FOURTH SESSION
OF THE DIPLOMATIC CONFERENCE
ON THE REAFFIRMATION AND DEVELOPMENT
OF INTERNATIONAL HUMANITARIAN LAW
APPLICABLE IN ARMED CONFLICTS (CDDH)

After a number of consultations and preparatory meetings, the Diplomatic Conference on humanitarian law, convoked by the Swiss Federal Council and presided over by Mr. Pierre Graber, Federal Councillor, will soon hold its fourth session in Geneva. Its purpose is, with assistance from ICRC experts, to complete consideration of two draft protocols additional to the Geneva Conventions of 1949; one of these deals with international armed conflicts, the other with non-international armed conflicts. An ad hoc committee will examine proposals for the regulation of the use of certain so-called conventional weapons.

The fourth session will open on 17 March 1977; however, only the drafting Committee will begin its work on that date, the main and ad hoc Committees will resume their sittings on 15 April. The Conference is scheduled to terminate on 10 June. Below we give a summary of what each Committee has achieved and what is still before it. International Review has already published accounts of the first three sessions in 1974, 1975 and 1976.¹

Committee I

Draft Protocol I

Committee I, whose agenda covered the General Provisions and the provisions for the execution of both Protocols, adapted the whole of

¹ May 1974, July 1975 and September 1976.
Part I of Protocol I, entitled General Provisions, including inter alia the scope of the Protocol, the legal status of parties to a conflict, the appointment of Protecting Powers and meetings of the High Contracting Parties. Of Part V, Execution of the Conventions and of the present Protocol, Committee I adopted articles on measures for execution and dissemination, the activities of the Red Cross and other humanitarian organizations, and the repression of breaches and omissions (articles 70 to 76). It also adopted article 69bis referring to protection for journalists.

The main task facing Committee I is to complete the work on Section II of Part V: superior orders, extradition (original draft), mutual assistance in criminal matters, duties of commanding officers, treatment of persons convicted of war crimes, reprisals, commissions of enquiry (new proposals). There will then remain Part VI, Final Provisions.

Draft Protocol II

Of this draft, Committee I adopted Part I entitled Scope of the Present Protocol and defining the field of application and the rights and duties of parties to a conflict. Part II, Humane Treatment of Persons in the Power of the Parties to the Conflict, lays down fundamental guarantees and special protection for women and children. Part VII, Execution of the Present Protocol, contains: measures for execution and dissemination, special agreements and ICRC offers of service (articles 36 to 39).

The agenda of the final session includes the termination of the consideration of a rule in Part II which would forbid any derogation from certain Parts of the Protocol even in retaliation for a breach of the Protocol by the enemy. Another item is the drawing up of Final Provisions (Part VIII).

Committee II

Draft Protocol I

Committee II has completed its examination of Part II dealing with the wounded, the sick and the shipwrecked. It adopted the 29 articles of this Part which is divided into three Sections entitled ( provisionally) General Protection, Information on the Victims of a Conflict and Mortal Remains of the Dead, and Medical Transport. The aim in the first of these Sections is especially to extend to civilian wounded, sick and shipwrecked the protection granted by the Geneva Conventions to military
wounded sick and shipwrecked. The purpose of the second Section is to supplement the treaty articles on the dead and the missing as they have a number of shortcomings, while the third section is to extend the treaty protection afforded military medical facilities and transports to civilian medical transports, and to provide effective regulations covering medical air transport. It appeared necessary to supplement this Part by provisions made possible by modern technology in signalling and identification systems for medical personnel and transports. These provisions are included in a Technical Annex containing fifteen articles, thirteen of which have been adopted by Committee II. The same Committee has also applied itself to the chapter on civil defence, and during the fourth session it must complete not only this important work but also the examination—not yet started—of three articles devoted to relief for the civilian population.

Draft Protocol II

Committee II has examined most of Part III on Wounded, Sick and Shipwrecked Persons; however, it has yet to examine the articles on civil defence, relief to the civilian population, registration and communication of information, and the role of relief societies.

Committee III

Committee III was appointed to develop and supplement matters covered by what is known as the "law of The Hague", namely the distinction between combatants and civilians, methods and means of warfare, and protection of civilians.

Draft Protocol I

Of Part III, Section I, entitled Methods and Means of Combat, this Committee has adopted the fundamental rules and some articles governing the behaviour of combatants. It has also adopted articles contained in Section II concerning the treatment of persons who have taken part in hostilities. Of Part IV, Civilian Populations, a decision has already been reached on the fundamental rule, the field of application, definitions, general protection for civilian population and civilian property, and on the special protection for certain property, the environment and special localities (Section I), and on the reuniting of dispersed families (Section III).
The Committee has still to consider two proposals in Section II of Part III, one for a new category of prisoners of war and the other relating to mercenaries. It has also to examine provisions in Section II of Part IV entitled *Treatment of Persons in the Power of a Party to the Conflict*, namely those relating to the field of application, refugees and stateless persons, and fundamental guarantees for persons who do not have the benefit of more favourable treatment under the Conventions or the Protocol.

*Draft Protocol II*

The Committee has adopted provisions in Part IV repeating *mutatis mutandis*, and much simplified, provisions of draft Protocol I on *Methods and Means of Warfare*. The same applies to Part V entitled *Civilian Population*, which also includes a prohibition of forced movement of civilians.

For the final session all that remains to be completed is Part IV (prohibition of perfidy) and Chapter III of Part V, *Measures in favour of Children*.

*Ad hoc Committee*

Unlike the other Committees, the *ad hoc* Committee on conventional weapons was not required to examine articles of the Protocols drawn up by the ICRC. Nevertheless, a number of proposals were put to it with a view to proscribing or limiting the use of conventional weapons “that may cause unnecessary suffering or have indiscriminate effects”. Additional technical information having proved essential, two conferences of experts were held, one in Lucerne from 24 September to 18 October 1974 and the other in Lugano from 28 January to 26 February 1976.

In spite of productive exchanges of views during the first three sessions, the *ad hoc* Committee reached no agreement and there is an important task awaiting it.

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1 The proceedings of the first of these Conferences were published by the ICRC in 1975 and of the second in 1976.
Drafting Committee

The Drafting Committee will revise the wording of articles and ensure consistency among the various languages and in each of the Protocols themselves. This Committee has set itself the objective of examining all articles so far adopted by the other Committees before the latter meet for the fourth session.

To achieve that objective, a few members of the Drafting Committee met in January to prepare the ground for the Committee's work. The Committee itself will start its work in mid-March almost one month before the resumption of meetings by the other Committees.

Conclusions

The fourth session has before it a heavy, but not impossible, task. The session programme includes, apart from the preliminary work of the Drafting Committee, four weeks of Committee meetings, two weeks essentially devoted to the work of the Drafting Committee and two weeks of plenary meetings. It is hoped that in this way the Conference will conclude the very considerable work that it has undertaken. The early meeting of the Drafting Committee, the discussions which are taking place and will continue to take place among various States or groups of States before the beginning of the session, and the determination which all States have demonstrated to complete the assignment of the Diplomatic Conference during the fourth session, are reasons for optimism and for hope that 1977, in the history of humanitarian law, will be the year of the Protocols and hence, like 1949, an important stage in that history.

D. B.