

REPORTS AND DOCUMENTS

Adoption of an Additional Distinctive Emblem

On 12 and 13 September 2005, Switzerland opened informal consultations on the holding of a diplomatic conference necessary for the adoption of a Third Protocol Additional to the Geneva Conventions on the Emblem in which all States party to the Geneva Conventions were invited to take part.

Meeting in Seoul from 16 to 18 November 2005, the Council of Delegates adopted by consensus a resolution in which the Council:

- welcomed the work achieved since the 28th International Conference, in particular by the Government of Switzerland in its capacity as depositary of the Geneva Conventions, resulting in the convening on December 5, 2005 of the diplomatic conference necessary for the adoption of the proposed Third Protocol Additional to the Geneva Conventions on the Emblem;
- urged National Societies to approach their respective governments in order to underline to them the necessity to settle the question of the emblem at the diplomatic conference through the adoption of the proposed draft third additional Protocol;
- requested the Standing Commission, the ICRC and the Federation as a matter of urgency to undertake the measures needed to give effect to the third Protocol after its adoption, especially with a view to ensuring the achievement as soon as possible of the Movement's principle of universality.¹

The Diplomatic Conference was convened by Switzerland and held in Geneva from 5 to 8 December 2005.

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1 Council of Delegates, Seoul, 16–18 November 2005, Resolution 5: “Follow-up to Resolution 5 of the Council of Delegates in 2003, Emblem”, *International Review of the Red Cross*, Vol. 87, No. 860, December 2005, p. 768.

Final Act of the Diplomatic Conference on the adoption of the Third Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an Additional Distinctive Emblem (Protocol III)

1. The Diplomatic Conference convened by the Swiss Federal Council, as the depositary of the Geneva Conventions of 1949 and their Additional Protocols of 1977, with a view to adopting the Third Protocol Additional to the Geneva Conventions, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), was held in Geneva, Switzerland, from 5 to 8 December 2005.
2. The delegations of 144 High Contracting Parties to the Geneva Conventions participated in the Conference. The list of participating High Contracting Parties is enclosed in Annex 1.²
3. The list of observers which were present at the Conference is enclosed in Annexe 2.
4. The International Committee of the Red Cross (ICRC), the International Federation of the Red Cross and Red Crescent Societies (IFRC), and the Standing Commission of the Red Cross and Red Crescent participated in the work of the Conference as experts.
5. The Conference had before it a draft of Protocol III prepared by the ICRC in consultation with the IFRC, following discussions within a Joint Working Group established by the Standing Commission of the Red Cross and Red Crescent pursuant to the mandate assigned to it by Resolution 3 of the 27th International Conference of the Red Cross and Red Crescent and subsequent consultations, and circulated on 12 October 2000 by the depositary.
6. Under agenda item 1, the Secretary General of the Conference, Ambassador Didier Pfirter (Switzerland) opened the Conference on 5 December 2005.
7. Under agenda item 2, Federal Councillor Micheline Calmy-Rey, Head of the Swiss Federal Department of Foreign Affairs, and Mr. Jakob Kellenberger, President of the International Committee of the Red Cross, made opening statements.
8. Under agenda item 3, the Conference then proceeded to the election of Ambassador Blaise Godet, Permanent Representative of Switzerland to the United Nations Office in Geneva, as its President.
9. Under agenda item 4, the Conference adopted its rules of procedure based on the draft rules transmitted on 30 May 2005 by the depositary to the High Contracting Parties of the Geneva Conventions of 1949.
10. Under agenda item 5, the Conference approved the draft agenda presented by the depositary (Annex 3).
11. Under agenda item 6, the Conference elected the representatives of the following High Contracting Parties as Vice-Presidents: Afghanistan, Austria,

² The annexes 1 to 3 of the Final Act are not reproduced in the present issue of the *International Review of the Red Cross*.

- Chile, the People's Republic of China, the Democratic Republic of the Congo, Croatia, Ecuador, Ghana, Honduras, the Republic of Korea, Libya, Mauritania, Mexico, Nepal, Norway, the Russian Federation, Pakistan, Slovakia, Spain, Tanzania, Timor-Leste, Uganda, the United States of America.
12. Under agenda items 7 and 8, the Conference established the following organs in accordance with its rules of procedure:
 - General Committee: The President of the Conference, the Vice-Presidents of the Conference, the Chairpersons of the Drafting Committee and of the Credentials Committee and the Secretary General.
 - Drafting Committee: South Africa (chair), Brazil, Costa Rica, Ethiopia, the Hashemite Kingdom of Jordan, Japan, New Zealand, Nigeria, Pakistan, Romania, Senegal, Slovenia, the Syrian Arab Republic, the United Kingdom, the United States of America.
 - Credentials Committee: Chile (chair), Australia, Canada, the Republic of the Congo, Guatemala, Republic of Korea, Madagascar, the Syrian Arab Republic, Ukraine.
 13. Under agenda item 9, the Conference held a general debate during which statements were made by representatives of 57 High Contracting Parties, some of whom spoke on behalf of groups of States. The Conference also heard statements by observers and by participants invited in an expert capacity.
 14. The Conference heard statements by the ICRC and the IFRC concerning the name of the additional emblem. Although Protocol III referred to the additional emblem as the "third Protocol emblem", the ICRC and the IFRC informed the Conference that the designation "red crystal" had gained currency and would be introduced formally at the next International Conference of the Red Cross and Red Crescent.
 15. The President informed the Conference that, following the Informal Discussions among High Contracting Parties on 12-13 September 2005, Switzerland, as the depositary of the Geneva Conventions, had conducted intensive consultations. These latter led to the signing of a Memorandum of Understanding (MoU) and an Agreement on Operational Arrangements (AoA) between Magen David Adom in Israel (MDA) and the Palestine Red Crescent Society (PRCS) on 28 November 2005 in Geneva, which were concluded in an effort to facilitate the adoption of Protocol III and to pave the way for the admission of both societies to the International Red Cross and Red Crescent Movement at the next International Conference of the Red Cross and the Red Crescent.
 16. The Conference was also informed that Switzerland accepts to monitor the implementation of the MoU and the AoA, in close co-operation with the ICRC and the IFRC and with respect for their mandates, as well as to

report to the next International Conference of the Red Cross and Red Crescent.

17. The President of the Credentials Committee presented its report: The Committee proposed to accept the credentials of 144 delegations, entitling them to take part in the voting. The Conference adopted the Committee's report, thus closing the debate under agenda item 9.
18. In accordance with agenda item 10, the Conference proceeded to the adoption of Protocol III. The delegations of Pakistan and Yemen had previously proposed thirteen amendments, which enjoyed the support of Organization of the Islamic Conference (OIC) countries. At the request of Pakistan, a roll-call vote was held on these amendments to the Protocol III as a whole with the following results:

Votes cast	107
Votes in favour of the amendments	35
Votes against the amendments	72
Abstentions	29
Required 2/3 majority to accept the amendments in accordance with Art. 37 para. 2 of the rules of procedure	72
19. Explanations of vote were made by the delegations of India, Chile, Colombia, the Russian Federation, Brazil and Venezuela.
20. Having failed to gain the necessary two-thirds majority, the amendments, in accordance with Article 37 para. 2 of the rules of procedure, were thus rejected by the Conference.
21. At the request of the Syrian Arab Republic, Protocol III was then put to a roll-call vote with the following results:

Votes cast	125
Votes in favour of the adoption of Protocol III	98
Votes against the adoption of Protocol III	27
Abstentions	10
Required 2/3 majority to accept Protocol III in accordance with Art. 37 para. 1 of the rules of procedure	84
22. Explanations of vote were made by the delegations of the People's Republic of China, the Hashemite Kingdom of Jordan, the Democratic Republic of the Congo, Lebanon, Singapore, the Russian Federation, Kenya, Turkey, the Holy See, Pakistan, the Arab Republic of Egypt and Israel.
23. Having thus obtained the necessary two-thirds majority in accordance with Article 37 para. 1 of the rules of procedure, the Conference adopted on 8 December 2005 the Third Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem whose certified true copies of the English, French and Spanish texts are annexed to this Final Act (Annex 4)³.

³ Only the English version is reproduced hereafter in the present issue of the *International Review of the Red Cross*.

24. Upon the proposal of its President, the Conference mandated the depositary of the Geneva Conventions of 1949 and their Additional Protocols to establish the Final Act of the Conference. The President then closed the Conference on 8 December 2005.
25. Protocol III was opened for signature subject to ratification on the same day, in accordance with its provisions under Article 8. It will remain open for signature subject to ratification at the Swiss Federal Department of Foreign Affairs, Berne, until 7 December 2006, whereupon it will be opened for accession in accordance with its provisions under Article 10.
26. After entry into force, Protocol III shall be transmitted by the depositary to the Secretary General of the United Nations for registration and publication.
27. This Final Act has been established by the depositary of the Geneva Conventions of 1949 and their Additional Protocols in conformity with the mandate given by the Conference on 8 December 2005.
Done at Berne on 31 January 2006 in Arabic, Chinese, English, French, Russian and Spanish, the original and the accompanying documents to be deposited in the archives of the Swiss Confederation.

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)

Preamble

The High Contracting Parties,

Reaffirming the provisions of the Geneva Conventions of 12 August 1949 (in particular Articles 26, 38, 42 and 44 of the First Geneva Convention) and, where applicable, their Additional Protocols of 8 June 1977 (in particular Articles 18 and 38 of Additional Protocol I and Article 12 of Additional Protocol II), concerning the use of distinctive emblems,

Desiring to supplement the aforementioned provisions so as to enhance their protective value and universal character,

Noting that this Protocol is without prejudice to the recognized right of High Contracting Parties to continue to use the emblems they are using in conformity with their obligations under the Geneva Conventions and, where applicable, the Protocols additional thereto,

Recalling that the obligation to respect persons and objects protected by the Geneva Conventions and the Protocols additional thereto derives from their protected status under international law and is not dependent on use of the distinctive emblems, signs or signals,

Stressing that the distinctive emblems are not intended to have any religious, ethnic, racial, regional or political significance,

Emphasizing the importance of ensuring full respect for the obligations relating to the distinctive emblems recognized in the Geneva Conventions, and, where applicable, the Protocols additional thereto,

Recalling that Article 44 of the First Geneva Convention makes the distinction between the protective use and the indicative use of the distinctive emblems,

Recalling further that National Societies undertaking activities on the territory of another State must ensure that the emblems they intend to use within the framework of such activities may be used in the country where the activity takes place and in the country or countries of transit,

Recognizing the difficulties that certain States and National Societies may have with the use of the existing distinctive emblems,

Noting the determination of the International Committee of the Red Cross, the International Federation of Red Cross and Red Crescent Societies and the International Red Cross and Red Crescent Movement to retain their current names and emblems,

Have agreed on the following:

Article 1 – Respect for and scope of application of this Protocol

1. The High Contracting Parties undertake to respect and to ensure respect for this Protocol in all circumstances.
2. This Protocol reaffirms and supplements the provisions of the four Geneva Conventions of 12 August 1949 (“the Geneva Conventions”) and, where applicable, of their two Additional Protocols of 8 June 1977 (“the 1977 Additional Protocols”) relating to the distinctive emblems, namely the red cross, the red crescent and the red lion and sun, and shall apply in the same situations as those referred to in these provisions.

Article 2 – Distinctive emblems

1. This Protocol recognizes an additional distinctive emblem in addition to, and for the same purposes as, the distinctive emblems of the Geneva Conventions. The distinctive emblems shall enjoy equal status.
2. This additional distinctive emblem, composed of a red frame in the shape of a square on edge on a white ground, shall conform to the illustration in the Annex to this Protocol. This distinctive emblem is referred to in this Protocol as the “third Protocol emblem”.
3. The conditions for use of and respect for the third Protocol emblem are identical to those for the distinctive emblems established by the Geneva Conventions and, where applicable, the 1977 Additional Protocols.
4. The medical services and religious personnel of armed forces of High Contracting Parties may, without prejudice to their current emblems, make temporary use of any distinctive emblem referred to in paragraph 1 of this Article where this may enhance protection.

Article 3 – Indicative use of the third Protocol emblem

1. National Societies of those High Contracting Parties which decide to use the third Protocol emblem may, in using the emblem in conformity with relevant national legislation, choose to incorporate within it, for indicative purposes:
 - a) a distinctive emblem recognized by the Geneva Conventions or a combination of these emblems; or
 - b) another emblem which has been in effective use by a High Contracting Party and was the subject of a communication to the other High Contracting Parties and the International Committee of the Red Cross through the depositary prior to the adoption of this Protocol.Incorporation shall conform to the illustration in the Annex to this Protocol.
2. A National Society which chooses to incorporate within the third Protocol emblem another emblem in accordance with paragraph 1 above, may, in conformity with national legislation, use the designation of that emblem and display it within its national territory.
3. National Societies may, in accordance with national legislation and in exceptional circumstances and to facilitate their work, make temporary use of the distinctive emblem referred to in Article 2 of this Protocol.
4. This Article does not affect the legal status of the distinctive emblems recognized in the Geneva Conventions and in this Protocol, nor does it affect the legal status of any particular emblem when incorporated for indicative purposes in accordance with paragraph 1 of this Article.

Article 4 – International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies

The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and their duly authorized personnel, may use, in exceptional circumstances and to facilitate their work, the distinctive emblem referred to in Article 2 of this Protocol.

Article 5 – Missions under United Nations auspices

The medical services and religious personnel participating in operations under the auspices of the United Nations may, with the agreement of participating States, use one of the distinctive emblems mentioned in Articles 1 and 2.

Article 6 – Prevention and repression of misuse

1. The provisions of the Geneva Conventions and, where applicable, the 1977 Additional Protocols, governing prevention and repression of misuse of the distinctive emblems shall apply equally to the third Protocol emblem. In particular, the High Contracting Parties shall take measures necessary for the prevention and repression, at all times, of any misuse of the distinctive emblems

mentioned in Articles 1 and 2 and their designations, including the perfidious use and the use of any sign or designation constituting an imitation thereof.

2. Notwithstanding paragraph 1 above, High Contracting Parties may permit prior users of the third Protocol emblem, or of any sign constituting an imitation thereof, to continue 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 Geneva Conventions and, where applicable, the 1977 Additional Protocols, and provided that the rights to such use were acquired before the adoption of this Protocol.

Article 7 – Dissemination

The High Contracting Parties undertake, in time of peace as in time of armed conflict, to disseminate this Protocol as widely as possible in their respective countries and, in particular, to include the study thereof in their programmes of military instruction and to encourage the study thereof by the civilian population, so that this instrument may become known to the armed forces and to the civilian population.

Article 8 – Signature

This Protocol shall be open for signature by the Parties to the Geneva Conventions on the day of its adoption and will remain open for a period of twelve months.

Article 9 – Ratification

This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Geneva Conventions and the 1977 Additional Protocols.

Article 10 – Accession

This Protocol shall be open for accession by any Party to the Geneva Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Article 11 – Entry into force

1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.
2. For each Party to the Geneva Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

Article 12 – Treaty relations upon entry into force of this Protocol

1. When the Parties to the Geneva Conventions are also Parties to this Protocol, the Conventions shall apply as supplemented by this Protocol.

2. When one of the Parties to the conflict is not bound by this Protocol, the Parties to the Protocol shall remain bound by it in their mutual relations. They shall furthermore be bound by this Protocol in relation to each of the Parties which are not bound by it, if the latter accepts and applies the provisions thereof.

Article 13 – Amendment

1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary, which shall decide, after consultation with all the High Contracting Parties, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, whether a conference should be convened to consider the proposed amendment.
2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol.

Article 14 – Denunciation

1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect one year after receipt of the instrument of denunciation. If, however, on the expiry of that year the denouncing Party is engaged in a situation of armed conflict or occupation, the denunciation shall not take effect before the end of the armed conflict or occupation.
2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.
3. The denunciation shall have effect only in respect of the denouncing Party.
4. Any denunciation under paragraph 1 shall not affect the obligations already incurred, by reason of the armed conflict or occupation, under this Protocol by such denouncing Party in respect of any act committed before this denunciation becomes effective.

Article 15 – Notifications

The depositary shall inform the High Contracting Parties as well as the Parties to the Geneva Conventions, whether or not they are signatories of this Protocol, of:

- a) signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 8, 9 and 10;
- b) the date of entry into force of this Protocol under Article 11 within ten days of said entry into force;
- c) communications received under Article 13;
- d) denunciations under Article 14.

Article 16 – Registration

1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to this Protocol.

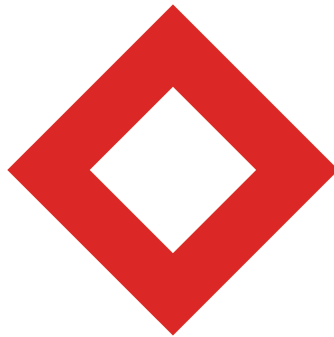
Article 17 – Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Geneva Conventions.

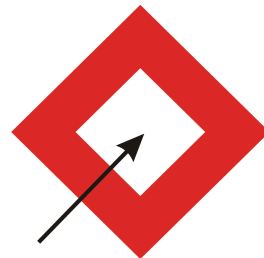
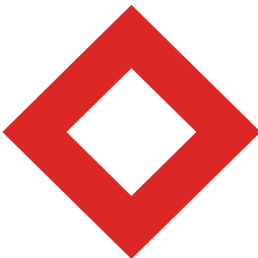
Annex Third Protocol Emblem

(Article 2, paragraph 2 and Article 3, paragraph 1 of the Protocol)

Article 1 – Distinctive emblem



Article 2 – Indicative use of the third Protocol emblem



Incorporation in
accordance with Art. 3