: Article 81 - Activities of the Red Cross and other humanitarian organizations.

Draft Protocol I, Article 70 bis (a) (continued)

CDDH/I/19
8 March 1974

Philippines

Original: English

Add a new article after Article 70 as follows:

"Red Cross institutions and other humanitarian bodies

1. Under the reservation of the measures deemed essential to guarantee their security or to meet any other reasonable need, the Parties to the conflict and the Detaining Powers shall accord the best attention to facilitate and encourage the humanitarian activities of the national and regional Red Cross Societies and the International Red Cross, including relief societies, as well as humanitarian bodies.

2. These humanitarian activities in aid of the wounded, sick, shipwrecked, prisoners of war, internees, refugees, children, old people, the handicapped and all other conflict victims in particular, consist of preparing medical and social welfare personnel, providing assistance to medical and social welfare establishments and units, as well as devoting attention to blood transfusion services, social welfare assistance, relief services, the collection, transport and distribution of relief supplies, the tracing service (information bureau) and the reunion of families.

3. The humanitarian activities for protected persons of the national Red Cross Societies and their duly authorized personnel should be in conformity with the Red Cross principles as laid down by International Conferences of the Red Cross.

4. The humanitarian activities specified for the International Committee of the Red Cross by the Geneva Conventions and by the present Protocol shall at all times be respected and encouraged."

Draft Protocol I, Article 70 bis (a) (continued)

CDDH/I/39 and
Add.1 and 2

13 March 1974

Original: English/
French

Bangladesh, Finland, Germany, Federal
Republic of, Ghana, Greece, Guatemala,
Hungary, Iran, Iraq, Jordan, Mauritania,
Monaco, Nigeria, Philippines, Poland,
Romania, Yugoslavia

Add the following new article after Article 70:

"1. The High Contracting Parties shall extend to national Red Cross (Red Crescent, Red Lion and Sun) Societies and to international Red Cross organizations the facilities and assistance necessary for the discharge of their humanitarian missions and activities on behalf of the victims of armed conflicts in conformity with the principles laid down by the International Red Cross Conferences.

2. These humanitarian activities consist inter alia of emergency relief, medico-social services, assistance to medical and social units and establishments as well as blood transfusion centres and the training of medical and social workers; tracing and reunion of dispersed families.

3. Similar facilities and assistance shall be extended to other humanitarian organizations which are duly recognized and authorized by the respective governments and are performing exclusively humanitarian activities, in conformity with the principles enunciated above."

(In documents CDDH/I/39/Add.1 and 2, Hungary, Iran and Poland were added to the list of co-sponsors.)

(This amendment was replaced by document CDDH/I/263 and Add.1.)

Draft Protocol I, Article 70 bis (a) (continued)

CDDH/I/263 and

Add.1

24 March 1975

Original: English/
French

Australia, Bangladesh, Belgium, Canada,
Czechoslovakia, Denmark, Finland, France,
German Democratic Republic, Germany,
Federal Republic of, Ghana, Greece,
Guatemala, Hungary, Iran, Iraq, Jordan,
Lebanon, Libyan Arab Republic,
Liechtenstein, Mauritania, Monaco,
Netherlands, Philippines, Poland, Saudi
Arabia, Spain, Sudan, Sweden, Switzerland,
Union of Soviet Socialist Republics,
Yugoslavia

After Article 70, insert a new article as follows:

"Article 70 bis - Activities of the Red Cross and other
Humanitarian organizations

1. The High Contracting Parties shall grant to the International Committee of the Red Cross all possible facilities enabling it to carry out the humanitarian mandates assigned to it by the Conventions / and the present Protocol / in order to ensure protection and assistance to the victims of conflicts. The International Committee of the Red Cross may also carry out any other humanitarian activity in favour of these victims subject to the consent of the Parties to the conflict concerned.

2. The High Contracting Parties shall grant to the national Red Cross (Red Crescent, Red Lion and Sun) Societies of the Parties to the conflict all necessary facilities enabling them to carry out their humanitarian activities in favour of the victims of the conflict, in conformity with the provisions of the Conventions / and the present Protocol / and in accordance with the fundamental principles of the Red Cross.

3. The High Contracting Parties shall also facilitate in every possible way the assistance which national Red Cross (Red Crescent, Red Lion and Sun) Societies and the League of Red Cross Societies will extend to the victims of conflicts in conformity with the provisions of the Conventions / and the present Protocol / and in accordance with the fundamental principles of the Red Cross.

Draft Protocol I, Article 70 bis (a) (concluded)

CDDH/I/263 and Add.1 (concluded)

4. The High Contracting Parties will make as far as possible similar facilities available to the other humanitarian organizations referred to in the Conventions / and the present Protocol /, which are duly authorized by the respective Parties to the conflict and are performing their humanitarian activities in accordance with the provisions of the Conventions / and the present Protocol /".

(In document CDDH/I/263/Add.1, Australia was added as co-sponsor.)

(Belgium and Canada joined as co-sponsors at the thirty-seventh meeting of Committee I, on 4 April 1975.)

ARTICLE 70 bis (b) - REPRISALS *
(withdrawn)

CDDH/III/103
1 October 1974
Original: French

Poland

Insert a new article after Article 70 worded as follows:

"Measures of reprisal against persons and objects protected by the Conventions and by the present Protocol are prohibited."

(This amendment was withdrawn at the seventy-second meeting of Committee I, on 13 May 1977.)

(See the note to the new article to be inserted before Article 70, page 304.)

* Provisional title suggested by the Secretariat.

ARTICLE 71 - LEGAL ADVISERS IN ARMED FORCES *
(adopted by Committee I at the second session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/I/265
25 March 1975
Original: French

Brazil

Amend Article 71 to read:

"Article 71 - Legal advisers in armed forces

The High Contracting Parties shall endeavour to employ in their armed forces, both in time of peace and in time of armed conflict, qualified legal advisers for the purpose of assisting military commanders in the dissemination of the Conventions and the present Protocol among the armed forces and in the application of the said instruments."

CDDH/I/282
4 April 1975
Original: French

Democratic Republic of Viet-Nam

Amend Article 71 as follows:

"The High Contracting Parties shall, in time of peace as in time of armed conflict, ensure that appropriate instruction be given to the armed forces for the application of the Conventions and of the present Protocol."

* Article 82 of the Final Act.

ARTICLE 72 - DISSEMINATION *
(adopted by Committee I at the second session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

CDDH/I/283
5 April 1975
Original: Russian

Bulgaria, Byelorussian Soviet Social
Republic, Czechoslovakia, German
Democratic Republic, Mongolia, Poland,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

1. Redraft the beginning of paragraph 1 as follows: "The High Contracting Parties undertake ... to disseminate ... so far as possible ...".
2. Delete paragraph 3.

CDDH/419
25 May 1977
Original: Russian

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

Delete paragraph 3 of Article 72.

* Article 83 of the Final Act.

ARTICLE 73 - RULES OF APPLICATION*
(adopted by Committee I at the second session
and by the Conference
at the forty-third plenary meeting, on 27 May 1977)

No amendments were submitted to this Article.

* Article 84 of the Final Act.

SECTION II - REPRESSION OF BREACHES OF THE CONVENTIONS
AND OF THE PRESENT PROTOCOL *

ARTICLE 74 - REPRESSION OF BREACHES OF THE PRESENT PROTOCOL**
(adopted by Committee I at the third session
and by the Conference
at the forty-fourth plenary meeting, on 30 May 1977)

CDDH/I/3 Philippines
5 March 1974
Original: English

Delete the comma after "breaches" and the whole phrase
"supplemented by the present Section" of Article 74.

(This amendment was withdrawn by document CDDH/I/10.)

CDDH/I/57 Philippines
18 March 1974
Original: English

Delete the comma after "breaches" and the whole phrase
"supplemented by the present Section".

CDDH/I/85 German Democratic Republic
11 September 1974
Original: English

Amend Article 74 as follows:

"1. The provisions of the Conventions relating to the
repression of breaches supplemented by the present Section,
shall apply to the repression of breaches of the present
Protocol.

* Title in Final Act: SECTION II - REPRESSION OF BREACHES OF THE
CONVENTIONS AND OF THIS PROTOCOL

** Title in Final Act: Article 85 - Repression of breaches of this
Protocol.

Draft Protocol I, Article 74 (continued)

CDDH/I/85 (concluded)

2. Grave breaches are violations of the present Protocol which include one of the following acts: wilful killing, torture or inhuman treatment, including biological experiments, the fact of wilfully causing great suffering or of gravely affecting the physical integrity or health, deportation or unlawful transfer, destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly on a large scale."

CDDH/210/Annex 2, p.2
5 March 1975
Original: French

International Committee of the Red Cross
(suggested amendment)

Suggestions for a new text for Article 74:

"1. The provisions of the Conventions relating to the repression of breaches, supplemented by the present Section, shall apply to the repression of breaches of the present Protocol.

2. The following acts constitute grave breaches of the present Protocol:

(a) the use of methods and means of combat prohibited by the present Protocol;

(b) refusal to spare the life of an enemy who, having laid down his arms, no longer has any means of defence or has surrendered;

(c) attacks against civilians and attacks launched against military objectives which cause disproportionate losses among the civilian population;

(d) the destruction of civilian objects or of works and installations containing dangerous forces;

(e) attacks on non-defended or neutralized localities."

Draft Protocol I, Article 74 (continued)

CDDH/I/253

Australia

24 March 1975

Original: English

Delete the existing Article and insert in lieu thereof the following new article:

"1. In addition to the Articles contained in this Section the provisions of the Conventions relating to the repression of breaches shall apply to or in respect of the repression of breaches of the present Protocol.

2. Grave breaches of the present Protocol are those involving any of the following acts committed against persons protected under the present Protocol or property protected by the Conventions or the present Protocol, namely:

(a) violence to the life, health and physical or mental well-being of persons, in particular wilful killing, torture, corporal punishment and mutilation;

(b) medical or scientific experiments, including the removal or transplant of organs, not justified by the medical treatment and not carried out in the patients' own interest;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) taking of hostages;

(e) unlawful confinement of persons protected under the present Protocol;

(f) compelling a person protected under the present Protocol or a prisoner of war to serve in the forces of a hostile Power;

(g) wilfully depriving a person protected under the present Protocol or a prisoner of war of the rights of fair and regular trial; and

(h) extensive destruction and appropriation of property protected by the present Protocol not justified by military necessity and carried out contrary to the provisions of the present Protocol."

Draft Protocol I, Article 74 (continued)

CDDH/I/309 (concluded)

2. The provisions of the Conventions relating to the suppression of other breaches, including the safeguards of proper trial and defense, supplemented by the present Section, shall apply to the repression of breaches other than grave breaches of the present Protocol. The High Contracting Parties and any Party to a conflict undertake to enact any legislation necessary and to take any other measures necessary to provide effective sanctions for persons committing, or ordering to be committed, any of these breaches."

CDDH/I/311
28 April 1976
Original: English

Algeria, Egypt, Iraq, Jordan, Lebanon,
Libyan Arab Republic, Saudi Arabia, Sudan,
Syrian Arab Republic, Tunisia, United Arab
Emirates, Palestine Liberation Organization

Add the following to any list of grave breaches:

"(f) The deportation or transfer by the Occupying Power of parts of its own civilian population into the territory it occupies, or of all or parts of the population of the occupied territory within or outside this territory;

(g) other cases of grave breaches specifically mentioned in the present Protocol."

CDDH/I/313 and
Add.1
28 April 1976
Original: English

Mongolia, Uganda, United Republic of
Tanzania

Amend draft submitted by Australia in CDDH/I/253, paragraph 2(c) to read:

"(c) Outrages upon personal dignity especially inhuman acts such as the practices of apartheid and other humiliating and degrading treatment."

(In document CDDH/I/313/Add.1, Mongolia was added as co-sponsor.)

Draft Protocol I, Article 74 (concluded)

CDDH/I/347
2 May 1977
Original: English

Philippines

Insert a new sub-paragraph (g) to paragraph 3:

"(g) the use of prohibited weapons such as asphyxiating and poisonous gases; analogous liquids, materials or devices; napalm and other incendiary weapons; dum-dum bullets; treacherous weapons such as mines and booby traps; biological weapons; and such other weapons or means of combat in violation of the present Protocol."

CDDH/I/347/Rev.1
17 May 1977
Original: English

Philippines

Insert a new sub-paragraph (g) to paragraph 3:

"(g) the use of prohibited weapons such as bullets that expand or flatten easily in the human body; asphyxiating and poisonous gases; and analogous liquids, materials or devices."

(This amendment was withdrawn at the seventy-eighth meeting of Committee I, on 20 May 1977. The sponsor reserved the right to re-submit this amendment at a plenary meeting of the Conference.)

CDDH/418
26 May 1977
Original: English

Philippines

Insert a new sub-paragraph (g) to paragraph 3:

"(g) the use of weapons prohibited by International Conventions, namely: bullets which expand or flatten easily in the human body; asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices; and of bacteriological methods of warfare."

ARTICLE 74 bis - REPRISALS *
(withdrawn)

CDDH/I/221
19 February 1975
Original: French

France

Add a new Article 74 bis:

"1. Reprisals shall be prohibited under the present Protocol.

2. Nevertheless, in the event of a belligerent State infringing the regulations laid down by the present Protocol and the State victim of that breach considering the violation to be so serious and deliberate as to render it imperative to call upon its perpetrator to respect the law, the prohibition referred to in paragraph 1 of the present Article may be waived on condition:

(a) that the Party victim of the breach clearly has no means of putting an end to the breach other than by considering recourse to reprisals,

(b) that the decision to have recourse to such measures shall be taken by the Government of the Party alleging the violation,

(c) that the Party responsible for the violation shall be given due warning that such measures will be taken if the violation is continued or renewed,

(d) that the means of application and the extent of such measures, if it proves imperative to take them, shall in no case exceed the extent of the breach which they are designed to end."

* Provisional title suggested by the Secretariat.

Draft Protocol I, Article 74 bis (concluded)

CDDH/I/221/Rev.1
22 April 1976
Original: French

France

Add a new Article 74 bis:

"1. In the event that a Party to a conflict commits serious, manifest and deliberate breaches of its obligations under this Protocol, and a Party victimized by these breaches considers it imperative to take action to compel the Party violating its obligations to cease doing so, the victimized Party shall be entitled, subject to the provisions of this Article, to resort to certain measures which are designed to repress the breaches and induce compliance with the Protocol, but which would otherwise be prohibited by the Protocol.

2. The measures described in paragraph 1 of this Article may be taken only when the following conditions are met:

(a) The measures may be taken only when other efforts to induce the adverse Party to comply with the law have failed or are not feasible, and the victimized Party clearly has no other means of ending the breach;

(b) The decision to have recourse to such measures must be taken at the highest level of the government of the victimized Party; and

(c) The Party committing the breach must be given specific, formal, and prior warning that such measures will be taken if the breach is continued or renewed.

3. If it proves imperative to take these measures, their extent and their means of application shall in no case exceed the extent of the breach which they are designed to end. The measures may not involve any actions prohibited by the Geneva Conventions of 1949. The measures must cease, in all events, when they have achieved their objective, namely, cessation of the breach which prompted the measures."

(This amendment was withdrawn at the seventy-second meeting of Committee I, on 13 May 1977.)

ARTICLE 75 - PERFIDIOUS USE OF THE PROTECTIVE SIGNS

NOTE. At the third session, Article 75 was included, as subparagraph 3(f), in Article 74 (document CDDH/234/Rev.1, para.79).

CDDH/I/254
24 March 1975

Australia

Original: English

Delete the existing Article and insert in lieu thereof the following new article:

"The use of:

- (a) the red cross sign, red crescent, red lion and sun;
- (b) the sign for non-defended or neutralized localities;
- (c) the sign for civil defence;
- (d) the protective emblem for cultural property;
- (e) the flag of truce; and
- (f) the sign of the United Nations

constitutes a grave breach of the Conventions or of the present Protocol when the use invites the confidence of the enemy with intent to betray that confidence."

CDDH/I/303
27 April 1976
Original: French

Switzerland

Delete Article 75.

Draft Protocol I, Article 75 (concluded)

CDDH/I/305
27 April 1976
Original: English

United States of America

Replace the words "when the use invites the confidence of the enemy with the intent to betray that confidence" with the words "when the use involves a violation of Article 35 of the present Protocol."

CDDH/I/314
30 April 1976
Original: English

Canada, Germany, Federal Republic of,
Nicaragua, Philippines

Revise Article 75 as follows:

"The use of the red cross sign and of the other protective signs or markings recognized by the Conventions or by the present Protocol or used by one of the High Contracting Parties and of which notice has been given to the adverse Party through the Protecting Power or the International Committee of the Red Cross or some other impartial international humanitarian organization constitutes a grave breach of the Conventions or of the present Protocol when the use invites the confidence of the enemy with intent to betray that confidence."

ARTICLE 75 bis - REPATRIATION ON CLOSE OF HOSTILITIES
(withdrawn)

CDDH/I/22

Pakistan

11 March 1974

Original: English

Insert the following new Article 75 bis after
Article 75:

"Article 75 bis - Repatriation on close of hostilities

1. The Contracting Parties shall not delay the implementation of Article 118 of the Third Convention relative to the Treatment of Prisoners of War, and Articles 132 to 134 of the Fourth Convention relative to the Protection of Civilian Persons in Times of War, and shall in no event use the question of the release and repatriation of prisoners of war and civilian internees in order to extract any political or other advantage.

2. Delay in the repatriation of prisoners of war and civilians contrary to the provisions of the Third and Fourth Geneva Conventions shall constitute a grave breach of the Conventions and the present Protocol."

(As paragraph 2 of the proposed Article 75 bis was included in Article 74 at the third session, this amendment was withdrawn at the seventy-eighth meeting of Committee I, on 18 May 1977.)

ARTICLE 76 - FAILURE TO ACT *
(adopted by Committee I at the third session
and by the Conference
at the forty-fifth plenary meeting, on 30 May 1977)

CDDH/I/74

Syrian Arab Republic

20 March 1974

Original: French

1. In paragraph 1, add the word "grave" before the word "breaches".
2. In paragraph 2, delete the following phrases: "or should have known" and "or would commit".

(This amendment was withdrawn at the fiftieth meeting of Committee I, on 4 May 1976.)

CDDH/I/303

Switzerland

27 April 1976

Original: French

Delete Article 76.

CDDH/I/306

United States of America

27 April 1976

Original: English

Amend the Article to read:

"1. The High Contracting Parties and Parties to the conflict undertake to repress breaches of the Conventions and of the present Protocol resulting from a failure to act when under a duty to do so.

2. The fact that a breach of the Conventions or of the present Protocol was committed by a subordinate does not absolve his superiors from responsibility if they knew or should reasonably have known in the circumstances at the time that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach."

* Article 86 of the Final Act.

ARTICLE 76 bis - DUTY OF COMMANDERS *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-fifth plenary meeting, on 30 May 1977)

CDDH/I/307
27 April 1976
Original: English

United States of America

Add a new Article 76 bis:

"Article 76 bis - Duty of commanders

1. Commanders have a duty to prevent and, where necessary, to repress breaches of the Conventions and the present Protocol.

2. In order to prevent and repress breaches, commanders are responsible for ensuring that the following measures are taken:

(a) If a commander is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or the present Protocol, he is responsible for intervening to ensure that steps are taken to prevent such violations of the Conventions or the present Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof.

(b) A commander is responsible for taking measures to ensure that troops under his command are aware of their responsibilities under the Conventions and this Protocol.

(c) A commander is responsible for establishing procedures among the troops under his command for the reporting of breaches of the Conventions or the present Protocol."

* Article 87 of the Final Act.

Draft Protocol I, Article 76 bis (concluded)

CDDH/I/307/Rev.1
16 June 1976

United States of America

Original: English

Add a new Article 76 bis:

"1. High Contracting Parties and the Parties to the conflict shall require military commanders, with respect to members of the armed forces under their command, to prevent and, where necessary, to suppress and to report to competent authorities breaches of Conventions and this Protocol.

2. In order to prevent and suppress breaches, High Contracting Parties and Parties to the conflict shall require that, commensurate with their level of responsibility, commanders:

(a) ensure that members of the armed forces under their command are aware of their responsibilities under the Conventions and this Protocol.

(b) ensure that procedures for the reporting of breaches of the Conventions or this Protocol are established or implemented, as appropriate, among members of the armed forces under their command.

(c) exercise reasonable supervision and control under the circumstances over members of the armed forces under their command in order to ensure they are properly implementing the Conventions and this Protocol.

3. The High Contracting Parties and Parties to the conflict shall require any commander who is aware that subordinates or other persons under his control are going to commit or have committed a breach of the Conventions or the present Protocol, to intervene to ensure that steps are taken to prevent such violations of the Conventions or this Protocol, and, where appropriate, to initiate disciplinary or penal action against violators thereof."

ARTICLE 77 - SUPERIOR ORDERS
(adopted by Committee I at the fourth session
and rejected by the Conference
at the forty-fifth plenary meeting, on 30 May 1977)

CDDH/I/74
20 March 1974
Original: French

Syrian Arab Republic

Amend Article 77 as follows:

"1. The High Contracting Parties undertake to punish and repress grave breaches of the provisions of the Conventions and of the present Protocol.

2. The fact of having acted pursuant to an order does not absolve an accused person from penal responsibility if it be established that, in the circumstances at the time, he should have reasonably known that he was committing a grave breach of the Conventions or of the present Protocol and that he had the possibility of not carrying out the order."

CDDH/I/255
24 March 1975
Original: English

Australia

In paragraph 2 delete the words "and that he had the possibility of refusing to obey the order".

CDDH/I/303
27 April 1976
Original: French

Switzerland

Delete Article 77.

Draft Protocol I, Article 77 (concluded)

CDDH/I/308
27 April 1976
Original: English

United States of America

1. Delete the word "grave" from paragraph 1.
2. Amend paragraph 2 to read:

"2. The fact of having acted pursuant to an order of his government or of a superior does not absolve an accused person from responsibility if it be established that, in the circumstances at the time, he knew or should have known that he was committing a breach of the Conventions or of the present Protocol. The fact that the individual was acting pursuant to orders may, however, be taken into account in mitigation of punishment."

For draft amendment CDDH/I/8 submitted by the Republic of Viet-Nam, see Annex II to the Table of Amendments.

ARTICLE 78 - EXTRADITION
(rejected by Committee I at the fourth session)

CDDH/I/256

Australia

24 March 1975

Original: English

1. In paragraph 1, delete the words "whatever the motives for which they were committed".

2. Amend paragraph 3 as follows:

"3. High Contracting Parties which do not make extradition conditional on the existence of a treaty shall recognise the said grave breaches as extraditable offences. Extradition shall be subject to conditions provided by the law of the requested High Contracting Party."

3. Add a fourth paragraph as follows:

"4. Grave breaches of the Conventions or of the present Protocol shall not be considered as political crimes for the purposes of extradition."

(This amendment was withdrawn at the fifty-third meeting of Committee I, on 7 May 1976.)

CDDH/I/266

Belgium

25 March 1975

Original: French

In paragraph 1, delete the words "whatever the motives for which they were committed,".

CDDH/I/303

Switzerland

27 April 1976

Original: French

Delete Article 78.

Draft Protocol I, Article 78 (continued)

CDDH/I/309
27 April 1976
Original: English

United Kingdom of Great Britain and
Northern Ireland, United States of America

Delete Article 78.

CDDH/I/310 and
Add.1 and 2
28 April 1976
Original: English

Bulgaria, Byelorussian Soviet Socialist
Republic, Czechoslovakia, Democratic
Republic of Viet-Nam, German Democratic
Republic, Hungary, Mongolia, Poland,
Republic of South Viet-Nam, Ukrainian
Soviet Socialist Republic, Union of
Soviet Socialist Republics

Insert the following new paragraph after paragraph 3.

"In conformity with the above paragraphs of the present Article the High Contracting Parties shall co-operate on extradition of persons against whom there is evidence that they have committed the said grave breaches in order to subject them to trial and, if found guilty, to punishment, as a general rule in the countries in which they committed those breaches."

(In documents CDDH/I/310/Add.1 and 2, the German Democratic Republic and Mongolia were added as co-sponsors.)

CDDH/I/315
7 May 1976
Original: English

Philippines

1. Delete the words "whatever the motives for which they were committed" in paragraph 1.
2. Delete the last sentence of paragraph 1.
3. Delete the last sentence of paragraph 2.
4. Delete the words "subject to the conditions provided by the law of the requested High Contracting Party".

Draft Protocol I, Article 78 (concluded)

CDDH/I/315 (concluded)

5. Add a new paragraph:

"4. Nothing can prejudice, however, the right of any State not a Party to the Conventions and the present Protocol to grant extradition in respect of the trial of its own nationals outside its own territory."

NEW ARTICLE 78 bis - TREATMENT OF
CONVICTED PRISONERS OF WAR*
(withdrawn)

CDDH/I/312 and
Add.1
28 April 1976
Original: Russian

Bulgaria, Byelorussian Soviet Socialist
Republic, Czechoslovakia, Democratic
Republic of Viet-Nam, German Democratic
Republic, Hungary, Mongolia, Poland,
Republic of South Viet-Nam, Ukrainian
Soviet Socialist Republic, Union of
Soviet Socialist Republics

Add a new Article 78 bis:

"Prisoners of war convicted, under the laws of the country in which they are held prisoner, of war crimes and crimes against humanity in the meaning of the principles laid down at the Nürnberg Trials shall be subject to the régime established in that country for persons serving a sentence."

(In document CDDH/I/312/Add.1, the Democratic Republic of Viet-Nam and the Republic of South Viet-Nam were added as co-sponsors.)

(This amendment was withdrawn at the seventy-fourth meeting of Committee I, on 16 May 1977.)

* Provisional title suggested by the Secretariat.

ARTICLE 79 - MUTUAL ASSISTANCE IN CRIMINAL MATTERS *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-fifth plenary meeting, on 30 May 1977)

CDDH/I/3 Philippines
5 March 1974
Original: English

Delete the last sentence, "The law of the High Contracting Party requested shall apply in all cases", of Article 79.

(This amendment was withdrawn by document CDDH/I/10.)

CDDH/I/57 Philippines
18 March 1974
Original: English

Delete the last sentence "The law of the High Contracting Party requested shall apply in all cases".

CDDH/I/279 France, Mali, Switzerland, Thailand
4 April 1975
Original: French

Add the following paragraph:

"The provisions of the preceding paragraph of this Article shall not however affect the obligations arising from the provisions of any other treaty of a bilateral or multilateral nature which governs or will govern the whole or part of the field of mutual assistance in criminal matters."

(Thailand joined as co-sponsor at the fifty-fourth meeting of Committee I, on 10 May 1976.)

CDDH/I/303 Switzerland
27 April 1976
Original: French

Delete Article 79.

* Article 88 of the Final Act.

ARTICLE 79 bis - INTERNATIONAL ENQUIRY COMMISSION *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

CDDH/I/241 and
Add.1

19 March 1975

Original: English

Denmark, New Zealand, Norway, Sweden

Add a new Article 79 bis:

"1. A permanent International Enquiry Commission, consisting of fifteen members of high personal integrity, shall be established, consideration being given to the need for representation of different areas of the world. The International Committee of the Red Cross shall draw up the procedures for appointment, as well as other rules relating to membership, including the Presidency of the Commission, and shall undertake the appointments but shall in no way be responsible for the enquiries undertaken or the findings which emerge from them.

2. (a) The function of the International Enquiry Commission is to enquire into any alleged violation of the Conventions and the present Protocol and other rules relating to the conduct of an international armed conflict

i. at the request of one or more Parties to the conflict;

ii. on its own initiative.

(b) One or more Parties to a conflict may request the International Enquiry Commission to undertake an enquiry in pursuance of Articles 52, 53, 132 and 149 common to the Conventions and Article 74 of the present Protocol.

(c) All enquiries shall be undertaken by a Chamber, consisting of the President and four other members of the Commission appointed by the President in accordance with paragraph 3 of this Article.

* Provisional title suggested by the Secretariat;
title in Final Act: Article 90 - International Fact-Finding
Commission.

Draft Protocol I, Article 79 bis (continued)

CDDH/I/241 and Add.1 (concluded)

3. When the Commission undertakes an enquiry, the President shall immediately consult with the Parties to the conflict regarding the composition of the Chamber. If the Parties agree upon the inclusion of one or more members in the Chamber, the President shall appoint those members. The Parties may each request the President to refrain from appointing certain members, but not more than four, to the Chamber.

4. (a) The Chamber appointed under paragraph 3 to undertake an enquiry shall invite the Parties to the conflict to submit evidence and argument. Evidence may also be accepted from international organizations, governments, non-governmental organizations and individuals.

(b) Such evidence and argument shall be fully disclosed to the Party or Parties which shall have the right to comment on it.

(c) A Party may invite the Chamber to investigate the situation in loco.

(d) The Chamber may appoint, as experts assisting it, the qualified persons referred to in Article 6 of the present Protocol if such persons are made available by a High Contracting Party.

(e) The Chamber shall publicly report its findings on the facts and the law unless the Parties agree otherwise. If it is unable to secure adequate evidence for factual and impartial findings it shall state the reasons for that inability.

5. The Commission shall adopt its rules of procedure.

6. The Commission's activities shall be financed by voluntary contributions channelled by the International Committee of the Red Cross."

(In document CDDH/I/241/Add.1, Norway was added as co-sponsor.)

Draft Protocol I, Article 79 bis (continued)

CDDH/I/267

Pakistan

25 March 1975

Original: English

Add a new Article 79 bis:

"1. A permanent Commission for the Enforcement of Humanitarian Law hereinafter referred to as the Commission shall be established.

2. The Commission shall consist of five members, one from each of the five regional groups, appointed for one year in the manner hereinafter prescribed and one member nominated by each Party to the conflict who is not already represented upon the Commission.

3. i. The depositary of the Protocol shall draw up and maintain five separate regional lists of the High Contracting Parties in alphabetical order.

ii. In the month of December in every region the countries whose names appear at the top of the regional list shall separately nominate a representative each to be a member of the Commission.

iii. Such members shall hold office for one calendar year on the expiry of which they shall automatically retire.

iv. Each country whose name appears next in a regional list shall similarly nominate a member to fill the vacancy caused by the retirement and inform the depositary without delay, and this process shall be repeated in the month of December every year till a list is exhausted when the country ranking first in alphabetical order shall start the process all over again.

v. Any vacancy arising during the course of the year shall be filled by the country whose representative has caused it.

4. The Commission shall have a Chairman who shall hold office for one calendar month and shall be appointed from amongst the members of the Commission in strict alphabetical order of the countries represented upon it.

Draft Protocol I, Article 79 bis (continued)

CDDH/I/267 (continued)

5. The Commission shall on being moved by a Party to the conflict or a Protecting Power:

(a) enquire into any alleged violations of the Conventions and the present Protocol and other rules relating to the conduct of an international armed conflict;

(b) take appropriate steps for the resolution of any of any disagreement amongst the Parties to the conflict regarding the interpretation or application of the Conventions and the Protocol where the conciliation procedure provided therein has failed;

(c) endeavour to bring back to an attitude of respect for and obedience to the provisions of the Conventions and this Protocol, a Party which fails to fulfil its obligations thereunder.

6. The Parties to the conflict shall have the right, and when called upon by the Commission the duty:

(a) to submit written statements of the case, and rejoinders;

(b) to lead evidence relating and relevant to the allegations under enquiry;

(c) submit oral and written arguments.

7. Each Party shall have the right to be present at the enquiry, to test by cross examination the veracity of the evidence presented by the adversary and to rebut such evidence.

8. The Commission may be assisted by experts nominated by a Party amongst the qualified persons referred to in Article 6 of the present Protocol.

9. The Commission may carry out a local inspection or investigation.

10. The Commission shall report its findings on the facts and the law, stating the reasons on which they are based, to the Parties to the conflict and the depositary.

Draft Protocol I, Article 79 bis (continued)

CDDH/I/267 (concluded)

11. The Commission shall adopt rules of procedure which shall be notified to the depositary who shall circulate the same amongst the High Contracting Parties. The Commission may from time to time amend the same with a view to making them more effective and such amendments shall be similarly notified and circulated.

12. The expenses of the Commission shall be met by voluntary contributions channelled by the depositary."

CDDH/I/316
10 May 1976
Original: English

Japan

Amendments to Article 79 bis proposed by Denmark, New Zealand, Norway and Sweden (CDDH/I/241 and Add.1).

1. Replace paragraph 2 by the following:

"2. The main function of the Commission shall be, at the request of one or both Parties to the conflict, to undertake an enquiry into:

(a) Alleged breaches of the provisions of the Conventions or of the present Protocol; or

(b) allegations that the provisions of the Conventions or of the present Protocol are about to be breached.

3. The Parties to the conflict may request the Commission to undertake an enquiry in pursuance of Articles 52, 53, 132 and 149 common to the Conventions and Article 74 of the present Protocol.

4. At the request of both Parties to the conflict, the Commission may perform, when it deems it appropriate, good offices with a view to facilitating the repression or prevention of breaches of the provisions of the Conventions or of the present Protocol."

Draft Protocol I, Article 79 bis (continued)

CDDH/I/316 (concluded)

2. Replace paragraph 3 by the following:

"5. All enquiries shall be undertaken by a Chamber, consisting of five members as follows:

(a) three members of the Commission to be appointed by the President of the Commission in consultation with both Parties to the conflict; and

(b) two ad hoc members, one to be appointed by each Party to the conflict.

6. Upon receipt of the request for an enquiry, the President of the Commission shall specify an appropriate time-limit for setting up a Chamber. If the two ad hoc members have not been appointed within the time-limit, the President shall immediately appoint two additional members of the Commission to serve in the Chamber."

3. In paragraph 4, sub-paragraph (e), delete the words "and the law".

4. Renumber paragraphs and the cross reference accordingly.

CDDH/415 and
Corr.1 and
CDDH/415/Add.1 and 2
25 May 1977
Original: English

Algeria, Argentina, Cyprus, Colombia,
Democratic Yemen, Egypt, Iraq, Jordan,
Lebanon, Madagascar, Mexico, Morocco,
Mozambique, Nigeria, Panama, Peru, Qatar,
Saudi Arabia, Sudan, Syrian Arab Republic,
United Arab Emirates, Yugoslavia

Add at the end of paragraph 2(a) of Article 79 bis, as adopted by Committee I, the following: "In the case of an occupied territory, the request of the Party whose territory is occupied, shall suffice for the institution of the enquiry."

(In documents CDDH/415/Add.1 and 2, Madagascar, Mozambique, Saudi Arabia and Sudan were added as co-sponsors.)

(In document CDDH/415/Corr.1, Morocco was deleted from the list of sponsors.)

Draft Protocol I, Article 79 bis (continued)

CDDH/416

25 May 1977

Original: English

United States of America

1. In paragraph 1(b) revise the introductory phrase to read as follows:

"1. (b) When not less than twenty High Contracting Parties have agreed to accept the jurisdiction of the Commission pursuant to paragraph 2, the depositary shall then, and at intervals of five years thereafter, convene a meeting of representatives of those High Contracting Parties ..." etc.

2. Revise paragraph 2 as follows:

"2. (a) The High Contracting Parties may at the time of signing, ratifying, or acceding to the Protocol, or at any other subsequent time, declare that they recognize ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the jurisdiction of the Commission to enquire into allegations by such other Party, as authorized by this Article.

(b) /old (c)/.

(c) The Commission shall be competent to:

/i. and ii. of old 2(b)/.

(d) In other situations, the Commission shall institute an enquiry at the request of a Party to the conflict only with the consent of the other Party or Parties concerned.

(e) /old (e)/."

3. Revise the introductory phrase of paragraph 3(a) to read as follows:

"3. (a) Unless otherwise agreed by the Parties concerned, all enquiries shall be undertaken by a Chamber consisting of ..." etc.

Draft Protocol I, Article 79 bis (concluded)

CDDH/416 (concluded)

4. Revise paragraph 7 to read as follows:

"7. The administrative expenses of the Commission shall be met by contributions from the High Contracting Parties which make declarations under paragraph 2. The Party or Parties to the conflict requesting an enquiry shall advance the necessary funds for expenses incurred by a Chamber and shall be reimbursed by the Party or Parties against which the allegations are made to the extent of fifty percent of the costs of the Chamber unless the Commission specifies otherwise. Where there are counter-allegations before the Chamber each side shall advance fifty percent of the necessary funds."

CDDH/420

Austria, Denmark, Sweden

26 May 1977

Original: English

In paragraph 7, at the end of the first sentence, add after "under paragraph 2" the words "... and by voluntary contributions."

NEW SECTION III

For the Philippines amendments proposing a New Section III, see the Official Record of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, Volume IV, Table of Amendments, part two, Annex I.

PART V bis - OBLIGATION TO MAKE REPARATION FOR BREACHES
OF THE PRESENT PROTOCOL

NEW ARTICLE BEFORE ARTICLE 80 - RESPONSIBILITY *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

CDDH/I/335 and
Add.1 and 2
15 April 1977
Original: French

Algeria, Socialist Republic of Viet Nam,
Yugoslavia

Add before Article 80 the following new article:

"1. A Party to the conflict which violates the provisions of the Conventions and of the present Protocol, and in particular commits grave breaches as defined in Articles 11 and 74 of the present Protocol, shall if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.

2. No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of the violations and breaches referred to in paragraph 1 of this Article."

(In documents CDDH/I/335/Add.1 and 2, Algeria and Yugoslavia were added as co-sponsors.)

* Provisional title suggested by the Drafting Committee;
Article 91 of the Final Act.

PART VI - FINAL PROVISIONS

ARTICLE 80 - SIGNATURE *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 92 of the Final Act.

ARTICLE 81 - RATIFICATION *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 93 of the Final Act.

ARTICLE 82 - ACCESSION *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 94 of the Final Act.

ARTICLE 83 - ENTRY INTO FORCE *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-sixth plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 95 of the Final Act.

ARTICLE 84 - TREATY RELATIONS UPON ENTRY INTO FORCE

OF THE PRESENT PROTOCOL *

(adopted by Committee I at the fourth session
and by the Conference

at the forty-sixth plenary meeting, on 31 May 1977)

CDDH/I/74

Syrian Arab Republic

20 March 1974

Original: French

Add a third paragraph reading:

"3. In the event of conflict between the provisions
of the present Protocol and those of the Conventions, the
former shall prevail."

CDDH/I/229 and

Democratic Republic of Viet-Nam, Qatar

Add.1

26 February 1975

Original: French

Replace the second sentence of paragraph 2 by the
following:

"They shall furthermore be bound by the present
Protocol in relation to the said Party, unless the latter,
after a reasonable period, declares that it refuses to
apply it or does not in fact apply it."

(In document CDDH/I/229/Add.1, Qatar was added as a co-sponsor.)

* Title in Final Act: Article 96 - Treaty relations upon entry into
force of this Protocol.

Draft Protocol I, Article 84 (concluded)

CDDH/I/233 and
Add.1 to 4
5 March 1975
Original: English

Algeria, Arab Republic of Egypt, Australia, Botswana, Bulgaria, Byelorussian Soviet Socialist Republic, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Democratic Republic of Viet-Nam, Finland, Ghana, Hungary, Iraq, Ivory Coast, Jordan, Kuwait, Lebanon, Libyan Arab Republic, Madagascar, Mali, Mauritania, Mongolia, Netherlands, New Zealand, Norway, Poland, Qatar, Saudi Arabia, Sudan, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Upper Volta, Yugoslavia

Add a new paragraph 3:

"3. The authority representing a people engaged against a High Contracting Party in an armed conflict of the type referred to in paragraph 2 of Article 1 of the present Protocol may undertake to apply the Conventions and the present Protocol in relation to that conflict by means of a unilateral declaration addressed to the depositary of the Conventions. Such declaration shall, upon its receipt by the depositary, have in relation to that conflict the following effects:

- i. The Conventions and the present Protocol are brought into force for the said authority as a Party to the conflict with immediate effect.
- ii. The said authority assumes the same rights and obligations as those which have been assumed by a High Contracting Party to the Conventions and the present Protocol.
- iii. The Conventions and the present Protocol are equally binding upon all Parties to the conflict."

(In documents CDDH/I/233/Add.1 to 4, the following countries were added as co-sponsors: Cyprus, Democratic People's Republic of Korea, Iraq, Poland and Qatar.)

NEW ARTICLE 84 bis (a) - SPECIAL AGREEMENTS AND
DECLARATIONS DURING HOSTILITIES
(withdrawn)

CDDH/I/86
11 September 1974
Original: English

Norway

Add a new Article 84 bis:

"Article 84 bis - Special agreements and declarations
during hostilities"

1. If in the situations provided for in Article 2 common to the Conventions and Article 1 of the present Protocol, one or more of the Powers in conflict are not Parties to the Conventions or the present Protocol, the Powers in conflict shall endeavour to bring the Conventions and the present Protocol into force, either by means of special agreements or by unilateral declarations addressed to the Swiss Federal Council or to the International Committee of the Red Cross.

2. The Powers in conflict who are Parties to the Conventions and the present Protocol shall remain bound by these instruments in their mutual relation and in relation to Powers who have entered into special agreement or issued declarations as stipulated in the preceding paragraph. The Powers who have entered into such agreements or issued such declarations assume the same rights and obligations as a Party to the Conventions and the present Protocol.

3. The word 'Powers' as used in the present Article as well as in Article 2, paragraph 3, common to the Conventions shall include States and such governments and authorities as are referred to in Article 4 A, subparagraph (3) of the Third Convention, including national liberation movements representing peoples who are fighting against colonial domination and alien occupation and racist régimes in the exercise of their right to self-determination, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.

Draft Protocol I, New Article 84 bis (a) (concluded)

CDDH/I/86 (concluded)

4. The Swiss Federal Council or the International Committee of the Red Cross shall communicate by the quickest method any declaration received in accordance with paragraph 1 of the present Article. The communication of such declarations shall not affect the legal status of the Powers in conflict, nor shall it be regarded as a pronouncement on their legal status. Under no circumstances shall the communication of such a declaration be regarded as an unfriendly act or as an interference in the armed conflict."

NOTE. Paragraph 3 of the proposed draft Article is worded in accordance with the wording of Article 1 of draft Protocol I as adopted in Committee I at the first session of the Diplomatic Conference.

If the said Article 1 should be amended before its final adoption by the Diplomatic Conference, the proposed draft Article should be amended accordingly.

(This amendment was withdrawn at the sixty-sixth meeting of Committee I, on 14 April 1977, in favour of document CDDH/I/233 and Add.1-4.)

NEW ARTICLE 84 bis (b) - CASES NOT COVERED BY
THE CONVENTIONS OR BY THE PRESENT PROTOCOL*
(withdrawn)

CDDH/I/230
26 February 1975
Original: French

Democratic Republic of Viet-Nam

Add a new Article 84 bis:

"Article 84 bis - Cases not covered by the Conventions
or by the present Protocol

Cases not covered by the Conventions or by the present Protocol shall be dealt with in accordance with humanitarian principles, the rules and principles of international law and the requirements of public conscience, on the basis of justice."

(This amendment was withdrawn at the sixty-eighth meeting of Committee I, on 26 April 1977.)

* Provisional title suggested by the Secretariat.

ARTICLE 85 - RESERVATIONS
(rejected by Committee I at the fourth session)

CDDH/I/74
20 March 1974
Original: French

Syrian Arab Republic

1. Delete Article 85.
2. If the proposal for the deletion of Article 85 is not accepted, Article 85 should be reworded as follows:

"1. The High Contracting Parties may not formulate reservations to those Articles of the Conventions and of the present Protocol which relate to fundamental humanitarian obligations, and more particularly to Articles 1, 5, 10, 20, 33, 35, paragraph 1, first sentence, Article 38, paragraph 1, first sentence, Articles 41, 43, 46 and 47.

2. No reservation shall take effect unless it has been accepted or approved, at the time when it was formulated, by all the High Contracting Parties who have ratified the present Protocol."

CDDH/I/87
11 September 1974
Original: English

German Democratic Republic

Delete paragraph 2.

CDDH/I/87/Rev.1
27 April 1977
Original: English

German Democratic Republic

Delete the whole of Article 85.

Draft Protocol I, Article 85 (concluded)

CDDH/421
30 May 1977
Original: French

Algeria, Cuba, Democratic People's
Republic of Korea, Democratic Yemen, Egypt,
Socialist People's Libyan Arab Jamahiriya,
Kenya, Lebanon, Madagascar, Mali,
Mozambique, Nigeria, Saudi Arabia,
Socialist Republic of Viet Nam, Sri Lanka,
Sudan, Swaziland, Syrian Arab Republic,
Uganda, United Republic of Tanzania,
Yugoslavia

"Article 85 - Reservations

The High Contracting Parties may not formulate reservations that are incompatible with the humanitarian aim and purpose of this Protocol, and in particular Articles 1, 41, 42, 42 quater and 84, paragraph 3."

(Although Article 85 was rejected at the seventy-sixth meeting of Committee I, on 17 May 1977, it was redrafted in this amendment and submitted again at the forty-sixth plenary meeting of the Conference, on 31 May 1977, when it was again rejected.)

ARTICLE 86 - AMENDMENT*
(adopted by Committee I at the fourth session
and by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 97 of the Final Act.

ARTICLE 86 bis - COMMITTEE ON THE PROHIBITION OR RESTRICTION
OF THE USE OF CERTAIN CONVENTIONAL WEAPONS *
(adopted by Committee I at the fourth session
and rejected by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

CDDH/I/340 and
Add.1 to 3
26 April 1977
Original: English/
Spanish

Bolivia, Ecuador, Egypt, Guatemala,
Honduras, Iran, Iraq, Mexico, Nicaragua,
Nigeria, Pakistan, Panama, Peru,
Philippines, Spain, Sudan, Venezuela,
Yugoslavia

Add a new Article 86 bis:

"1. A Committee of States Parties to this Protocol shall be established to consider and adopt recommendations regarding any proposal that one or more States Parties may submit concerning the prohibition or restriction of the use of conventional weapons that may cause superfluous injuries or have indiscriminate effects.

2. The Committee shall be composed of representatives of (21) States Parties, elected for three years on the basis of equitable geographical distribution by the States Parties to this Protocol, by means of notices addressed to the depositary Government. The depositary Government, if it should consider it necessary, may convene a meeting of the States Parties to elect the members of the Committee. The Committee shall meet whenever one third of its members so request; it shall adopt its recommendations by majority and shall elect its chairman.

3. The International Committee of the Red Cross shall participate in the work of the Committee referred to in this Article, and shall provide the necessary secretarial facilities.

4. On the basis of the Committee's recommendations, a special conference may be convened with a view to adopt agreements that implement the principle that the Parties to the conflict do not have an unlimited right of choice of means of combat."

(In documents CDDH/I/340/Add.1 to 3, the following countries were added as co-sponsors: Egypt, Iraq, Pakistan, Peru, Sudan, Venezuela and Yugoslavia.)

* Provisional title suggested by the Drafting Committee.

ARTICLE 87 - DENUNCIATION *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 99 of the Final Act.

ARTICLE 88 - NOTIFICATIONS *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

CDDH/I/233 and
Add.1 to 4
5 March 1975
Original: English

Algeria, Arab Republic of Egypt, Australia,
Botswana, Bulgaria, Byelorussian Soviet
Socialist Republic, Cyprus, Czechoslovakia,
Democratic People's Republic of Korea,
Democratic Republic of Viet-Nam, Finland,
Ghana, Hungary, Iraq, Ivory Coast, Jordan,
Kuwait, Lebanon, Libyan Arab Republic,
Madagascar, Mali, Mauritania, Mongolia,
Netherlands, New Zealand, Norway, Poland,
Qatar, Saudi Arabia, Sudan, Tunisia,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics, Upper
Volta, Yugoslavia

1. Add a new paragraph (d):

"(d) declarations received under paragraph 3 of
Article 84, which shall be communicated by the quickest
methods."

2. Renumber the subsequent paragraph accordingly.

(In documents CDDH/I/233/Add.1 to 4, the following countries were
added as co-sponsors: Cyprus, Democratic People's Republic of Korea,
Iraq, Poland and Qatar.)

* Article 100 of the Final Act.

ARTICLE 89 - REGISTRATION *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

No amendments were submitted to this Article.

* Article 101 of the Final Act.

ARTICLE 90 - AUTHENTIC TEXTS AND OFFICIAL TRANSLATIONS *
(adopted by Committee I at the fourth session
and by the Conference
at the forty-seventh plenary meeting, on 31 May 1977)

CDDH/I/53
18 March 1974
Original: English

Bulgaria, Byelorussian Soviet Socialist
Republic, Czechoslovakia, German
Democratic Republic, Hungary, Mongolia,
Poland, Ukrainian Soviet Socialist
Republic, Union of Soviet Socialist
Republics

In paragraph 1, for the words "the French and English texts", substitute the words "the French, English and Russian texts".

CDDH/I/74
20 March 1974
Original: French

Syrian Arab Republic

In paragraph 2, include Arabic among the languages into which official translations of the Protocol shall be made.

(This amendment was withdrawn at the sixty-ninth meeting of Committee I, on 27 April 1977, in favour of document CDDH/I/341.)

CDDH/I/339 and
Add.1
25 April 1977
Original: Spanish

Argentine, Brazil, Chile, Colombia, Costa
Rica, Ecuador, Guatemala, Mexico,
Nicaragua, Panama, Peru, Spain, Uruguay,
Venezuela

In paragraph 1, replace "French and English texts" by "Spanish, French and English texts".

(In document CDDH/I/339/Add.1, Chile, Costa Rica and Nicaragua were added as co-sponsors.)

* Title in Final Act: Article 102 - Authentic texts.

Draft Protocol I, Article 90 (concluded)

CDDH/I/341
26 April 1977
Original: Arabic

Algeria, Bahrain, Democratic Yemen, Egypt,
Iraq, Jordan, Kuwait, Lebanon, Mauritania,
Morocco, Oman, Qatar, Saudi Arabia,
Socialist People's Libyan Arab Jamahiriya,
Somalia, Sudan, Syrian Arab Republic,
Tunisia, United Arab Emirates, Yemen

In paragraph 1, replace the phrase "the French and English texts" by "the Arabic, French and English texts".

ANNEX TO DRAFT PROTOCOL I

A N N E X

REGULATIONS CONCERNING THE IDENTIFICATION, RECOGNITION AND
MARKING OF MEDICAL PERSONNEL, UNITS OF TRANSPORT AND
CIVIL DEFENCE PERSONNEL, EQUIPMENT OF TRANSPORTS*

NOTE. The Annex to Protocol I prepared by ICRC was examined by the Technical Sub-Committee on Signs and Signals set up by Committee II.

The Technical Sub-Committee submitted at the first session of the Conference, in 1974, a revised version of the Annex (CDDH/49/Rev.1) and at the third session, in 1976, a second revised version (CDDH/II/371), which was adopted, with some modifications, by Committee II at the third and fourth sessions (see CDDH/235/Rev.1 and CDDH/406/Rev.1). At the third session, Article 16 was transferred to Protocol I as Article 18 bis (Article 98 of the Final Act). At the fourth session a new Article 16 was prepared by Committee III (see page 401 below). The Annex thus amended was, with minor changes, adopted by the Conference.

In the Table of Amendments to the Annex, the articles are shown with their number and title in the Technical Committee's second version as adopted by Committee II, with the exception of the new Article 16, prepared by Committee III. Unless otherwise stated, the amendments reproduced were submitted to the ICRC text of the draft Additional Protocols. In order to facilitate identification of the articles under the different numbers and titles given them in the successive drafts of the Annex and in the Final Act, the texts of the amendments are preceded by a comparative table in which the titles of the articles together with the symbols of the corresponding amendments are set out in tabular form.

* Title in Final Act - Annex I - Regulations concerning identification. The title and all the articles of the Annex were adopted by the Conference at the forty-eighth plenary meeting, on 1 June 1977.

C O M P A R A T I V E

ICRC text

Technical Sub-Committee
first draft (CDDH/49/Rev.1)

TITLE:

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

TITLE:

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

CHAPTER I - DOCUMENTS

Article 1 - Permanent
civilian medical personnel

Article 1 - Identity card
for permanent civilian medi-
cal personnel

CDDH/II/328 United States
21 April 1976 of America

Article 2 - Temporary
civilian medical personnel

Article 2 - Identity card for
temporary civilian medical
personnel

CDDH/II/289 Bangladesh,
3 April 1975 United States
 of America

CDDH/II/328 United States
21 April 1976 of America

T A B L E

Technical Sub-Committee
second draft as adopted
by Committee II *

Final Act

TITLE:

REGULATIONS CONCERNING THE
IDENTIFICATION, RECOGNITION
AND MARKING OF MEDICAL
PERSONNEL, UNITS OF TRANS-
PORT AND CIVIL DEFENCE
PERSONNEL, EQUIPMENT OF
TRANSPORTS

CHAPTER I - IDENTITY CARDS

Article 1 - Identity card for
permanent civilian medical and
religious personnel

Article 2 - Identity card for
temporary civilian medical and
religious personnel

CDDH/422 Byelorussian Soviet
30 May 1977 Socialist Republic,
 Ukrainian Soviet
 Socialist Republic,
 Union of Soviet
 Socialist Republics

TITLE:

REGULATIONS CONCERNING
IDENTIFICATION

CHAPTER I - IDENTITY CARDS

Article 1 - Identity card for
permanent civilian medical
and religious personnel

Article 2 - Identity card for
temporary civilian medical
and religious personnel

* For Articles 1-13, see CDDH/235/Rev.1, Annex I, and for
Articles 14 to 15, CDDH/406/Rev.1, Annex.

C O M P A R A T I V E

ICRC text

Technical Sub-Committee
first draft (CDDH/49/Rev.1)

Article 3 - Lists of personnel

(Deleted by Technical Sub-Committee and replaced by ICRC Article 5)

Article 3 - Lists of personnel

(Deleted by Technical Sub-Committee and replaced by ICRC Article 5)

CHAPTER II - DISTINCTIVE EMBLEM

Article 4 - Flight plan

(Article 12 of Final Act)

Article 4 - Shape and nature

(ICRC Article 5; Article 3 of Final Act)

CHAPTER II - DISTINCTIVE
EMBLEM

Article 5 - Shape and nature

(Article 3 of Final Act)

Article 5 - Use

(ICRC Article 6; Article 4 of Final Act)

CDDH/II/67 United States
13 March 1974 of America

CHAPTER III - DISTINCTIVE
SIGNALS

Article 6 - Use

(Article 4 of Final Act)

Article 6 - Optional use

(Article 5 of Final Act)

CDDH/II/66 United States
13 March 1974 of America

CDDH/II/329 United States
20 April 1976 of America

T A B L E

Technical Sub-Committee
second draft as adopted
by Committee II

Final Act

CHAPTER II - THE DISTINCTIVE
EMBLEM

CHAPTER II - THE DISTINCTIVE
EMBLEM

Article 3 - Shape and nature

Article 3 - Shape and nature

(ICRC Article 5; Article 4
in document CDDH/49/Rev.1)

(ICRC Article 5; Article 4
in document CDDH/49/Rev.1)

Article 4 - Use

Article 4 - Use

(ICRC Article 6; Article 5
in document CDDH/49/Rev.1)

(ICRC Article 6; Article 5
in document CDDH/49/Rev.1)

CDDH/437 France,
9 May 1977 Holy See

CHAPTER III - DISTINCTIVE
SIGNALS

CHAPTER III - DISTINCTIVE
SIGNALS

Article 5 - Optional use

Article 5 - Optional use

(ICRC Article 7; Article 6
in document CDDH/49/Rev.1)

(ICRC Article 7; Article 6
in document CDDH/49/Rev.1)

Article 6 - Light signal

Article 6 - Light signal

(ICRC Article 8; Article 7
in document CDDH/49/Rev.1)

(ICRC Article 8; Article 7
in document CDDH/49/Rev.1)

C O M P A R A T I V E

ICRC text

Technical Sub-Committee
first draft (CDDH/49/Rev.1)

CHAPTER III - DISTINCTIVE
SIGNALS

Article 7 - Optional Use

Article 7 - Light signals

(Article 5 of Final Act)

(ICRC Article 8; Article 6 of
Final Act)

CDDH/II/65 United States
13 March 1974 of America

CDDH/II/74 Australia
15 March 1974

Article 8 - Light signals

Article 8 - Radio identifica-
tion signal

(Article 6 of Final Act)

(ICRC Article 9; Article 7 of
Final Act)

CDDH/II/64 United States
13 March 1974 of America

CDDH/II/330 United States
20 April 1976 of America

Article 9 - Unilateral radio
signal

Article 9 - Secondary radar
identification such as IFF/SIF

(Article 7 of Final Act)

(ICRC Article 11; Article 8 of
Final Act)

CDDH/II/63 Spain, United
13 March 1974 States of
 America

CDDH/II/69 United States
13 March 1974 of America

T A B L E

Technical Sub-Committee
second draft as adopted
by Committee II

Final Act

Article 7 - Radio signal

(ICRC Article 9; Article 8
in document CDDH/49/Rev.1)

Article 7 Radio signal

(ICRC Article 9; Article 8
in document CDDH/49/Rev.1)

Article 8 - Electronic
identification

(ICRC Article 11; Article 9
in document CDDH/49/Rev.1)

Article 8 - Electronic
identification

(ICRC Article 11; Article 9
in document CDDH/49/Rev.1)

CHAPTER IV - COMMUNICATIONS

Article 9 - Radio Communica-
tions

(Article 10 in document
CDDH/49/Rev.1, replacing
ICRC Article 10)

CHAPTER IV - COMMUNICATIONS

Article 9 - Radio communica-
tions

(Article 10 in document
CDDH/49/Rev.1, replacing
ICRC Article 10.)

C O M P A R A T I V E

ICRC text

Technical Sub-Committee
first draft (CDDH/49/Rev.1)

CHAPTER IV - COMMUNICATIONS

Article 10 - Bilateral
radio signal

Article 10 - Radio communica-
tions

(Deleted and replaced by
Article 10 in document
CDDH/49/Rev.1; Article 9
of Final Act)

(Article 9 of Final Act)

CDDH/II/62 United States
13 March 1974 of America

CDDH/II/331 United States
20 April 1976 of America

Article 11 - Secondary
surveillance radar system
signal

Article 11 - Other means of
communication

(Article 8 of Final Act)

(ICRC Article 12)

CDDH/II/60 United States
13 March 1974 of America

CDDH/II/61 United States
13 March 1974 of America

Article 12 - Other means of
communication

Article 12 - Use of inter-
national codes

(Article 11 of Final Act)

(ICRC Article 13; Article 10
of Final Act)

Article 13 - Use of inter-
national codes

Article 13 - Flight plan

(Article 10 of Final Act)

(ICRC Article 4; Article 12
of Final Act)

T A B L E

Technical Sub-Committee
second draft as adopted
by Committee II

Final Act

Article 10 - Use of inter-
national codes

(ICRC Article 13; Article 12
in document CDDH/49/Rev.1)

Article 10 - Use of inter-
national codes

(ICRC Article 13; Article 12
in document CDDH/49/Rev.1)

Article 11 - Other means of
communication

(ICRC Article 12)

Article 11 - Other means of
communication

(ICRC Article 12)

Article 12 - Flight plans

(ICRC Article 4; Article 13
in document CDDH/49/Rev.1)

Article 12 - Flight plans

(ICRC Article 4; Article 13
in document CDDH/49/Rev.1)

New Article 13 - Signals and
procedures for the intercep-
tion of medical aircraft

(New article proposed in
Technical Sub-Committee
second draft (CDDH/II/371))

Article 13 - Signals and
procedures for the intercep-
tion of medical aircraft

(New article proposed in
Technical Sub-Committee
second draft (CDDH/II/371))

C O M P A R A T I V E

ICRC text

Technical Sub-Committee
first draft (CDDH/49/Rev.1)

CHAPTER IV - CIVIL DEFENCE

CHAPTER V - CIVIL DEFENCE

Article 14 - Documents

Article 14 - Documents

CDDH/II/328 United States
21 April 1976 of America

Article 15 - International
distinctive sign for civil
defence services

Article 15 - International
distinctive emblem for civil
defence services

CHAPTER V - PERIODICAL
REVISION

CHAPTER VI - PERIODICAL
REVISION

Article 16 - Procedure

Article 16 - Procedure

(Article 16 - Procedure,
transferred to Protocol I as
Article 18 bis - Revision of
the Annex, was adopted by
Committee II at the third
session and subsequently
renumbered Article 98.)

(Article 16 - Procedure,
transferred to Protocol I as
Article 18 bis - Revision of
the Annex, was adopted by
Committee II at the third
session and subsequently
renumbered Article 98.)

T A B L E

Technical Sub-Committee
second draft as adopted
by Committee II

Final Act

CHAPTER V - CIVIL DEFENCE

CHAPTER V - CIVIL DEFENCE

Article 14 - Identity cards

Article 14 - Identity card

CDDH/422 Byelorussian Soviet
30 May 1977 Socialist Republic,
 Ukrainian Soviet
 Socialist Republic,
 Union of Soviet
 Socialist Republics

Article 15 - International
distinctive sign of civil
defence

Article 15 - International
distinctive sign

CDDH/422 Byelorussian Soviet
30 May 1977 Socialist Republic,
 Ukrainian Soviet
 Socialist Republic,
 Union of Soviet
 Socialist Republics

CHAPTER VI - WORKS AND INSTALLA-
TIONS CONTAINING DANGEROUS
FORCES

New Article - International
special sign for works and
installations containing
dangerous forces (prepared by
Committee III Working Group
(CDDH/III/378) and adopted by
Committee III at the fourth
session. (See CDDH/407/Rev.1,
para. 31). Article 16 of
Annex I to Protocol I in the
Final Act.)

Article 16 - International
special sign

(New Article, adopted by
Committee III as "International
special sign for works and
installations containing
dangerous forces" (inserted by
the Drafting Committee as
Article 16 of Annex I to
Protocol I).)

CHAPTER I - IDENTITY CARDS

ARTICLE 1 - IDENTITY CARD FOR PERMANENT CIVILIAN
MEDICAL AND RELIGIOUS PERSONNEL
(adopted by Committee II at the third session)

CDDH/II/328

21 April 1976

Original: English

United States of America

In paragraph 1, Article 1, and in the model of
identity cards for Article 1 (CDDH/49/Rev.1, appendix I),
amend the text to read: "Stamp of issuing authority".

ARTICLE 2 - IDENTITY CARD FOR TEMPORARY CIVILIAN
MEDICAL AND RELIGIOUS PERSONNEL
(adopted by Committee II at the third session)

CDDH/II/289

3 April 1975

Original: English

Bangladesh, United States of America

Amend Article 2, draft Annex as proposed by Technical Sub-Committee on Signs and Signals (CDDH/49/Rev.1, p.37) to read as follows:

"Article 2 - Identity card for temporary civilian personnel

1. The special identity card for temporary civilian medical personnel shall be similar to that provided for in Article 1 of this Annex. The Parties to a conflict may be guided by the model shown below.

2. When circumstances preclude the provision to temporary medical personnel of identity cards similar to those described in Article 1 of this Annex, they may be provided with a certificate signed by an authorized official of a Party to the conflict certifying that the person to whom it is issued is entitled to the protection of the additional Protocol to the Geneva Conventions of August 12, 1949 by virtue of assignment to medical duty as temporary medical personnel, the duration of such assignment, and his authority to wear the distinctive emblem. The certificate shall include the holder's surname, if normally used, and the first names, the date of birth, function and service number, if any, of the holder. It shall also bear his signature or his thumb-print, or both."

CDDH/II/328

21 April 1976

Original: English

United States of America

In the model of identity cards for Article 2 (CDDH/49/Rev.1, appendix 1), amend the text as follows: "Stamp of issuing authority."

Draft Protocol I, Annex, Article 2 (concluded)

CDDH/422

30 May 1977

Original: Russian

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics

In Article 2, delete the note to Figure 1.

CHAPTER II - THE DISTINCTIVE EMBLEM

ARTICLE 3 - SHAPE AND NATURE

(adopted by Committee II at the third session)

NOTE. This Article, formerly ICRC Article 5 and Article 4 in document CDDH/49/Rev.1, was brought forward to replace ICRC Article 3 - Lists of personnel, deleted at the seventh meeting of the Technical Sub-Committee on Signs and Signals, on 4 May 1976.

CDDH/II/67

United States of America

13 March 1974

Original: English

In paragraph 1, delete the first sentence and in the second sentence insert the words "of the distinctive emblem" after "The red and white surfaces".

(This amendment was withdrawn at the seventh meeting of the Technical Sub-Committee on Signs and Signals, on 4 May 1976.)

ARTICLE 4 - USE

(adopted by Committee II at the third and fourth sessions)

ICRC Article 6; Article 5 in document CDDH/49/Rev.1.

CDDH/II/66

United States of America

13 March 1974

Original: English

1. In paragraph 1, insert the words "whenever possible" between "shall" and "be".

2. Redraft paragraph 2 to read:

"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."

CDDH/II/437

France, Holy See

9 May 1977

Original: French

In paragraph 2 (CDDH/235/Rev.1), insert the words "and religious" after the word "medical".

CHAPTER III - DISTINCTIVE SIGNALS

ARTICLE 5 - OPTIONAL USE

(adopted by Committee II at the third session)

ICRC Article 7; Article 6 in document CDDH/49/Rev.1.

CDDH/II/65

United States of America

13 March 1974

Original: English

Redraft the Article to read:

"Subject to the provisions of Article 8, 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."

CDDH/II/74

Australia

15 March 1974

Original: English

Redraft the Article to read:

"The distinctive signals referred to in the present Chapter except the light signal referred to in Article 8, shall be used exclusively by medical units and means of medical transport; their use is optional."

CDDH/II/329

United States of America

20 April 1976

Original: English

Redraft Article 6 (CDDH/49/Rev.1) to read:

"1. 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.

Draft Protocol I, Annex, Article 5 (concluded)

CDDH/II/329 (concluded)

2. In an emergency threatening the safety of temporary medical aircraft which is not marked with the distinctive emblem, such aircraft may be authorized to use the light signal referred to in Article 7. If the light signal is displayed, such temporary medical aircraft may also use the other distinctive signals authorized by the present Chapter."

ARTICLE 6 - LIGHT SIGNAL

(adopted by Committee II at the third session)

ICRC Article 8; Article 7 in document CDDH/49/Rev.1.

CDDH/II/64

United States of America

13 March 1974

Original: English

Amend Article 8 to read:

"Article 8 - Light signals

1. Subject to the provisions of paragraph 3 of the present Article, the light signal, 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 may 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.
3. By special agreement, Parties to the conflict may, in their mutual relations, use the same system for medical vehicles.
4. In the absence of a special agreement under paragraph 3, the use of flashing blue lights by non-medical vehicles or ships and craft is not forbidden."

ARTICLE 7 - RADIO SIGNAL

(adopted by Committee II at the third session)

ICRC Article 9; Article 8 in document CDDH/49/Rev.1.

CDDH/II/63

13 March 1974

Original: English

Spain, United States of America

Amend Article 9 as follows:

1. In paragraphs 1 and 2, substitute "transports" for "means of transport".
2. In paragraph 1, for "call sign MEDICAL" read "call MEDICAL".
3. In paragraph 2(f), add "(IFF/SIF)" following "secondary radar modes and codes".

CDDH/II/69

13 March 1974

Original: English

United States of America

Redraft Article 9, paragraph 3, to read:

"So as to facilitate the communication of information referred to in paragraphs 1 and 2 of the present Article, the High Contracting Parties may designate national frequencies to be used by them and shall publish and notify such frequencies to the International Telecommunication Union."

Draft Protocol I, Annex, Article 7 (concluded)

CDDH/II/330

United States of America

20 April 1976

Original: English

Amend Article 8 (CDDH/49/Rev.1) to read:

"Article 8 - Radio signal

1. The radio signal consists 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 emitted three times. It shall be transmitted 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 of the present Article. The use of the priority signal shall be restricted exclusively to medical units and transport.

2. The radio message preceded by the distinctive priority signal mentioned in paragraph 1 of the present Article 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) itinerary;
- (e) timetable;
- (f) any other information such as flight altitude, radio frequencies, guarded languages, secondary surveillance radar (SSR) 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, 24, 30 and 31 of the present Protocol, the High Contracting Parties, the Parties to a conflict, or one of the Parties to a conflict acting in agreement or separately may designate 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 World Administrative Radio Conference."

ARTICLE 8 - ELECTRONIC IDENTIFICATION
(adopted by Committee II at the third session)

ICRC Article 11; Article 9 in document CDDH/49/Rev.1.

CDDH/II/60
13 March 1974

Spain, United States of America

Original: English

Amend Article 11 as follows:

1. After the title, "Secondary Surveillance Radar System Signal", add "(IFF/SIF)".
2. In paragraph 3, replace the word "impulses" by "pulses" and add the following to the end of the second sentence:
"for the exclusive use of their medical aircraft."
3. In paragraph 4, replace the words "means of transport" by "transports".

(This amendment was withdrawn at a Technical Sub-Committee meeting on 20 March 1974.)

CDDH/II/61
13 March 1974
Original: English

United States of America

In Article 11, paragraph 3, redraft the first sentence to read:

"The exchange of pulses shall be made in MODE A/3 using one of the special purpose codes, reserved for the exclusive use of medical aircraft, which may be assigned under the Code Assignment Plan of the International Civil Aviation Organization."

(This amendment was withdrawn at a Technical Sub-Committee meeting on 20 March 1974.)

Draft Protocol I, Annex, Article 8 (concluded)

CDDH/II/332
20 April 1976
Original: English

United States of America

Amend Article 9 (CDDH/49/Rev.1) as follows:

1. Change the title to read "Secondary surveillance radar identification".
2. In paragraph 1, replace the word "codes" by "a designated mode and code".
3. Amend paragraph 2 to read:

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

CHAPTER IV - COMMUNICATIONS

ARTICLE 9 - RADIO COMMUNICATIONS
(adopted by Committee II at the third session)

This Article replaced ICRC Article 10 and became Article 10 in document CDDH/49/Rev.1.

CDDH/II/62
13 March 1974
Original: English

United States of America

Amend Article 10 as follows:

In paragraph 2, replace the words "means of transport" by "transports."

(This amendment was withdrawn at a Technical Sub-Committee meeting on 20 March 1974.)

CDDH/II/331
20 April 1976
Original: English

United States of America

Amend Article 10 (CDDH/49/Rev.1) as follows:

"Incidental to the procedures referred to in Articles 23, 24, 26 bis, 27, 28, 29 (para. 4), 30, 31 and 32 of the present Protocol appropriate two-way radio communication by medical units and transports may be preceded by the priority signal referred to in Article 8 of the present Annex."

ARTICLE 10 - USE OF INTERNATIONAL CODES
(adopted by Committee II at the third session)
ICRC Article 13; Article 12 in document CDDH/49/Rev.1.

No amendments were submitted to this Article.

ARTICLE 11 - OTHER MEANS OF COMMUNICATION
(adopted by Committee II at the third session)
ICRC Article 12; Article 11 in document CDDH/49/Rev.1.

No amendments were submitted to this Article.

ARTICLE 12 - FLIGHT PLANS

(adopted by Committee II at the third session)

ICRC Article 4; Article 13 in document CDDH/49/Rev.1.

No amendments were submitted to this Article.

NEW ARTICLE 13 - SIGNALS AND PROCEDURES FOR THE
INTERCEPTION OF MEDICAL AIRCRAFT
(adopted by Committee II at the third session)

NOTE. Article proposed in the second draft prepared by the
Technical Sub-Committee on Signs and Signals (CDDH/II/371).

No amendments were submitted to this Article.

CHAPTER V - CIVIL DEFENCE

ARTICLE 14 - IDENTITY CARDS*
(adopted by Committee II at the fourth session)

CDDH/II/328

21 April 1976

Original: English

United States of America

In the model of Identity Cards for Article 14 (CDDH/49/Rev.1), amend the text to read: "Stamp of issuing authority".

CDDH/422

30 May 1977

Original: Russian

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic, Union
of Soviet Socialist Republics

In Article 14 (CDDH/406/Rev.1, Annex):

1. Insert Figure 3: "Model identity card for civil defence personnel".
2. Replace paragraph 2 of Article 14 by the following:

"The identity card for civil defence personnel may follow the model shown in Figure 3 and shall meet the requirements set forth in Article 1 of Annex I."

* Title in Final Act: Article 14 - Identity card.

FRONT

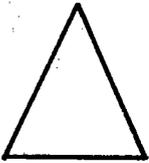
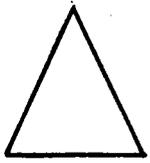
	(space reserved for the name of the country and authority issuing this card)	
<p>IDENTITY CARD for civil defence personnel</p>		
<p>Name</p>		
<p>Date of birth (or age)</p>		
<p>Identity No. (if any).</p>		
<p>The bearer of this card is protected by the Geneva Conventions of August 12, 1949 and the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the protection of victims of international armed conflicts (Protocol I) in his capacity, as</p>		
<p>Date of issue</p>	<p>No. of card</p>	
<p>Signature of issuing authority</p>		
<p>Date of expiry.</p>		

Fig. 3 - Model identity card for civil defence personnel

(Dimensions: 74 x 105 mm)

REVERSE SIDE

Height	Eyes	Hair
Other distinguishing marks or information: Weapons		
PHOTOGRAPH OF BEARER		
Stamp	Signature of bearer or thumbprint or both	

ARTICLE 15 - INTERNATIONAL DISTINCTIVE SIGN OF CIVIL DEFENCE*
(adopted by Committee II at the fourth session)

CDDH/422
30 May 1977

Original: Russian

Byelorussian Soviet Socialist Republic,
Ukrainian Soviet Socialist Republic,
Union of Soviet Socialist Republics,

In Article 15, paragraph 1 (CDDH/406/Rev.1) amend
"Figure 3" to read "Figure 4".

* Title in Final Act: Article 15 - International distinctive sign.

CHAPTER VI - WORKS AND INSTALLATIONS
CONTAINING DANGEROUS FORCES

NEW ARTICLE 16 - INTERNATIONAL SPECIAL SIGN FOR WORKS
AND INSTALLATIONS CONTAINING DANGEROUS FORCES *
(adopted by Committee III at the fourth session
and inserted in the Annex by the Drafting Committee)

NOTE. Article 16 - Procedure of the ICRC text and the first
and second Technical Sub-Committee drafts was transferred to
Protocol I as Article 18 bis - Revision of the Annex (see pages 90
and 379 above).

CDDH/III/378 Proposal by the Working Group
9 May 1977
Original: English

Articles to be inserted in Annex ... to draft
Additional Protocol I.

"Article ... - International special sign for works
and installations containing dangerous forces

1. The international special sign for works and
installations containing dangerous forces, as provided for
in Article 49, paragraph 7 of the present Protocol, shall
be a group of three bright orange circles of equal size,
placed on the same axis, the distance between each circle
being one radius, in accordance with the model in
Figure

2. The sign when displayed over an extended surface
may be repeated as often as it would be appropriate under
the circumstances.

3. On a flag the distance between outer limits of
the sign and adjacent sides of the flag shall be one radius
of a circle. The background of the flag shall be white in
colour and rectangular in form.

* Title in Final Act: Article 16 - International special sign.

Draft Protocol I, Annex, Article 16 (concluded)

CDDH/III/378 (concluded)

4. 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.

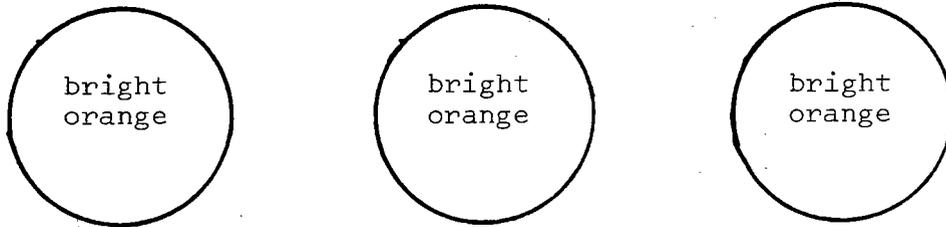


Figure ...: International special sign for works and installations containing dangerous forces.

Article ... - Use

1. The international special 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.

2. The sign shall be as large as appropriate under the circumstances.

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