

REVISION OF ANNEX I TO PROTOCOL I

Regulations concerning Identification

MEMORANDUM

sent by the ICRC, on 7 December 1982, to the High Contracting Parties to the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)

On 7 December 1982 the ICRC addressed the following memorandum, in the form of a verbal note, to the 27 States parties to Protocol I of 8 June 1977 and to the other States parties to the Geneva Conventions. The international organizations concerned and the States which are not parties to the Geneva Conventions have also received a copy of the memorandum.

This memorandum was sent in accordance with the terms of Article 98 of Protocol I, which provides for the revision of Annex I to Protocol I, entitled "Regulations Concerning Identification", no later than four years after its entry into force.

Annex I contains six chapters: I — Identity Cards; II — The Distinctive Emblem; III — Distinctive Signals; IV — Communications; V — Civil Defence; VI — Works and Installations Containing Dangerous Forces. The ICRC memorandum shows, chapter by chapter, the problems involved in bringing the "Regulations Concerning Identification" up to date, made necessary by technological developments and practical experience in recent years.

In view of the relatively limited number of States parties to Protocol I and the work currently under way, the ICRC is not at present proposing a meeting of technical experts to review Annex I; it prefers to postpone this revision to a later date. It would be very useful, however, if the technical experts of the High Contracting Parties, which have been informed about

the problems under consideration, would let the ICRC have their opinions and comments, so that they can be taken into account in the future planned revision of Annex I.

MEMORANDUM OF THE ICRC

1. Introduction

Article 98, paragraph 1 of Protocol I, provides that:

“Not later than four years after the entry into force of this Protocol and thereafter at intervals of not less than four years, the International Committee of the Red Cross shall consult the High Contracting Parties concerning Annex I to this Protocol and, if it considers it necessary, may propose a meeting of technical experts to review Annex I and to propose such amendments to it as may appear to be desirable. Unless, within six months of the communication of a proposal for such a meeting to the High Contracting Parties, one third of them object, the International Committee of the Red Cross shall convene the meeting, inviting also observers of appropriate international organizations. Such a meeting shall also be convened by the International Committee of the Red Cross at any time at the request of one third of the High Contracting Parties.”

To date, 27 States have become parties to Protocol I, which came into force (for Ghana and Libya) four years ago, on 7 December 1978.

The ICRC intends to carry out the mandate entrusted to it and, by the present memorandum, initiates the consultation of the High Contracting Parties to Protocol I, in conformity with the above-mentioned Article 98.

2. General

In addition to the two 1977 Protocols to the Geneva Conventions and the technical Annex mentioned above, the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts (Diplomatic Conference) has adopted several Resolutions, of which three — Resolutions 17, 18 and 19 — invite the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the International Telecom-

munication Union (ITU), respectively, to take the appropriate measures to give effect to certain provisions of Annex I. Since then, these three organizations have come to some conclusions about the matters within their scope, raised by these Resolutions, and have complied with the Resolutions by proposing amendments to or actually amending their own regulations and by specifying new provisions which should be incorporated in an amended version of Annex I.

Since the end of the Diplomatic Conference, experience gained during certain conflicts has shown up gaps in the regulations concerning identification and distinctive signals. It is advisable to analyse the consequences they might have, bearing in mind the advances made in communication technology.

3. Problems raised

The following analysis briefly describes the problems which, in the opinion of the ICRC, merit the attention of the High Contracting Parties. The presentation follows the order of the Articles in Annex I.

1. Chapter II — The distinctive emblem

Articles 3 — Shape and nature

Article 4 — Use

Resolution 18 of the Diplomatic Conference invited the IMO to insert the provisions of Annex I concerning the distinctive emblem into the International Code of Signals. Complying with this request, the IMO has inserted the text of Articles 3 and 4 of Annex I in the Code, as a new Chapter XIV.

Following experience acquired during a recent conflict, the IMO decided to revise this Chapter XIV to specify the means of identification to be used by hospital ships and their medical helicopters. The revision procedure is in progress. Should the IMO accept these new provisions, Annex I would be changed accordingly.

2. Chapter III — Distinctive signals

Article 6 — Light signal

Pursuant to Resolution 17 of the Diplomatic Conference, the ICAO is at present studying the introduction of a flashing blue light and radar identification codes for medical aircraft. Once the ICAO has finished

its work, it would be desirable for the technical specifications adopted by the ICAO to be inserted in Articles 6 and 8 of Annex I.

Diplomatic Conference Resolution 18 invited the IMO to specify the characteristics of the flashing blue light for the identification of hospital ships. Work is under way. As Article 6 of Annex I does not contain precise provisions concerning light signals for medical ships and craft, its paragraph 3 merely authorizing general use, a study should be made on the amendment of this paragraph to bring it into line with the new regulations.

Article 7 — Radio signal

The ITU has complied with Resolution 19 of the Diplomatic Conference by introducing a Section II into Article 40 of the new Radio Regulations. This new section goes further than Article 7 of Annex I, on which it is based. At the 1979 World Administrative Radio Conference, the ITU member States adopted a distinctive priority signal. It would be advisable to consider whether Article 7 of Annex I should not be brought in line with the new Article 40, Section II, of the ITU Radio Regulations.

Article 8 — Electronic identification

a) At the request of Resolution 17 of the Diplomatic Conference, the ICAO is studying the reserving of a secondary radar code for the exclusive use of medical aircraft. Once this work is finished, it might be desirable to amend the first paragraph of Article 8 of Annex I in accordance with the regulations adopted by the ICAO.

The second paragraph of Article 8 of Annex I says that parties to a conflict may conclude an agreement for the establishment of an electronic identification system for medical ships and craft. At present, the ITU is making a general study of the radar identification of ships. Once decisions have been reached by the World Administrative Radio Conference for the Mobile Services, in February/March 1983, consideration should be given to the adaptation of Article 8 of Annex I to include the radar identification of ships.

b) Article 8 of Annex I does not deal with the identification of medical ships and craft by submarines (electro-acoustical identification). Optimum protection of hospital ships on humanitarian grounds demands that this shortcoming be remedied. The question is one of finding a reliable solution and introducing the corresponding provisions into Article 8 of Annex I.

3. Chapter IV — Communications

Recent experience has shown that the regulations applicable to communications between hospital ships and warships (or military aircraft) belonging to the same party to a conflict lack clarity. In fact, Article 34 of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, in the French and Spanish versions, prohibits the sending of any secret code, whereas the English version seems to prohibit both the sending and receiving of secret codes.

This point should be clarified. The question of whether such a clarification could be made by revising Annex I, and in particular its chapter IV, should be examined.

4. Chapter V — Civil defence

Article 66 (5) of Protocol I provides that parties to a conflict “may agree upon the use of distinctive signals for civil defence identification purposes”.

Modern civil defence services may employ vehicles, aircraft, even ships.

In peacetime, some ships use the most modern means of identification and communication. It seems desirable that these same techniques also be used in time of armed conflict.

The question to be examined in this connection is whether general regulations on the use of distinctive signals by civil defence services can be laid down and introduced into Chapter V of Annex I.

4. ICRC proposals

In view of the still relatively few States parties to Protocol I, the ICRC at present is not proposing a meeting of technical experts to review Annex I. The fact that work is under way on a number of important points, within the respective specialized organizations, is in the opinion of the ICRC another reason for deferring the revision of this Annex.

By the present memorandum, the ICRC merely points out to the High Contracting Parties to Protocol I problems which will ultimately have to be considered by their representatives. The ICRC will continue its active involvement with the problems regarding the identification of means of transport, in particular by following the work of the special-

ized international organizations and by keeping abreast of technological progress in this field.

If, however, a third of the High Contracting Parties to Protocol I should ask for the convening of a meeting of technical experts, the ICRC would immediately take all necessary steps to hold such a meeting within a reasonable time, in conformity with the last sentence of Article 98 (1).
