

*François Bugnion*

**RED CROSS, RED CRESCENT  
RED CRYSTAL**



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# RED CROSS, RED CRESCENT RED CRYSTAL

*François Bugnion\**

## Introduction

In successive conflicts and over the years, millions of victims of war or natural calamities – the wounded, the shipwrecked, prisoners, refugees and disaster-stricken populations – have seen the red cross and red crescent emblems as symbols of protection against the violence of warfare or the arbitrary behaviour of the enemy, the promise of a helping hand in the midst of general distress and hope for renewed solidarity.

Yet since their adoption these symbols, which serve both as protective emblems for military and civilian medical services in wartime and as distinctive signs for the National Red Cross and Red Crescent Societies, have been a source of recurrent difficulties and the subject of almost continual discussion. The latter has generally been guided by a true spirit of tolerance and by the determination to find solutions, but has also been fraught with legitimate frustrations and occasionally dominated by emotional reactions and incomprehension.

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Several years ago, the International Red Cross and Red Crescent Movement initiated fresh consultations on the matter of the emblems with a view to finding a comprehensive solution to a dilemma that had remained unsolved for far too long.

The purpose of this article is to analyse the legal situation established by the Geneva Conventions and the Statutes of the International Red Cross and Red Crescent Movement and to present the strategy that the Movement followed, with the support of the States party to the Geneva Conventions, in order to reach a comprehensive and lasting solution to the question of the emblem. This strategy led to the adoption of the Third Protocol additional to the Geneva Conventions on 8 December 2005 and to the revision of the Statutes of the International Red Cross and Red Crescent Movement, which were adopted by the 29th International Conference of the Red Cross and Red Crescent (Geneva, 20–22 June 2006). But before outlining the strategy and the main steps taken to implement it, a reminder is in order of the circumstances in which the red cross and red crescent emblems were adopted and of the parameters of the problem confronting the Movement and the States. Indeed, it is impossible to understand the issue of the emblem without taking due account of the weight of history.<sup>1</sup>

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1 In the following pages, “red cross” is printed in lower case when it refers to the emblem and with upper case initial letters when it refers to the organization, as recommended in *The Geneva Conventions of 12 August 1949: Commentary*, published under the general editorship of Jean S. Pictet, Vol. I, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, Geneva, ICRC, 1952, p. 297. The same rule has been applied to the terms “red crescent”, “red lion and sun” and “red shield of David”. In quotes, however, the spelling has been left intact.



## I. Historical background

### 1. The Geneva Conferences of 1863 and 1864

The founding of the Red Cross and the adoption of the original Geneva Convention of 22 August 1864 cannot be attributed only to the social conscience and philanthropy which were flourishing during the second half of the nineteenth century. They were also the indirect consequence of rapid developments in firearms technology. In a single decade there were more advances in the construction of weapons than during the previous three centuries.<sup>2</sup>

The result was a sharp rise in the number of men killed or wounded on the battlefield and an increase in the gravity of wounds. These effects were seen during the Crimean War (1854-1856), the Italian War, notably at the battles of Magenta and Solferino (1859), and soon afterwards during the American Civil War (1861-1864).

However, the mounting number of dead and wounded was not the only consequence of the greater firepower of the artillery and infantry; it also prevented the collection of casualties during the fighting. Inspector Lucien Baudens, a doctor who witnessed the interminable siege of Sebastopol, noted on several occasions that doctors and stretcher-bearers trying to come to the aid of the wounded were caught in fire from one belligerent or the other. He was doubtless the first to propose a simple and practical means of avoiding such incidents, recommending, in an article published in the *Revue des Deux Mondes* in February 1857, the adoption of a single distinctive sign for the medical personnel of all countries:

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2 Central percussion considerably increased the rate of fire, while rifled barrels accelerated the initial velocity of projectiles fourfold, thus extending the range of weapons and increasing the violence of impact. Furthermore, pointed cylindrical bullets, which shatter bones, caused much more serious wounds than the spherical bullets used hitherto; and cylindrical shells carried far heavier and more deadly explosive charges than the cannonballs of the past. Jean Guillermand, "La vision de la guerre de Crimée du médecin inspecteur Lucien Baudens", in: Roger Durand, Jacques Meurant, eds, *Préludes et pionniers, les précurseurs de la Croix-Rouge*, Henry Dunant Society, Geneva, 1991, pp. 159-176, at p. 159.

*“Advancing along the [Chernaia] valley, to the left we saw Mackenzie’s ramps, which were veritable walls, vertical and impassable. In the centre a depression seemed to offer a possibility for an attack, but it was protected to the rear by three layers of earthen embankments. These escarpments were bristling with Russian cannon, and that was the source of the thunder of the batteries (...) which had sadly distinguished themselves after the battle of Traktir by firing on the doctors and nurses who were tending and evacuating Russian casualties. The same thing had happened after the battle of Inkerman. The Russian government strongly condemned these barbaric acts (...). Such mistakes would not be possible if, by common accord among nations, doctors and nursing staff wore a distinctive sign – the same for all armies and all countries – that made them easily recognizable by the two sides.”<sup>3</sup>*

Unfortunately, this proposal was not taken up and Dr Baudens died shortly afterwards from the effects of diseases he had contracted in the Crimea. His noble idea, having lost its main proponent, soon sank into oblivion.<sup>4</sup>

Henry Dunant, a “*mere tourist*”, had no knowledge of the art of warfare or of war surgery when chance took him to the outskirts of Solferino on the evening of the deadly battle of 24 June 1859, but he did not fail to record the effects of the new firearms that had been used by both sides.<sup>5</sup> The terrible spectacle of so many wounded soldiers abandoned to their fate prompted him to propose two measures that were to transform the assistance afforded to war victims:

- the creation of aid societies for the relief of wounded soldiers, which would be funded by private charities; and

3 “Une mission médicale à l’Armée d’Orient”, *Revue des Deux Mondes*, XXVIIth year, February 1857, pp. 876-908, at pp. 881-882; Guillermand, *op. cit.*, p. 170.

4 Guillermand, *op. cit.*, p. 173.

5 “I was a mere tourist with no part whatever in this great conflict; but it was my rare privilege, through an unusual train of circumstances, to witness the moving scenes that I have resolved to describe.” Henry Dunant, *A Memory of Solferino*, ICRC, Geneva, 1986, p.16 (Original French edition, 1862).

- the adoption of a convention to protect the wounded on the battlefield and all those who came to their aid.<sup>6</sup>

The first of these proposals was at the origin of the National Red Cross and Red Crescent Societies that now exist in 186 countries, and the second at the origin of the Geneva Conventions now binding on 194 States.

Were Dunant and the other founders of the Red Cross aware of Dr Baudens' article, published a few years previously? The possibility cannot be ruled out, but there is no indication of it to our knowledge.

Be that as it may, at its very first meeting, on 17 February 1863, the International Committee for Aid to Wounded Soldiers – the future International Committee of the Red Cross – set as one of its principal objectives the adoption of a single distinctive sign to indicate both the army medical services and volunteers of aid societies for the relief of wounded soldiers that Dunant had called for:

*“Finally, a badge, uniform or armband might usefully be adopted, so that the bearers of such distinctive and universally adopted insignia would be given due recognition.”<sup>7</sup>*

The idea of a single symbol, adopted by all countries, was taken up in Article 9 of the draft covenant prepared by the International Committee for the October 1863 Conference which gave birth to the Red Cross:

6 *Ibid.*, pp. 115-117; p. 126.

7 Jean S. Pictet, ed., “Unpublished documents relative to the founding of the Red Cross, Minutes of the Committee of Five”, *Revue internationale de la Croix-Rouge*, English supplement, Vol. II, No. 3, March 1949, p. 127; *Procès-verbaux des séances du Comité international de la Croix-Rouge, 17 février 1863 – 28 août 1914*, ed. Jean-François Pitteloud, with Caroline Barnes and Françoise Dubosson, Geneva, ICRC and Henry Dunant Society, 1999, p. 18. As we know, the 1863 Conference did not decide to adopt a uniform for voluntary nurses. The deliberations of the 1863 and 1864 Conferences centred on the adoption of a distinctive sign, armband and flag, identical in all countries, to identify voluntary nurses, the members of the armed forces medical corps, ambulances and medical facilities.

*“Voluntary nurses in all countries shall wear a distinctive and identical uniform or sign. They shall be inviolable and military commanders shall give them protection.”*<sup>8</sup>

Thus from the very start the protective function of the emblem was closely linked to its universality.

During the discussions at the 1863 Conference, Dr Appia, a member of the Committee, reminded those present of the suggestion that a single distinctive sign be adopted and proposed a white armlet:

*“Dr Appia stressed the importance of a distinctive international sign and proposed adding to the first paragraph the sentence: ‘The Conference proposes a white armlet on the left arm’. He went on to say that the Conference should not disregard the effect of a symbol the mere sight of which, like the flag for a soldier, could stimulate the esprit de corps which would attend this most generous idea, this undertaking common to all civilized mankind.”*<sup>9</sup>

The minutes do not say why the Conference decided to add a red cross to the white armlet proposed by Dr Appia, but merely state:

*“... following discussion, Mr Appia’s proposal was adopted after being amended to the effect that the white armlet would bear a red cross.”*<sup>10</sup>

This led to the adoption by the Conference of Resolution 8, which lays down the principle of the unity of the distinctive sign to be worn by volunteer nurses:

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8 *Compte rendu de la Conférence internationale réunie à Genève les 26, 27, 28 et 29 octobre 1863 pour étudier les moyens de pourvoir à l’insuffisance du service sanitaire dans les armées en campagne (Report on the International Conference held in Geneva on 26, 27, 28 and 29 October 1863 to examine ways of remedying shortcomings in the medical services of armies in the field)*, Imprimerie Fick, Geneva, 1863 (hereinafter “Compte rendu 1863”), p. 16.

9 *Ibid.*, p. 118.

10 *Ibid.*, p. 119.

*“They shall wear in all countries, as a uniform distinctive sign, a white armband with a red cross.”<sup>11</sup>*

At the same Conference Dr Brière, the Swiss delegate, proposed the adoption of a single flag for the protection of military medical services. Acting on this proposal, the Conference expressed the wish that an identical distinctive sign be attributed to the medical personnel of all armies. Not being empowered to take the decision, it recommended:

*“that a uniform distinctive sign be recognized for the Medical Corps of all armies, or at least for all persons of the same army belonging to this Service; and that a uniform flag also be adopted in all countries for ambulances and hospitals.”<sup>12</sup>*

In order to convert the wishes of the 1863 Conference into an instrument of international law, the Swiss government convened a Diplomatic Conference which met in Geneva in August 1864. The draft convention, drawn up by the ICRC, that served as the basis for the discussions at the Diplomatic Conference also provided for the adoption of a uniform distinctive sign.<sup>13</sup> The proposal was accepted and enshrined in Article 7 of the Geneva Convention of 22 August 1864:

*“A distinctive and uniform flag shall be adopted for hospitals, ambulances and evacuation parties. It should in all circumstances be accompanied by the national flag.*

11 *Ibid.*, p. 148; *Handbook of the International Red Cross and Red Crescent Movement*, International Committee of the Red Cross and International Federation of Red Cross and Red Crescent Societies, 13th ed., Geneva, 1994 (hereinafter “*Handbook*”), p. 614; Dietrich Schindler, Jiri Toman, eds, *The Laws of Armed Conflicts: A Collection of Conventions, Resolutions and other Documents*, Martinus Nijhoff Publishers, Dordrecht/Henry Dunant Institute, Geneva, 1988 (hereinafter “*The Laws of Armed Conflicts*”), p. 276.

12 *Compte rendu 1863*, p. 149; *Handbook, op. cit.*, p. 615; *The Laws of Armed Conflicts*, p. 277.

13 *Compte rendu de la Conférence internationale pour la Neutralisation du Service de Santé militaire en Campagne (Report on the International Conference for the Neutralization of Army Medical Services in the Field)*, Geneva, 8-22 August 1864, handwritten copy in the ICRC library (hereinafter *Compte rendu 1864*), Annex A, Art. 9. This report is also reproduced in G. F. de Martens, ed., *Nouveau Recueil général de Traités*, Vol. XX, pp. 375-399.

*An armlet may also be worn by personnel enjoying neutrality but its issue shall be left to the military authorities. Both flag and armlet shall bear a red cross on a white ground.*<sup>14</sup>

Thus from the outset the adoption of a uniform distinctive sign emerged as one of the prerequisites for the inviolability of medical services, ambulances and voluntary nurses.

For reasons which it was not considered necessary to record in the minutes of the October 1863 Conference, the emblem chosen was the red cross on a white ground. Contemporary Conference documents – at least those available to us – shed no light on the reasons for the choice. We are therefore reduced to conjecture.

Since the dawn of time, the white flag had been recognized as a sign of the wish to negotiate or of surrender; firing on anyone displaying it in good faith was forbidden. With the addition of a red cross, the flag's message was taken a stage further, demanding respect for the wounded and for anyone coming to their aid. Furthermore, the resulting sign had the advantage of being easy to make and recognizable at a distance because of its contrasting colours.<sup>15</sup>

As the emblem was intended as the visible expression of the neutral status enjoyed by the army medical services and the protection thus conferred on them, the sign adopted was formed by reversing the Swiss federal colours. Switzerland's permanent neutral status had been firmly established in practice over several centuries and had been confirmed by the Treaties of Vienna and Paris of 1815 that put an end to the Napoleonic wars.

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14 *Compte rendu 1864*, Annex B, Art. 7; *Handbook*, *op. cit.*, insert between pages 20 and 21; *The Laws of Armed Conflicts*, p. 281.

15 The sign of the cross has been seen in different civilizations from time immemorial. It is generally considered to be a symbol of the human being and his place in the world, the horizontal bar symbolizing arms extended towards the cardinal points (relationship to the world) and the vertical axis symbolizing the relationship with the divinity. The early Christians adopted a symbol which long predated Christianity and identified it with the instrument of Christ's passion. However, the cross as an instrument of torture was usually in the shape of a T; extending the vertical axis above the horizontal axis played no part in the killing of the victim.

There is nothing in the preparatory documents to suggest that the October 1863 Conference had the slightest intention of conferring any religious significance whatsoever on the distinctive sign for volunteer nurses and military medical services, nor that it was at all aware that any religious significance could be attached to the emblem, since the aim of the founders of the Red Cross was precisely to set up an institution which would transcend national borders and religious differences.

However, nineteenth-century Europe saw itself as the centre of the world, and those who devised the emblem had no idea that the red cross might meet with opposition when the institution extended beyond the bounds of the old continent. In fact, problems were just around the corner.

## 2. The Russo-Turkish War (1876-1878)

During the Russo-Turkish War of 1876-1878, the Ottoman Empire, although it had acceded on 5 July 1865 to the Geneva Convention of 22 August 1864 without any reservation, declared unilaterally by a note dated 16 November 1876 that it would thenceforth use the red crescent on a white ground to mark its own ambulances, while respecting the red cross sign protecting the ambulances of enemy armies. The Sublime Porte stated that the distinctive sign of the Convention “*has so far prevented Turkey from exercising its rights under the Convention, because it gave offence to Muslim soldiers.*”<sup>16</sup>

This unilateral declaration generated a lengthy exchange of correspondence between the Ottoman Empire, Switzerland, acting in its capacity as the depositary of the Convention, and the other States Parties. Ultimately, the red crescent sign was accepted only temporarily, for the duration of the conflict under way.<sup>17</sup>

16 Dispatch from the Sublime Porte to the Federal Council, 16 November 1876, *Bulletin international des Sociétés de Secours aux Militaires blessés*, No. 29, January 1877, p. 36.

17 Dispatch from the Federal Council to the Sublime Porte, 2 June 1877, *ibid.*, No. 31, July 1877, pp. 90-91.

At the same time the Ottoman Society for Relief to the Wounded, whose creation the ICRC had announced on 8 August 1868 and which, according to documents stored in the ICRC's archives, was using the red cross,<sup>18</sup> was revived in Constantinople and adopted the red crescent emblem. Informing the other Societies of the reconstitution of the Ottoman Society, the ICRC stressed that the substitution of the red crescent sign for that of the red cross would place that Society “*in an irregular position so far as its relations with the other Societies for relief to the wounded are concerned.*”<sup>19</sup>

### **3. The Peace Conferences (The Hague, 1899 and 1907) and the Geneva Revision Conference of 1906**

During the 1899 and 1907 Hague Peace Conferences and the 1906 Geneva Revision Conference, the delegations of the Ottoman Empire, Persia and Siam requested recognition of particular signs for identification of their ambulances and hospital ships: the red crescent for the Ottoman Empire, the red lion and sun for Persia, and the red flame for Siam.

In order to emphasize that the protective emblem had no religious significance, the 1906 Conference adopted new wording drawing attention to the fact that it had been devised by reversing the Swiss federal colours:

*“Out of respect to Switzerland the heraldic emblem of the red cross on a white ground, formed by the reversal of the Federal colours, is continued as the emblem and distinctive sign of the sanitary service of armies.”*<sup>20</sup>

18 Letters from Dr Dicran Péchedimaldji, member of the Board of the Ottoman Red Crescent Society, to Gustave Moynier, president of the ICRC, 17 August and 12 November 1876, ICRC Archives, *Ancien fonds*, correspondence received.

19 Circular of 30 April 1877, *Bulletin international des Sociétés de Secours aux Militaires blessés*, No. 30, April 1877, p. 39.

20 Geneva Convention of 6 July 1906, Art. 18, *Actes de la Conférence de Révision réunie à Genève du 11 juin au 6 juillet 1906*, Imprimerie Henri Jarrys, Geneva, 1906, p. 286; *The Laws of Armed Conflicts*, p. 306.



However, the 1899 and 1907 Hague Conferences and the 1906 Geneva Conference authorized States that so wished to file reservations on the articles pertaining to the protective emblem. The Ottoman Empire and Persia availed themselves of this possibility and formulated reservations relating to the red crescent and the red lion and sun, while Siam eventually refrained from making any reservation.<sup>21</sup>

By authorizing the Ottoman Empire, Persia and Siam to lodge reservations in respect of the use of specific emblems, the Hague Conferences and the Geneva Revision Conference of 1906 *de facto* accepted – without admitting it to themselves – a break in the unity of the protective emblem.

#### 4. The Diplomatic Conference of 1929

The Geneva Convention was again revised in 1929 in order to take the lessons of the First World War into account. On that occasion the Turkish, Persian and Egyptian delegates insisted that the emblems of the red crescent and the red lion and sun be recognized, emphasizing that those emblems had been used in practice without giving rise to any objection. They claimed that such use had become a *fait accompli*.<sup>22</sup> After lengthy debate the Conference decided to grant their request but, to avoid any proliferation of protective emblems, limited the derogation to the three countries that had asked for recognition of the emblems actually in use by their armed forces medical services.

21 *The Proceedings of the Hague Peace Conferences: The Conference of 1899*, Translation of the official texts, prepared in the Division of International Law of the Carnegie Endowment for International Peace under the supervision of James Brown Scott, Oxford University Press, New York, London, Toronto, Melbourne and Bombay, 1920, pp. 247-250, 453-454, 461-462 and 388; *Actes de la Conférence de Révision réunie à Genève du 11 juin au 6 juillet 1906*, pp. 160-163, 175, 260, 271, 286 and 292; *The Proceedings of the Hague Peace Conferences: The Conference of 1907*, Translation of the official texts, prepared in the Division of International Law of the Carnegie Endowment for International Peace under the supervision of James Brown Scott, Oxford University Press, New York, London, Toronto, Melbourne and Bombay, 1920, 3 vols, Vol. I, Plenary sessions, pp. 62-65, 651 and 702; Vol. III, Second, Third and Fourth Committees, pp. 292, 296-299 and 560-564.

22 *Actes de la Conférence diplomatique de Genève de 1929*, Imprimerie du Journal de Genève, Geneva, 1930, pp. 248-249.

The result was Article 19 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field of 27 July 1929:

*“As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the medical service of armed forces.*

*Nevertheless, in the case of countries which already use, in place of the red cross, the red crescent or the red lion and sun on a white ground as a distinctive sign, these emblems are also recognized by the terms of the present Convention.”<sup>23</sup>*

Having adopted this formula, the 1929 Conference felt that it had met the expectations of the three States wishing to use their own particular signs, while upholding the rule of unity for all other countries. That at least is what the wording of Article 19 seems to indicate. When one reads the reports on the proceedings of the 1929 Conference, however, one wonders whether the main intention was not to avoid a proliferation of signs rather than to prevent other countries from choosing the red crescent if they so wished. That is also the conclusion that emerges from a note that the Secretary-General of the Conference, Paul des Gouttes, inserted in the *Commentary* on the 1929 Convention published by the ICRC in 1930.<sup>24</sup>

In any event, the solution adopted by the 1929 Conference was flawed. It acceded to the requests of Turkey, Persia and Egypt while proclaiming at the same time that no similar requests would be accepted in the future.

The only justification for that solution would lie in the hypothesis that the circumstances which had prompted Turkey, Persia and Egypt to request recognition of new emblems would not arise again. This was a rather flimsy

<sup>23</sup> *Ibid.*, p. 666; *The Laws of Armed Conflicts*, p. 330.

<sup>24</sup> “But we recognize that if Hejaz and Yemen, for instance, wanted to accede to the Geneva Convention on condition that they could use the crescent, in logical terms we would find it difficult to refuse.” Paul des Gouttes, *La Convention de Genève du 27 juillet 1929, Commentaire*, ICRC, Geneva, 1930, p. 149.

hypothesis that history was soon to refute. Indeed, in 1931 the ICRC was informed of the establishment in Palestine of a relief society that was using the red shield of David as its emblem,<sup>25</sup> and in 1935 the Afghan government requested recognition of the Red Archway Society (*Mehrab-e-Ahmar*).<sup>26</sup> In both cases, the ICRC immediately alerted the new Societies' backers to the fact that the choice of an emblem other than those expressly mentioned in the 1929 Convention would hinder their recognition and admission to the Movement.<sup>27</sup>

## 5. The Diplomatic Conference of 1949

The Diplomatic Conference convened in 1949 to revise the Geneva Conventions in the aftermath of the Second World War had three proposals before it:

- a) a proposal by the Netherlands for the adoption of a new single sign;
- b) the recommendation of the 17th International Conference of the Red Cross, meeting in Stockholm in 1948, to revert to the unity of the red cross sign;
- c) an Israeli proposal for the recognition of a new emblem, the red shield of David, which was used as the distinctive sign of the Israeli armed forces medical services.

25 The emblem used by the Israeli relief society – the Red Shield of David or Magen David Adom – is a six-point star or hexagram made up of two superimposed triangles, one pointing up, the other down.

26 The emblem proposed was a red mosque on a white ground. The Afghan envoy to London, who had been asked by his government to make the requisite representations to the ICRC for recognition of the Afghan relief society, translated the Society's name as "Red Archway Society". The word "*mehrab*", borrowed from the Arabic, indicates an apse-shaped niche in the wall of a mosque; this niche, in front of which the imam prays, indicates the "*qibla*", or the direction of Mecca, which is also the direction in which all Muslims pray.

27 Letter from Dr M. Levontin, president of the Magen David Adom, to the ICRC, 20 July 1931, and letter from the ICRC to Dr Levontin, 28 July 1931, ICRC Archives, file CR 195. Letter from Ali Mohammad, Afghan envoy to London, to the ICRC, 27 December 1935; letter from Professor Max Huber, president of the ICRC, to Ali Mohammed, 20 January 1936; letter from Ali Mohammad to Max Huber, 21 February 1936; letter from Max Huber to Ali Mohammad, 16 April 1936; letter from Ali Mohammad to Max Huber, 23 July 1936, ICRC Archives, file B CR00/2, Afghanistan.

These proposals gave rise to lengthy discussions. The first two were abandoned after some debate, whereas the third gave rise to heated exchanges. The Israeli delegate, Mr Najjar, gave a long explanation of the historical, cultural and symbolic significance of the red shield of David. He pointed out that this sign had been used for almost 20 years by the Israeli relief society, the Magen David Adom (Red Shield of David), and had been used as the distinctive sign of the Israeli armed forces medical services during the recent Palestine conflict. When it came to a vote, however, Committee I of the Conference rejected the Israeli delegation's draft amendment by 21 votes to 10, with 8 abstentions, 19 delegations being absent.<sup>28</sup> The issue was then referred to the plenary meeting. ICRC President Paul Ruegger asked to take the floor and issued an eloquent plea, warning the Conference of the danger of a proliferation of protective emblems, while Mr Najjar reiterated and expanded upon the arguments he had previously expounded before Committee I. The Israeli proposal was eventually rejected by a single vote (22 votes to 21, with 7 abstentions), and later by 24 votes to 18 with 3 abstentions following a further debate in plenary.<sup>29</sup>

The outcome was Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, which repeats almost word for word Article 19 of the 1929 Convention:

*“As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.*

*Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.”<sup>30</sup>*

28 *Final Record of the Diplomatic Conference of Geneva of 1949*, Federal Political Department, Bern, 1949, 4 vols (hereinafter “*Final Record 1949*”), Vol. II-A, pp. 89-92 and 187.

29 *Final Record 1949*, Vol. II-B, pp. 223-232 and 255-262.

30 *Final Record 1949*, Vol. I, p. 213; *Handbook, op. cit.*, p. 37; *The Laws of Armed Conflicts*, p. 388.

It has often been considered that all the discussions on the emblem at the 1949 Conference centred on the examination and rejection of the Israeli draft amendment, but this does not put the matter in proper perspective. Indeed, although the Israeli proposal certainly gave rise to the most heated debate, it was by no means the only issue at stake. Other proposals are also worthy of note, especially those advocating a return to the unity of the protective emblem, whether by reverting to the single red cross sign or by adopting an entirely new sign devoid of any national or religious connotation. The Conference set aside the most innovative proposal – adoption of a new sign in place of the existing emblems. This idea was rejected by the Western States in the name of tradition and by certain Muslim States for religious reasons. Conversely, the Conference also turned down a Burmese suggestion that each State and each National Society be free to adopt the emblem of its choice, feeling that this would lead to an unacceptable degree of confusion. Thus the Conference rejected the two solutions which were perfectly equitable in that they would have imposed an identical rule on all States and all National Societies. In the circumstances, the 1949 Diplomatic Conference could only resort to the compromise it had inherited from the 1929 Conference: tolerating certain exceptions to the rule governing the unity of the emblem while attempting to limit their number. In rejecting the Israeli amendment, the Conference maintained the two exceptions that had been accepted in 1929 while refusing to allow any others.

The number of votes against the Israeli draft amendment far exceeded the number of States in conflict with Israel. It therefore seemed that the determining factor was fear of opening the way to a constant increase in the number of protective emblems, at a time when cracks were appearing in the colonial empires and a large number of countries were on the brink of achieving independence.

## **6. The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (Geneva, 1974-1977)**

During the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law, Israel again attempted to gain international recognition for the sign of the red shield of David, proposing an amendment in the following words:

*“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.”*<sup>31</sup>

However, seeing that there was no prospect of obtaining the necessary majority vote, the Israeli delegation preferred to withdraw the amendment rather than risk a negative vote which would have amounted to rejection of its emblem on the international level.<sup>32</sup>

## **7. The red lion and sun**

Persia claimed the right to use the emblem of the red lion and sun at the 1899 Hague Conference and secured recognition by means of the reservation mechanism. This emblem was expressly mentioned in the 1929 Convention, then in the 1949 Conventions, together with the red cross and the red crescent.

However, by a note dated 4 September 1980, the Islamic Republic of Iran declared that it was waiving its right to use of the red lion and sun and would

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31 *Official Records of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts*, Geneva, 1974-1977, Federal Political Department, Bern, 1978, 17 vols, Vol. III, p. 14.

32 *Ibid.*, Vol. IX, pp. 462-467.

thenceforth use the red crescent as the distinctive sign of its armed forces medical services, while reserving the right to return to the red lion and sun should new emblems be recognized.<sup>33</sup>

More than a quarter of a century has now elapsed since the sign of the red lion and sun was last used. The Statutes of the Movement as revised in 1986 mention neither the emblem nor the name of the red lion and sun.

### 8. The Israeli reservation

Having failed to win its case at the 1949 Diplomatic Conference, the State of Israel signed the 1949 Geneva Conventions subject to the following reservation, which was confirmed when Israel deposited its instruments of ratification on 6 July 1951:

*“Subject to the reservation that, while respecting the inviolability of the distinctive signs and emblems of the Convention, Israel will use the Red Shield of David as the emblem and distinctive sign of the medical services of her armed forces.”*<sup>34</sup>

Only two States formally raised objections to the Israeli reservation. On signing the Conventions, the Lebanese delegate declared that his government regarded the reservation as without validity in relation to the other States signatory to the Conventions because the 1949 Conference had definitively rejected Israel’s request.<sup>35</sup>

The second objection was raised by the United States of America. When it ratified the Geneva Conventions on 2 August 1955, the United States included the following statement in its instruments of ratification of all four Conventions:

33 *The Laws of Armed Conflicts*, p. 576; “Adoption of the red crescent by the Islamic Republic of Iran”, *International Review of the Red Cross* (hereinafter *IRRC*), No. 219, November-December 1980, pp. 316-317.

34 *Final Record 1949*, Vol. II-B, p. 534; for the text of the Israeli reservation, see *ibid.*, Vol. I, p. 348.

35 *Ibid.*, Vol II-B, p. 534.

*“Rejecting the reservations which States have made with respect to the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field, the United States accepts treaty relations with all parties to that convention, except as to the changes proposed by such reservations.”<sup>36</sup>*

## 9. The question of the double emblem

The wording of Article 19 of the Geneva Convention of 1929 and of Article 38 of the First Geneva Convention of 1949 and the preparatory works for these two conventions show that, while the 1929 and 1949 Diplomatic Conferences approved the use of the red crescent instead of the red cross, they did not provide for the use of the double emblem of the red cross and red crescent. On the basis of Article 38 of the First Geneva Convention and the wording of the conditions for the recognition of new National Societies,<sup>37</sup> the ICRC has always considered that the Conventions authorized the use of the red crescent in place of the red cross, but did not authorize the use of the double emblem of the red cross and red crescent on a white ground. The ICRC has therefore never recognized a Society using the double emblem.

Following the adoption of the Soviet Constitution on 31 January 1924, however, the Russian Red Cross was reorganized in accordance with the federalist principles of the new Constitution. Forming themselves into autonomous societies, some republican branches adopted the red crescent emblem while others kept the red cross. The Societies in the various republics established a coordinating body which was also responsible for representing them internationally: the Alliance of Red Cross and Red Crescent Societies of the USSR.

<sup>36</sup> Federal Political Department, report on deposit of instruments of ratification by the United States of America, authenticated copy of 8 August 1955. The wording of the objection is adapted to the title of each of the Conventions. See also *United Nations Treaty Series*, Vol. 213, pp. 379-384; Leon Friedman, ed., *The Law of War: A Documentary History*, Vol. I, Random House, New York, 1972, pp. 568-569; *The Laws of Armed Conflict*, p. 590; Richard R. Baxter, “The Geneva Conventions of 1949 before the United States Senate”, *American Journal of International Law*, Vol. 49, No. 4, October 1955, pp. 550-555, at p. 554.

<sup>37</sup> On the conditions for the recognition of National Societies, see Section 10 below.



The Alliance displayed the double emblem on its letterhead but did not use it – officially at least – during operational activities, since these were carried out by its member Societies. As for the medical services of the Soviet armed forces, the only distinctive emblem they used, as far as the ICRC was able to ascertain, was that of the red cross.

Following the break-up of the Soviet Union, the various branches of the Alliance formed themselves into National Red Cross or Red Crescent Societies, depending on the majority of their respective populations. Only the Kazakh Red Crescent and Red Cross Society adopted the double emblem and name, since the republic's population was almost equally divided between Christians and Muslims. On 31 March 1993, the Kazakh Parliament passed a decree providing for Kazakhstan's adhesion to the Geneva Conventions, with the following reservation:

*“The Republic of Kazakhstan uses a double heraldic emblem of the red crescent and red cross on a white ground as an emblem proper and as a distinctive sign of the Medical Services of armed forces.”*<sup>38</sup>

In accordance with its consistent practice, the ICRC refused to formally recognize the Kazakh Society.

Given that the use of the double emblem deprived the medical services of the Kazakh armed forces of a protective sign in the event of conflict and prevented the Kazakh National Society from obtaining recognition by the ICRC and admission to the International Federation, and in the light of the fact that the other republics of Central Asia had adopted the red crescent, the Government of Kazakhstan eventually adopted the red crescent as the emblem and distinctive sign of its armed forces medical services and revoked the reservations adopted on 31 March 1993.<sup>39</sup>

38 Letter and annex addressed to the ICRC on 14 May 1993 by Dr Asylbek Konakbaev, Chairman of the Kazakh Red Crescent and Red Cross Society.

39 Decree No. 863 by the Government of the Republic of Kazakhstan and draft law No. 12/4287 of 26 June 2001.

The relevant law entered into force on 20 December 2001,<sup>40</sup> and the Kazakh National Society amended its Statutes and adopted the emblem and name of the red crescent, enabling it to request recognition by the ICRC and admission to the International Federation. The Kazakh Red Crescent Society was recognized on 20 November 2003.<sup>41</sup>

The situation of the Red Cross Society of Eritrea is a complex one: the government wishes to use the double emblem of the red cross and red crescent both to identify the armed forces medical services and as the National Society's distinctive sign. However, when it acceded to the Geneva Conventions on 14 August 2000 Eritrea made no reservations in respect of the emblem.<sup>42</sup>

In 1983 the International Federation of Red Cross and Red Crescent Societies adopted the double emblem of the red cross and red crescent and the corresponding name. Since then the Federation's staff, vehicles and premises bear the double emblem.

In the quest for a comprehensive solution to the question of the emblem, account also had to be taken of the case of the Red Cross Society of Eritrea and of the other National Societies which may wish to use the double emblem in the future.

It should nevertheless be borne in mind that use of the double emblem creates as many problems for a National Society as it resolves. The juxtaposition of the two emblems may be perceived as evidence of the religious connotations of both, especially by populations which are neither Christian nor Muslim.

40 Law of the Republic of Kazakhstan: "On the emblem and distinctive sign of the sanitary services of the Armed Forces of the Republic of Kazakhstan", 14 December 2001, No. 268-11 3RK, published in *Kazakhstanskaya Pravda* (the official bulletin of the Republic of Kazakhstan) on 20 December 2001, ICRC Archives, file 122.11-KZ.

41 *Recognition of the Kazakh Red Crescent Society*, Circular No. 606 addressed to the Central Committees of the National Red Cross and Red Crescent Societies, 24 November 2003.

42 State of Eritrea, Ministry of Foreign Affairs, Instrument of accession to the Geneva Conventions of 12 August 1949, 29 July 2000; Federal Department of Foreign Affairs, Notification to the Governments of the States parties to the Geneva Conventions of 12 August 1949 for the Protection of War Victims: Accession by Eritrea, 4 September 2000, ICRC Archives, file 121.11ER.

The risk of a split in the National Society, with Red Cross branches in certain regions and Red Crescent branches in others, cannot be overlooked. In the event of civil war, a split in the Society along religious fault lines would be even more likely.<sup>43</sup> Finally, this solution is of no use for countries where populations which are neither Christian nor Muslim live side by side.

## 10. Recognition of new National Societies

From the outset, the National Red Cross Societies acquired the habit of corresponding with each other, either directly or through the International Committee. The bond of solidarity that united them, transcending national borders, was indeed one of the characteristics of the new institution.

Soon the sphere of influence of the Red Cross extended well beyond the group of countries represented at the constituent Conference of October 1863. New Societies were being formed in the Balkans, in Asia and in the New World. These Societies naturally asked the ICRC to put them in contact with sister Societies. In succession, the ICRC announced the establishment of the Societies of the Ottoman Empire (1868), Montenegro (1876), Serbia (1876), Romania (1876), Greece (1877), Peru (1880), Argentina (1881), Hungary (1882), Bulgaria (1885), Portugal (1887) and Japan (1887).

But the very success of the movement threatened to water down its principles, and it was therefore felt necessary to make sure that the statutes and aims of the new Societies were in keeping with the basic objectives of the Red Cross. Again it fell to the ICRC, the movement's founding body and guarantor of its fundamental principles, to carry out this verification. At first it did so on its own initiative. The Fourth International Conference of the Red Cross, meeting in Karlsruhe in 1887, confirmed it in this role:

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43 Such risks are far from hypothetical. During the civil war in Lebanon, in predominantly Muslim or Druze regions a Lebanese Red Crescent Society was set up to rival the Lebanese Red Cross Society, both in the field and at regional meetings of the Movement. The same tendency can be seen in Cyprus, where a Red Crescent Society has been reported in the northern part of the island. In the Russian Federation, the Ingush branch of the Russian Red Cross uses the red crescent emblem and name.

*“In the general interest of the Red Cross, the International Committee based in Geneva should be maintained in the form in which it has existed from the outset.*

*It will continue as previously to:*

*[...]*

*(b) notify the constitution of new National Societies after examining the bases on which they are founded.”<sup>44</sup>*

This mandate gave considerable latitude to the ICRC, which deemed it necessary to define the scope of this appraisal by laying down 12 conditions for recognition which, in its opinion, reflected the movement’s fundamental principles. These were published in 1898.

Three of these conditions concern the subject of this article, namely the conditions requiring a National Society to:

- 1) belong to a country where the Geneva Convention was in force;
- 4) be named “Red Cross Society”;
- 5) adopt the sign of the red cross on a white ground.<sup>45</sup>

These provisions reflected the interdependence between recognition of a National Society and application of the Geneva Convention, an essential link since the National Societies were first and foremost auxiliaries to the army medical services, which were protected by the Convention. Adoption of the distinctive sign of the Convention was necessary for the same reasons.

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<sup>44</sup> *Quatrième Conférence internationale des Sociétés de la Croix-Rouge tenue à Carlsruhe du 22 au 27 septembre 1887, Compte rendu*, Central Committee of German Red Cross Associations, Berlin, 1887, p. 90. The International Conference of the Red Cross and Red Crescent brings together representatives of National Red Cross and Red Crescent Societies, the ICRC, the Federation and the States party to the Geneva Conventions. In principle it meets every four years.

<sup>45</sup> *Organisation générale et Programme de la Croix-Rouge*, 2nd ed., Geneva, 1898, pp. 25-26. These conditions for recognition were published in all subsequent editions of the *International Red Cross Handbook* up to 1942.

In the aftermath of the Second World War, the Preliminary Conference of National Red Cross Societies, meeting in Geneva in 1946, requested that more precise rules be adopted.<sup>46</sup> The new conditions for recognition, drawn up by a joint Commission comprising the ICRC and the League of Red Cross Societies,<sup>47</sup> were adopted by the 17th International Conference of the Red Cross in Stockholm in August 1948.

They included the following:

*“The applicant Society shall:*

- 1) *Be constituted on the territory of an independent State where the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick is in force;*
  
- 5) *Use the title and emblem of the Red Cross (Red Crescent, Red Lion and Sun) in conformity with the Geneva Convention.”*<sup>48</sup>

Finally, when the International Conference of the Red Cross revised the Statutes of the International Red Cross and Red Crescent Movement at its meeting in Geneva in October 1986, the conditions for recognition of new National Societies became an integral part of those Statutes, and there was no longer any reference to the emblem and name of the red lion and sun, since the only country having used that emblem, Iran, had decided to give it up.<sup>49</sup>

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46 *Report on the Work of the Preliminary Conference of National Red Cross Societies for the Study of the Conventions and of Various Problems relative to the Red Cross*, ICRC, Geneva, 1947, pp. 133-136.

47 Now the International Federation of Red Cross and Red Crescent Societies.

48 *Seventeenth International Red Cross Conference, Stockholm, 1948, Report*, Swedish Red Cross, Stockholm, 1948, pp. 77-78 and 89-90.

49 Statutes of the International Red Cross and Red Crescent Movement (adopted by the 25th International Conference of the Red Cross, Geneva, October 1986), Article 4, *IRRC*, No. 256, January-February 1987, p. 25 ff.; *Handbook*, *op. cit.*, p. 415 ff.

## **II. The legal situation established by the 1949 Geneva Conventions and the Statutes of the Movement adopted by the 25th International Conference of the Red Cross in Geneva in October 1986**

### **1. Introduction**

In legal terms the issue of the emblem must be approached on two separate levels, corresponding to two different legal regimes:

- the provisions of the Geneva Conventions and of Additional Protocols I and II relating to the emblem as a device protecting medical services, and to the emblem and name of National Societies;
- the provisions of the Statutes of the Movement and of the Constitution of the Federation relating to the emblem, the name and the recognition of National Societies.

Although there is obviously some degree of interdependence between the treaty provisions on the one hand and the statutory provisions on the other, a clear distinction between the two levels must be maintained.

### **2. The treaty provisions**

Until the convening of a Diplomatic Conference in December 2005, the emblem that was used in order to protect the armed forces medical services was governed by the relevant provisions of the Geneva Conventions, in particular Article 38 of the First Convention. Other pertinent provisions of the Conventions and their Additional Protocols were as follows:

- ♦ First Convention, Arts 36, 39, 40, 41, 42, 44, 53 and 54; Annex I, Art. 6; and Annex II;
- ♦ Second Convention, Arts 39, 41, 42, 43, 44 and 45; Annex I;

- ◆ Fourth Convention, Arts 18, 20, 21, 22 and 56; Annex I, Art. 6;
- ◆ Protocol I, Arts 8, 18, 23, 38 and 85; Annex I;
- ◆ Protocol II, Art. 12.

The Geneva Conventions and the Protocols refer several times to “*National Red Cross (Red Crescent, Red Lion and Sun) Societies*”, notably in Articles 25, 30 and 63 of the Fourth Convention, Articles 6, 8, 17, 33 and 81 of Protocol I and Article 18 of Protocol II. Other provisions, in particular Articles 26 and 44 of the First Convention and Article 24 of the Second Convention, refer only to “*National Red Cross Societies and (...) other Voluntary Aid Societies, duly recognized*”.

Only a Diplomatic Conference in which all the States party to the Geneva Conventions are invited to participate is competent to amend those provisions.<sup>50</sup>

### 3. The statutory provisions

The emblem, name and recognition of a National Society were also governed by Articles 4 and 5 of the Statutes of the International Red Cross and Red Crescent Movement, adopted by the 25th International Conference of the Red Cross in Geneva in October 1986, which provide as follows:

*“Article 4 – Conditions for recognition of National Societies*

*In order to be recognized in terms of Article 5, paragraph 2 b) as a National Society, the Society shall meet the following conditions:*

*[...]*

*5. Use the name and emblem of the Red Cross or Red Crescent in conformity with the Geneva Conventions.*

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<sup>50</sup> Vienna Convention on the Law of Treaties of 23 May 1969, Article 40.

*Article 5 – The International Committee of the Red Cross*

[...]

*2. The role of the International Committee, in accordance with its Statutes, is in particular:*

[...]

*b) to recognize any newly established or reconstituted National Society which fulfils the conditions for recognition set out in Article 4, and to notify other National Societies of such recognition.”<sup>51</sup>*

The Constitution of the Federation contains appropriate provisions governing the admission of National Societies. The new Constitution, adopted by consensus in October 1999, recognized only two emblems and two names: the red cross and the red crescent.

Although the provisions of the Federation’s Constitution relating to the emblem and designation of the National Societies are in line with the corresponding provisions of the Movement’s Statutes, the same does not apply to admission of a National Society to the Federation. Indeed, recognition of a Society by the ICRC does not automatically lead to its admission by the Federation. Under Article 4, paragraph 1, of the Federation’s Constitution, “*a National Society component of the Movement becomes a member of the Federation by its admission in accordance with the Constitution and the Rules of Procedure*”; and under Article 4, paragraph 2, “*The admission of a National Society is subject to a decision of the Assembly which shall be taken by a qualified majority of sixty percent of the member Societies present and voting.*”<sup>52</sup>

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51 *Handbook, op. cit.*, pp. 421-422.

52 Constitution of the International Federation of Red Cross and Red Crescent Societies, revised and adopted at the 12th session of the General Assembly, Geneva, 23-28 October 1999, p. 9. In practice, the conditions for recognition by the ICRC and admission to the Federation have for many years been examined jointly by both institutions in the framework of the Joint Commission on National Society Statutes. Admission to the Federation has therefore always been approved by consensus at the Federation Assembly following recognition by the ICRC.



Only a two-thirds majority vote of an International Conference of the Red Cross and Red Crescent can amend the Statutes of the Movement.<sup>53</sup>

#### 4. Consequences of the legal situation

The legal situation established by the Geneva Conventions of 12 August 1949 and the Statutes of the Movement presented serious disadvantages which the ICRC had long recognized:<sup>54</sup>

- a) The situation gave the impression of bias in favour of Christian and Muslim countries to the detriment of other faiths (Judaism, Hinduism, Buddhism, etc.) Much had been written about the religious or non-religious nature of the emblems recognized by the Geneva Conventions, and those who were most outspoken on the issue had often expressed contradictory views. We ourselves had always avoided taking a position on this point, feeling that the significance of an emblem is in the eye of the beholder. It should nevertheless be pointed out that the juxtaposition of two emblems – the red cross and the red crescent – endowed the original emblem with a religious connotation that it did not necessarily have at the outset.<sup>55</sup>
- b) The coexistence of two emblems did not reflect the principle of unity of the Movement and bore the seeds of division. When the new Statutes of the Movement were adopted in 1986, much was made of the notion that the Movement's unity would be strengthened by placing the red cross and

53 Statutes of the International Red Cross and Red Crescent Movement, Article 20, *Handbook, op. cit.*, p. 432.

54 Twenty-fourth International Conference of the Red Cross, Manila, 1981: "The question of the emblem", Statement by Alexandre Hay, President of the ICRC, *IRRC*, No. 226, January-February 1982, pp. 35-39. Those disadvantages had already been pointed out in the Report on the Re-appraisal of the Role of the Red Cross in 1975. See Donald D. Tansley, *Final Report: An Agenda for Red Cross*, Henry Dunant Institute, Geneva, 1975, pp. 125-127.

55 The ICRC realized this as early as 1877, declaring: "Would there not be a disadvantage in confronting the Geneva Cross, which Muslims mistakenly see as a religious emblem, with the Crescent, which is another religious emblem? Must such an opposition not be avoided, especially in a war where racial and religious fanaticism will inevitably be exacerbated to the highest degree?" *Bulletin international des Sociétés de Secours aux Militaires blessés*, No. 30, April 1877, p. 44. The *lapsus calami* shows how difficult it is to state an opinion on a matter of this nature.

the red crescent on a perfectly equal footing. Yet for many observers and quite a number of Red Cross and Red Crescent volunteers, it was incomprehensible that a Movement representing international solidarity could not identify with a single emblem.

- c) This situation undermined the universality of the Movement, as most of the Israeli population felt – and still feels – unable to identify with either of the emblems recognized by the Geneva Conventions of 1949 and the Statutes of the Movement revised in 1986.<sup>56</sup>
- d) The situation was an invitation to further offshoots. The Israeli claim was not the only one of its kind; other States and other National Societies had also asked for the recognition of new emblems.<sup>57</sup>
- e) The coexistence of two emblems on the international level was a source of difficulty for countries where different religious communities were cohabiting. However hard it tried to serve the entire population, the National Society would be identified with the section of society associated with its emblem. That would weaken its potential for development, and in the event of an internal conflict it would be in danger of breaking up.
- f) The last, and probably the most serious, consideration was that the coexistence of two emblems – or three if the Israeli reservation was taken into account – undermined their protective value, especially if each adversary used a different one. Instead of appearing as a symbol of neutrality, the distinctive sign became identified with one or other of the parties to the conflict.

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56 Even though the ICRC and the Federation had never refused to cooperate with the Israeli, Kazakh or Eritrean Societies, or any of the other Societies that observed the Fundamental Principles but had not been able to gain recognition, whatever the reason, the situation was still discouraging for those Societies since they could not take part as of right in the statutory meetings of the Movement. It should nevertheless be pointed out that the State of Israel had participated as of right in International Conferences of the Red Cross and Red Crescent since the 17th Conference, which was held in Stockholm in August 1948.

57 A number of such cases are cited in our study entitled *The Emblem of the Red Cross: A Brief History*, ICRC, Geneva, 1977, pp. 61-70.

Indeed, above and beyond the treaty provisions, it is the fact that an identical sign is used by both friends and enemies that gives the emblem its protective force. If the sign used is not identical, then respect for the emblem – and the safety of the wounded and of all those who endeavour to assist them – is jeopardized.

For all these reasons, it was crucial to seek a solution that overcame as far as possible the difficulties outlined above.

### III. The risk of proliferation

Ever since 1876 the ICRC's main concern has been to avoid any proliferation of protective emblems, and in particular to prevent the adoption of national or religious symbols for fear that they would command little respect on the battlefield and hence be ineffective for protecting the wounded and medical personnel.

Quite apart from any legal arguments, experience has shown that this fear is far from groundless. The risk of violation of the emblem is infinitely greater when it is identified with one or other of the parties to the conflict, as was the case, for example, throughout the civil war in Lebanon (1975-1990). In the words of Max Huber, president of the ICRC from 1928 to 1944:

*“Only the unity of the distinctive sign can ensure that it is respected internationally.”*<sup>58</sup>

The risk of a proliferation of emblems is a very real one. In 1936 the ICRC opposed an Afghan proposal aimed at adopting a red mosque on a white ground as a distinctive sign. During the 1949 Diplomatic Conference the delegate from Burma<sup>59</sup> openly raised the possibility that his country and other Asian countries might ask to use their own particular emblem should new emblems be recognized:

*“Oriental countries were taking an increasingly active part in international life; they wanted an emblem which did not offend either their own religious convictions or those of other nations. If, on the other hand, the principle of a multiplicity of symbols was accepted, oriental countries must be expected to adopt an emblem of their own.”*<sup>60</sup>

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58 *Quatorzième Conférence internationale de la Croix-Rouge tenue à Bruxelles du 6 au 11 octobre 1930, Compte rendu*, Belgian Red Cross, Brussels, 1930, p. 127.

59 Now Myanmar.

60 *Final Record 1949*, Vol. II-A, pp. 150-151.

In a letter of 2 November 1977, General Maitra, Secretary General of the Indian Red Cross Society, consulted the ICRC on a proposal to use a red swastika on a white ground.<sup>61</sup> Likewise, soon after independence the Zimbabwean government proposed that the Zimbabwe Red Cross Society be renamed the Zimbabwe Red Star Society and adopt a red star on a white field. This proposal was abandoned after discussions with the ICRC and the League of Red Cross Societies (now the International Federation).<sup>62</sup>

The danger of proliferation therefore cannot be ignored. The ICRC for its part will not endorse a solution allowing every State and every National Society to use the emblem of its choice. This would open the door to a multiplicity of signs with national, religious or openly partisan connotations which would undermine their protective effect. Moreover, some parts of the world might adopt protective signs that would be seen as offensive in other regions.

Of course, it could be pointed out that only Israel and Kazakhstan have filed reservations concerning the emblem, and that very few States are not yet bound by the Geneva Conventions.<sup>63</sup> Given that the requirement of legal stability prevents a State that is already party to a treaty from notifying a reservation to the treaty in question,<sup>64</sup> it could be said that the risk of seeing a proliferation of emblems is now negligible. Unfortunately that argument offers no guarantee for the future. What is to stop a State from denouncing the Geneva Conventions and then acceding to them again with reservations? And who had

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61 Letter from General Maitra, Secretary General of the Indian Red Cross Society, to the ICRC, 2 November 1977, and reply from Mr Alexandre Hay, President of the ICRC, 17 November 1977, ICRC Archives, file 121 (66). The Sri Lanka Red Cross had already asked in 1957 to adopt the swastika, a well-known symbol in India and Sri Lanka for many centuries. ICRC Archives, file 121 (32).

62 ICRC Archives, file 043.

63 As indicated earlier, Kazakhstan has now decided to revoke the reservations formulated in 1993 concerning the use of the double emblem.

64 This is the legal position that was adopted by Switzerland, the depositary State for the 1949 Geneva Conventions and other multilateral treaties. Switzerland's position on the inadmissibility of belated reservations is made clear in a note dated 2 February 1922 that was sent by the Swiss Federal Department of Foreign Affairs to the Bulgarian envoy in Bern and that is reproduced in the *Répertoire suisse de droit international public*, ed. Paul Guggenheim *et al.*, Basel, Editions Helbing & Lichtenhahn, Vol. I, 1975, pp. 135-137.

anticipated the break-up of Yugoslavia and the Soviet Union? The last decade has seen the emergence of more than 20 newly independent States. No one can tell what the future holds.

The fact that practically all members of the international community are today party to the Geneva Conventions, therefore, is not in itself a sufficient guarantee against the risk of a proliferation of protective emblems.

Furthermore, the same imperatives of equity and justice invoked by those who demanded recognition of the Israeli Society and its emblem could be invoked tomorrow in regard to other new emblems.

Thus the danger of proliferation must not be taken lightly.

## **IV. The quest for a comprehensive solution**

### **1. Introduction**

Those who have studied the issue of the emblem closely have been struck by the fact that the Movement and the international community have taken a series of separate decisions in order to accommodate one State and National Society, or a limited number of States and National Societies, and that each of these separate decisions has taken us a step further from any comprehensive solution.

In fact, the only entirely satisfactory solution in terms of logic and equity would be the adoption of a new emblem devoid of any national, political or religious connotation which would be universally accepted in place of the existing emblems. After all, the United Nations, the Olympic Movement, the World Scout Movement and countless other governmental and non-governmental organizations succeeded in finding universally accepted emblems, and there is no reason why the Red Cross and Red Crescent Movement should not do the same.

Yet proposals put forward for a new single emblem to replace the existing ones have immediately been rejected by all those who are profoundly attached to the latter. It must be said that the red cross and the red crescent have been the symbols of impartial aid to the victims of countless conflicts – including two World Wars – and natural disasters in almost every corner of the world. Few signs are so instantly recognizable around the globe and arouse such instinctive feelings of sympathy.

## 2. The ICRC's initiative

Bearing this in mind, the President of the ICRC proposed, in an article published in the *International Review of the Red Cross* in 1992, a fresh examination of the question, stating that the ICRC wanted to contribute to the process.<sup>65</sup> In Mr Sommaruga's view four requirements, whose pertinence had been demonstrated by past experience, had to be met in the search for a solution:

- *“the solution must be very widely acceptable;*
- *the States and National Societies which use one of the recognized signs must not be forced to renounce or change their emblem unless they wish to do so;*
- *any new sign must be graphically simple enough to ensure good visibility at a distance, must be devoid of any religious, political, ethnic or other connotation, and must be made widely known in peacetime so that it is easily identified by those who are required to respect it;*
- *any proliferation of emblems, which would not fail to occur if too much freedom of choice is allowed, must be avoided.”*<sup>66</sup>

President Sommaruga advocated the adoption of an additional emblem, devoid of any national, religious or political connotation, which would be available to States and National Societies unable to adopt either of the existing emblems. He acknowledged that a return to the red cross as the only emblem, which the ICRC had long wished for, could no longer be contemplated; and

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65 Cornelio Sommaruga, “Unity and plurality of the emblems”, *IRRC*, No. 289, July-August 1992, pp. 333-338. It should be noted that this article was published in the *Review* more than a year before the first news emerged about the Israeli-Palestinian negotiations which were to lead to the Washington agreement of 13 September 1993 (*Keesing's Record of World Events, News Digest for September 1993*, p. 39658).

66 Sommaruga, *ibid.*, p. 337.



that the components of the Movement were not prepared to abandon the existing emblems – to which millions of people were deeply attached – in order to adopt a new one.<sup>67</sup>

This article, signed by the ICRC's President, naturally reflected the organization's own position.

### 3. The 1997 Council of Delegates

At first this ICRC initiative prompted emotional reactions. A working group representing the Movement was nevertheless set up and submitted a series of proposals to the Council of Delegates meeting in Seville in November 1997.<sup>68</sup>

The report of the working group recommended the adoption of six criteria for evaluating possible solutions:

- “ 1. *Any solution must be assessed primarily in the light of the protection afforded to victims and must actually lead to an improvement in such protection.*
  
2. *Any solution must be based on the existence of the two emblems currently in use, that is, the cross and the crescent, which are de facto placed on an equal footing (...) and which are known worldwide.*

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<sup>67</sup> *Ibid.*

<sup>68</sup> Council of Delegates, Seville, 26-27 November 1997, *Report of the Standing Commission on the Emblem*, document prepared by the Standing Commission (CD 97/4.1/1), Geneva, June 1997. The Council of Delegates of the International Red Cross and Red Crescent Movement brings together representatives of the National Red Cross and Red Crescent Societies, the ICRC and the Federation and in principle meets every two years. The Standing Commission of the Red Cross and Red Crescent comprises five members elected by the International Conference, two ICRC representatives and two Federation representatives. It meets in the interval between two Conferences, its main task being to make preparations for the Conference and the Council of Delegates.

3. *Any solution must avoid creating new obstacles for the Movement's ideal of unity and must, on the contrary, be compatible with that ideal.*
4. *Even though this ideal of unity naturally extends to the emblem, the objective of having a single emblem for both protective and indicative purposes is not on the agenda at present; the aim is to solve [the difficulties faced by States and National Societies that are unable to use either the red cross or the red crescent].*
5. *Any solution must be capable of settling these problems without creating new ones for National Societies which have no difficulties in this respect, and which must be able to carry on with their present emblems (status quo).*
6. *The issue of the emblem must not cause division within the Movement; any solution must be very widely acceptable and any resolution on this crucial matter must be adopted by consensus.”<sup>69</sup>*

The Council of Delegates adopted the report as submitted. It endorsed the six principles set out above and decided to consult a group of experts comprising specialists from governments and from the Movement.<sup>70</sup> In advance of this consultation, Mrs Christina Magnuson, President of the Swedish Red Cross and Chair of the Standing Commission's working group on the emblem, proposed the adoption of an additional protective emblem, devoid of any national, political or religious connotation, which could incorporate for

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69 *Ibid.*, p. 13.

70 Resolution 2, *IRRC*, No. 322, March 1998, pp. 141-142.

indicative purposes one of the emblems actually used.<sup>71</sup> The group of experts, meeting in Geneva from 31 August to 2 September 1999, examined that proposal and recommended that consultations be pursued.

#### **4. The 1999 Council of Delegates and the 27th International Conference of the Red Cross and Red Crescent**

The Council of Delegates met in Geneva on 29 and 30 October 1999. It adopted by consensus a resolution in which it commended the work and consultations undertaken by the Standing Commission. It proposed that the Standing Commission be invited to establish a joint working group on the emblems with a mandate to find, as rapidly as possible, a comprehensive solution acceptable to all parties in terms of substance and procedure. In a resolution also adopted by consensus, the 27th International Conference of the Red Cross and Red Crescent endorsed this proposal and requested that consultations be continued.<sup>72</sup>

The ICRC for its part decided to support Mrs Magnuson's proposal without reservation and to adopt a position based on the following elements:

- a) The red cross and red crescent are maintained as emblems symbolizing the protection which the Geneva Conventions grant to the medical services and as distinctive signs of the National Societies of countries that

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71 *Possible means of implementing resolution 2 on the emblem (Council of Delegates, Seville, November 1997)*, working document proposed by Mrs Christina Magnuson, member of the Standing Commission of the Red Cross and Red Crescent, Geneva, October 1998. The term "protective use" is employed when the emblem is the visible manifestation of the protection that the Geneva Conventions and the Protocols additional thereto afford to military and civilian medical establishments and their personnel, vehicles, premises and equipment. The term "indicative use" is employed when the emblem is displayed by National Red Cross and Red Crescent Societies to indicate activities, persons and property that are not covered by the provisions of the Geneva Conventions and the Protocols additional thereto which protect the medical services of the armed forces.

72 Resolution 3 of the 27th International Conference and Resolution 2 of the Council of Delegates, *IRRC*, No. 836, December 1999, pp. 872-873.

already use them and are satisfied with this situation. No pressure must be exerted on a State or National Society using the red cross or the red crescent to renounce its emblem.

- b) Besides the red cross and the red crescent, an additional protective emblem devoid of any political or religious connotation should be adopted by the international community and made available to States and National Societies which can accept neither the red cross nor the red crescent for their own use.
- c) If they so wish, the National Societies of States that adopt the new sign for the protection of their medical services may incorporate within it as an indicative device one of the signs already in use, namely the red cross, the red crescent, the red shield of David, or the double emblem of the red cross and red crescent.<sup>73</sup>

In the ICRC's opinion, the adoption of an additional distinctive sign devoid of any political or religious significance and its recognition alongside the red cross and red crescent was the most realistic way of settling the question of the emblem and of satisfying the aspirations of countries and National Societies that could accept neither the red cross nor the red crescent.

The possibility of incorporating within the third universal emblem, for indicative purposes, one of the signs already in use, namely the red cross, the red crescent, the red shield of David, or the double emblem of the red cross and red crescent, would clear the way for recognition of the Magen David Adom, while at the same time offering an alternative solution to any National Society that might have difficulty in using one of the existing emblems in the future.

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73 The ICRC stated its position at the first meeting of the Joint Working Group on the Emblems held on 13-14 April 2000: Joint Working Group on the Emblems, Geneva, 13-14 April 2000, Address by François Bugnion, Director for International Law and Communication, International Committee of the Red Cross, 13 April 2000, ICRC Archives, file 233.2-11. See also: François Bugnion, *Towards a Comprehensive Solution to the Question of the Emblem*, ICRC, Geneva, June 2000, 48 pages.

Finally, this proposal could in no way lead to a proliferation of protective emblems, which would certainly have an adverse effect on the protection of war victims. On the contrary, the adoption of a third universal emblem free of any political or religious connotation would be the best means of ensuring that there was no proliferation of individual emblems associated with a particular country or religious community.

The ICRC felt that this proposal offered the best prospect for achieving a comprehensive and lasting solution to the issue of the emblem and for enabling the International Red Cross and Red Crescent Movement to attain the universality to which it had aspired for so many years, since it would allow the Magen David Adom and the Eritrean National Society to become full members of the Movement.

This proposal also opened the way to important developments in international relief operations and in identifying the medical services of multinational forces, especially during peace-keeping operations. It frequently happened that the medical services of some contingents of such forces were identified by the red cross emblem, and those of other contingents by the red crescent. The new emblem would make it possible to adopt a uniform marking. The ICRC and the International Federation were planning to use the new protective emblem in the few exceptional situations where the red cross and red crescent emblems were not readily accepted.

The ICRC had also decided to set up a fund with a twofold purpose: on the one hand to help National Societies that adopted the new emblem to promote it within their own countries and to modify the markings on their equipment accordingly, and on the other hand to finance the promotion of the new emblem internationally.<sup>74</sup>

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74 *Ibid.*

## **5. Towards a third protocol additional to the 1949 Geneva Conventions**

The Joint Working Group on the Emblem, established pursuant to the resolutions of the Council of Delegates and of the 27th International Conference, met on 13 and 14 April 2000 under the co-chairmanship of Mrs Magnuson and Mrs Absa Claude Diallo, Ambassador and Permanent Representative of Senegal to the United Nations and the other international organizations in Geneva. The meeting brought together representatives of 15 States,<sup>75</sup> four members of the Standing Commission, the ICRC, the Federation and two National Society representatives specially invited by the Standing Commission.

The Joint Working Group immediately recognized that the great majority of States and National Societies were deeply attached to the existing emblems of the red cross and red crescent. It therefore determined that the only means of finding a comprehensive and widely accepted solution to the question of the emblem was to recognize an additional protective emblem, devoid of any national, political or religious connotation, to be used alongside the existing emblems described in the Geneva Conventions. The new emblem would be designed in such a way as to enable a National Society using it to insert any indicative sign that it already used for that purpose. If the additional emblem was to be endowed with a legal status, however, a third protocol additional to the Geneva Conventions of 1949, and relating to the emblem question, would have to be adopted.

The Joint Working Group also recognized that the draft protocol would have to be the subject of extensive consultations. In accordance with the mandate conferred on it by the international community,<sup>76</sup> the ICRC was entrusted with the task of drawing up, in consultation with the International Federation, a draft protocol giving force of law to the new emblem.

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75 China, Colombia, Egypt, France, India, Iran, Israel, Kazakhstan, Lebanon, Malaysia, the Russian Federation, Senegal, Switzerland, the United Kingdom and the United States.

76 Under Art. 5, para. 2 g), of the Statutes of the International Red Cross and Red Crescent Movement, the ICRC's role is *inter alia* "to work for the understanding and dissemination of knowledge of international humanitarian law applicable in armed conflicts and to prepare any development thereof".

The Joint Working Group furthermore took note of the generous offer made by the Swiss Government, acting as the depositary of the Geneva Conventions and their Additional Protocols, to convene a Diplomatic Conference to which all the States party to the Geneva Conventions would be invited and whose purpose would be to examine and adopt a third additional protocol giving force of law to the third universal emblem.<sup>77</sup>

Switzerland suggested that the conference be held in Geneva on 25 and 26 October 2000 and immediately undertook consultations to that effect.

At a special meeting held in Nice on 11 May 2000, the Standing Commission of the Red Cross and Red Crescent decided, in accordance with Article 11, paragraph 2 of the Movement's Statutes, to bring forward to 14 November 2000 the date of the 28th International Conference of the Red Cross and Red Crescent, which was originally to have been held in the autumn of 2003. The sole aim of the Conference would be to amend the Movement's Statutes in line with the results of the Diplomatic Conference and to clear the way for the recognition of those National Societies which could hitherto not be recognized because of difficulties relating to the emblem.

Convocations were immediately sent to the States party to the Geneva Conventions, to the National Societies and to the observers invited to attend the Conference.<sup>78</sup>

All the essential arrangements had therefore been made to resolve the question of the emblem in the course of 2000, and the goal of settling the issue before the year was out was in sight.

The Joint Working Group met again on 13 and 14 June 2000, its membership unchanged, to consider the draft third protocol additional to the Geneva

77 First Meeting of the Joint Working Group on the Emblems, Geneva, 13-14 April 2000, *Summary Report and Concluding Remarks of the Chair*, ICRC Archives, file 233.2-11.

78 *Convocation: To the members of the 28th International Conference of the Red Cross and Red Crescent, Geneva, Switzerland, 14 November 2000*, 12 May 2000, ICRC Archives, file 231-212.1.

Conventions drawn up by the ICRC in consultation with the International Federation. The meeting identified the points on which there was agreement and the areas in which further consultations were required.<sup>79</sup>

On 5 July 2000, the ICRC transmitted the draft third protocol additional to the Geneva Conventions to the Swiss Government which, in its capacity as the depositary, forwarded the draft to all the States party to the Geneva Conventions and took over the conduct of the consultations, in which the ICRC and the Federation continued to play an active part. Numerous consultations were held in Geneva and in various capitals around the world, either through special missions or by Switzerland's embassies in the countries concerned.

An informal preparatory conference held in Geneva on 5 and 6 September 2000 ahead of the Diplomatic Conference brought together representatives of all the States party to the Geneva Conventions under the chairmanship of Ambassador Nicolas Michel, Director of the Division of International Law at the Swiss Federal Department of Foreign Affairs; it was followed on 6 September by a meeting convened by the ICRC and the Federation to prepare the 28th International Conference; that meeting was attended by the representatives of the States and the National Societies. After those meetings, the Swiss authorities felt that the conditions for a consensus had been met and decided formally to invite the States to take part in the Diplomatic Conference on the emblem scheduled for 25 October in Geneva.

Particularly intensive consultations were held throughout the month of September 2000, with the result that most of the remaining points of dissent in the draft third protocol were ironed out. Agreement was also reached on a broadly accepted design for which no trace was found of any prior international use.

Although there had as yet been no formal decision on the new emblem's name, it soon appeared that the term "red crystal" presented undeniable advantages: it is identical in all three of the Movement's working languages and in many

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79 *Joint Working Group on the Emblems: Statement by the Chairman*, 14 June 2000, ICRC Archives, file 233.2-12.



other languages; it has no negative connotations in any of the numerous languages tested; in French and in English the initials are the same as for the red cross and red crescent; and lastly, crystals are a symbol of purity and transparency, and they bring to mind water, the source of life.<sup>80</sup>

In short, a comprehensive solution to the question of the emblem, one that was acceptable in terms of both substance and procedure, appeared to be within reach, only to be called into question by the events that occurred in the Middle East in late September 2000.

Fresh hostilities having broken out in that part of the world, Switzerland considered that the conditions required for the adoption of the third additional protocol were no longer met and decided to postpone the Diplomatic Conference. At the request of the ICRC and the Federation, it nevertheless agreed to circulate the draft protocol, dated 12 October 2000, in order to take stock of the progress made and of the many points on which agreement had been reached.<sup>81</sup>

Since the Diplomatic Conference had been postponed, the Standing Commission was left with no choice but to put off the 28th International Conference of the Red Cross and Red Crescent that was to have taken place on 14 November 2000.<sup>82</sup>

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80 Objections were raised in some quarters that crystals are six-sided and that the term could therefore not be applied to a square. While it is true that many crystals have six sides, others are cube-shaped, in particular salt (sodium chloride), fluorite, pyrite and many other mineral crystals. The ICRC also took care to ensure that the term had no negative connotations relating to the infamous *Kristallnacht* (9-10 November 1938), during which numerous synagogues were burned to the ground by the Nazis, thousands of Jewish-owned shops were looted, countless Jews were killed or injured and 20,000 others were arrested. In Hebrew, however, this particular pogrom is designated by the word "*Bdolah*", which has no connection with crystals. In English, it is known as the Night of the Broken Glass.

81 The draft Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), prepared by the International Committee of the Red Cross in consultation with the International Federation of Red Cross and Red Crescent Societies, of 12 October 2000, is appended to our booklet *Towards a Comprehensive Solution to the Question of the Emblem*, revised fourth edition, ICRC, Geneva, April 2006, pp. 86-96. At the end of the Diplomatic Conference held in Geneva from 5 to 8 December 2005, Protocol III was finally adopted without modification as far as the English text was concerned. The other language versions were also adopted without modification apart from certain linguistic corrections. Protocol III is appended to this article (Annex 9).

82 *Postponement of the Conference: To the Members of the 28th International Conference of the Red Cross and Red Crescent*, Geneva, 19 October 2000, ICRC Archives, file 231-22.

## **6. The 2001 and 2003 Council of Delegates and the 28th International Conference of the Red Cross and Red Crescent**

The member States of the League of Arab States and the member States of the Organisation of the Islamic Conference having requested a suspension of negotiations on adopting a third protocol additional to the Geneva Conventions for as long as clashes continued in the Middle East, the diplomatic process was suspended *de facto* for four years.

The ICRC and the International Federation nevertheless pursued their consultations with the permanent missions of various States in Geneva, collecting their comments on the draft third protocol and on the future of the process. Their representations also ensured that governments understood that, for the Movement, the question of the emblem remained a priority. The consultations showed that the draft third additional protocol as it stood on 12 October 2000 was widely accepted as a basis for discussion on which it would be possible to resume negotiations as soon as circumstances allowed. The representatives of many States said that they hoped a solution would be found that could be adopted by consensus.

In addition, the question of the emblem was placed on the agenda for the November 2001 and November 2003 sessions of the Council of Delegates and for the 28th International Conference of the Red Cross and Red Crescent.

The Council of Delegates, meeting in Geneva from 11 to 14 November 2001, adopted by consensus an important resolution under the terms of which the Council:

- ◆ commended the efforts made by the Joint Working Group on the Emblem;
- ◆ confirmed its objective of finding a comprehensive solution to the question of the emblem;
- ◆ noted that the adoption of an additional emblem devoid of any political, national or religious connotation whatsoever would be conducive to strengthening the protection of the victims of war and other situations of violence;

- ◆ noted that the draft third protocol additional to the Geneva Conventions drawn up by the ICRC in consultation with the International Federation and circulated on 12 October 2000 by Switzerland constituted an acceptable working basis for the resumption of negotiations when circumstances permitted;
- ◆ expressed the wish that a Diplomatic Conference convened with a view to adopting the third protocol could meet as soon as circumstances suggested favourable prospects for reaching an agreement;
- ◆ invited the International Federation and the ICRC to take all possible initiatives with a view to pursuing cooperation – in particular in the operational field – with the National Societies not yet recognized; and
- ◆ requested the Standing Commission to continue consultations with a view to finding a comprehensive solution to the question of the emblem on the basis of the work already carried out.<sup>83</sup>

Unfortunately, between the November 2001 Council of Delegates and the statutory meetings held in December 2003, the sun did not break through the leaden skies above the international scene. The bombings in Bali, Riyadh, Casablanca and Istanbul, the war in Afghanistan and in Iraq, and above all the continuing clashes in the occupied territories created a general climate incompatible with any resolution of the emblem issue.

The Council of Delegates of November 2003 and the 28th International Conference of the Red Cross and Red Crescent thus met in a menace-charged atmosphere. The discussions on the emblem were nevertheless as calm and reasonable as could be hoped in the circumstances. Despite the differences of view and the emotion surrounding the issue, the main participants in the debate showed a degree of moderation that enabled two significant resolutions to be adopted by consensus: Resolution 5 of the Council of Delegates and Resolution 3 of the International Conference, in which the latter adopted the resolution of the former.

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83 *IRRC*, No. 845, March 2002, pp. 277-279. The resolution adopted on 14 November 2001 by the Council of Delegates (Resolution 6) is appended to this article (Annex 1).

By means of Resolution 5, the Council of Delegates:

- ✦ welcomed the progress made since the 27th International Conference, in particular the drafting of a proposed third protocol additional to the Geneva Conventions on the emblem (12 October 2000);
- ✦ deeply regretted developments that made it impossible to bring the process to its expected outcome with the adoption of the draft third additional protocol;
- ✦ underlined the urgency of reinforcing measures for the protection of war victims, medical personnel and humanitarian workers in all circumstances, and the significance in this context of the proposed third additional protocol; and
- ✦ requested the Standing Commission to continue to give high priority to securing, as soon as circumstances permitted, a comprehensive and lasting solution to the question of the emblem, in cooperation with the Swiss government as depositary of the Geneva Conventions and with other concerned governments and components of the Movement, on the basis of the proposed draft third additional protocol.<sup>84</sup>

By means of its Resolution 3, also adopted by consensus, the 28th International Conference adopted the resolution of the Council of Delegates.<sup>85</sup>

The ICRC and the International Federation took advantage of these years to extend their operational cooperation with the National Societies awaiting recognition – in particular the Palestine Red Crescent Society, the Magen David Adom in Israel and the Red Cross Society of Eritrea – so as to give those Societies a stronger sense of belonging to the Movement and to pave the way for their incorporation into the Movement as soon as the obstacles to formal

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84 Resolution 5 of the Council of Delegates of November 2003, *Report of the Twenty-Eighth International Conference of the Red Cross and Red Crescent*, Geneva, 30 November – 6 December 2003 (hereinafter “*Report of the 28th International Conference*”), p. 9 (appended to this article (Annex 2)).

85 Resolution 3 of the 28th International Conference, *Report of the 28th International Conference*, p. 30 (appended to this article (Annex 4)).

recognition had been removed; the ICRC and the Federation also encouraged the development of bilateral cooperation between non-recognized and other National Societies.<sup>86</sup>

Dr Carlos Gruzman, the head of delegation of the Magen David Adom at the 28th International Conference, stressed the expanding cooperation between the Israeli National Society and the other components of the Movement: “The relationship between the Magen David Adom (MDA) in Israel and the Red Cross and Red Crescent Movement has undergone a period of intense change and growth since the last International Conference in 1999. Ties have been created and cooperation improved in diverse spheres of activity as a direct result of the Movement’s strategic decision to develop ties with the Magen David Adom. [...] It is the hope of the MDA that the Movement will continue down the path it has chosen so as to achieve the vital and all-important goal of universality that is at the very heart of the Movement. The MDA is deeply appreciative of the efforts of both the Movement’s leadership and like-minded States and National Societies to this end. The Magen David Adom looks forward to the day when it will finally be accepted as a full member of the Movement.” In particular, Dr Gruzman cited the opening of an International Federation liaison office in Tel Aviv and the cooperation agreement between the Magen David Adom and the ICRC concluded on 9 June 2003.<sup>87</sup>

By means of its Resolution 7 on the Strategy for the International Red Cross and Red Crescent Movement, the Council of Delegates of November 2003 called upon the International Federation and the ICRC “to promote capacity

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86 In order to come to the aid of the civilian victims of attacks and clashes by this means, the ICRC decided to provide substantial support for the emergency medical service of the Magen David Adom, which furnishes almost all first-aid services to the Israeli population. The ICRC has been providing the same kind of support for the emergency medical service of the Palestine Red Crescent Society for several years. In spite of the violence of the clashes in the Middle East, the two Societies have kept some channels of communication open and pursued some forms of cooperation in order to assist the victims. The ICRC is also cooperating closely with both Societies in traditional areas of activity such as the dissemination of international humanitarian law, the tracing of missing persons and the restoration of family ties.

87 Statement by Dr Carlos Gruzman, member of the Magen David Adom’s National Council, 5 December 2003, *Report of the 28th International Conference*, p. 208.

building of National Societies and to continue to extend operational cooperation also to National Societies awaiting recognition and admission with the aim of preparing for their membership in the Movement.”<sup>88</sup>

With the support of the Swiss army, the ICRC also conducted visibility tests to ensure that the new emblem had the same visual qualities as the red cross and the red crescent. In addition, the ICRC and the Federation conducted research to ascertain the most appropriate name and settled on “red crystal”, which was more and more widely accepted.

Finally, the Standing Commission elected by the 28th International Conference formed a new working group made up of persons belonging to the National Societies of Egypt, Kenya, Lesotho, the United States, Syria, Iran, Indonesia, the United Kingdom, Germany, the ICRC and the Federation. The working group was chaired by Ambassador Philippe Cuvillier, a member of the Standing Commission and the Commission’s special representative on the emblem. Mr Cuvillier carried out several missions, in particular in Middle Eastern countries, to examine the possibility of restarting the diplomatic process with a view to adopting the draft third additional protocol.<sup>89</sup>

## **7. The Diplomatic Conference and the adoption of Protocol III additional to the Geneva Conventions**

The new situation in the Middle East in January 2005 prompted the ICRC, the International Federation and the Standing Commission to request that Switzerland resume the process of diplomatic consultation with a view to adopting Protocol III. The Swiss Federal Council appointed an ambassador on special mission, Didier Pfirter, to hold consultations on convening the Diplomatic Conference on the emblem.

88 Resolution 7 of the Council of Delegates of November 2003, paragraph 3, *Report of the 28th International Conference*, pp. 9-10 (appended to this article (Annex 3)).

89 Council of Delegates, Seoul, 16-18 November 2005, *Report on the emblem*, Standing Commission of the Red Cross and Red Crescent, Geneva, September 2005.

Ambassador Pfirter carried out extensive consultations both at the permanent missions of many States in Geneva and in the capitals of the countries directly concerned, particularly Egypt, Israel, Syria, Saudi Arabia, Iran and the United States, and with the Palestinian Authority.

In parallel, the ICRC, the Federation and the Standing Commission continued their efforts with a view to drawing attention to the importance that the International Red Cross and Red Crescent Movement placed on finding a solution to this issue.

On 12 and 13 September 2005, Switzerland opened informal consultations in which all States party to the Geneva Conventions were invited to take part. Many States expressed the hope that Switzerland would convene the Diplomatic Conference on the emblem as soon as possible, and that draft protocol III additional to the Geneva Conventions would be adopted without modification. The member States of the League of Arab States and the member States of the Organisation of the Islamic Conference held that the time was not yet appropriate for convening the Conference and that certain questions still needed to be resolved beforehand. The consultations concluded with Ambassador Blaise Godet, permanent representative of Switzerland to the United Nations Office and to the other international organizations in Geneva, who chaired the meeting, announcing that Switzerland intended to convene the Diplomatic Conference before the end of 2005, but that it would continue its consultations with a view to working out solutions to two problems that the discussions had shown to be significant:

- ◆ the territorial usage of the emblem;
- ◆ the geographical scope of the operational activities and of the competences of the National Societies, in accordance with the Statutes and rules of the Movement.<sup>90</sup>

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90 Closing statement by the Chair (unofficial translation of the French original), 13 September 2005

Federal Councillor Micheline Calmy-Rey, the foreign minister of the Swiss Confederation, held consultations at the political level on the occasion of the United Nations General Assembly in New York and on a mission to the Middle East that took her in particular to Cairo, Tel Aviv, Ramallah and Beirut.

In addition, Ambassador Pfirter conducted negotiations with the support of the ICRC and the Federation that resulted in a cooperation agreement between the Magen David Adom and the Palestine Red Crescent. The presidents of the two Societies initialled the agreement in Seoul, where they were attending the meeting of the Council of Delegates, on 16 November 2005, and signed it in Geneva on 28 November 2005. The agreement was concluded to clarify the reciprocal relations between the two Societies, to facilitate the adoption of draft protocol III and to pave the way for the membership of both Societies in the Movement.<sup>91</sup>

Meeting in Seoul from 16 to 18 November 2005, the Council of Delegates adopted by consensus an important 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 5 December 2005 of the Diplomatic Conference called upon to adopt the draft third protocol additional to the Geneva Conventions on the emblem;
- ♦ urged National Societies to approach their respective governments to underline to them the necessity to settle the question of the emblem at the Diplomatic Conference through the adoption of the draft third additional protocol;

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91 Memorandum of Understanding between the Magen David Adom in Israel and the Palestine Red Crescent Society, and Agreement on Operational Arrangements, signed in Geneva on 28 November 2005.



- ♦ requested the Standing Commission, the ICRC and the Federation as a matter of urgency to undertake the measures needed to give effect to Protocol III after its adoption, especially with a view to ensuring that the Movement's principle of universality is fully achieved as soon as possible.<sup>92</sup>

Although four National Societies made it known that they had reservations, they chose not to oppose the draft resolution, which was adopted by consensus.

On 28 November 2005, Dr Noam Yifrach, chairman of the executive committee of the Magen David Adom, and Mr Younis al-Khatib, president of the Palestine Red Crescent Society, signed in Geneva, in the presence of Mrs Calmy-Rey and of many other public figures, the agreement that had been initialled in Seoul on 16 November 2005 and also an agreement on operational arrangements setting out the practical implications of certain provisions of the agreement initialled in Seoul. The heads of the two relief societies confirmed on this occasion their expectation that both National Societies could become full members of the Movement, if possible at the same time.<sup>93</sup>

Unfortunately, attempts to conclude a similar agreement between the Syrian Arab Red Crescent Society and the Magen David Adom before the Diplomatic Conference opened remained unsuccessful.

The Diplomatic Conference was convened by Switzerland and held in Geneva from 5 to 8 December 2005 under the chairmanship of Ambassador Blaise Godet.

92 Council of Delegates, Seoul, 16-18 November 2005, "Draft resolution: Follow-up to Resolution 5 of the Council of Delegates in 2003, Emblem," Standing Commission of the Red Cross and Red Crescent, Seoul, November 2005; *IRRC*, No. 860, December 2005, p. 768 (Resolution 5 of the Council of Delegates of November 2005 is appended to this article (Annex 5)).

93 Memorandum of Understanding between the Magen David Adom in Israel and the Palestine Red Crescent Society, and Agreement on Operational Arrangements, signed in Geneva on 28 November 2005; declarations by Dr Noam Yifrach, chairman of the executive committee of the Magen David Adom and by Mr Younis al-Khatib, president of the Palestine Red Crescent Society, 28 November 2005.

In her speech at the opening of the Diplomatic Conference, Mrs Calmy-Rey emphasized the need to strengthen the protection of victims of war, since the existing emblems had resulted in interpretations that had all too often led to the emblems not being respected and to the deaths of medical personnel and aid workers. The foreign minister recalled that the 28th International Conference of the Red Cross and Red Crescent, held in Geneva in December 2003, had requested that high priority continue to be given to securing, as soon as circumstances permitted, a comprehensive and lasting solution to the question of the emblem on the basis of draft additional protocol III.

Mrs Calmy-Rey also referred to the agreement signed on 28 November 2005 by the heads of the Palestine Red Crescent and the Magen David Adom and mentioned the two National Societies' expectation that the conclusion of the agreement would facilitate adoption of the draft protocol and admission of the two Societies into the International Red Cross and Red Crescent Movement. Finally, Mrs Calmy-Rey emphasized the determination of the depositary to do everything it could to secure the broadest possible consensus, and appealed for a spirit of compromise to guide the Conference proceedings. She expressed the hope that the Conference would be able to adopt the protocol by consensus and thereby to continue the tradition that has characterized the actions of the international community in matters of codifying international humanitarian law.<sup>94</sup>

The president of the ICRC, Mr Jakob Kellenberger, brought before the Diplomatic Conference the resolution adopted a few days previously by the Council of Delegates in Seoul, and echoed the Movement's expectation that the community of States would create a new instrument making it possible to strengthen the protection of war victims and to finally achieve the universality to which the Movement aspires and which is one of its fundamental principles.<sup>95</sup>

Over 50 delegations took part in the general debate. The great majority of these delegations underlined the need to reach a comprehensive solution to

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<sup>94</sup> The opening speech by Mrs Calmy-Rey is appended to this article (Annex 6).

<sup>95</sup> The opening remarks by Mr Kellenberger are appended to this article (Annex 7).

the issue of the emblem and gave their support to draft protocol III. Several delegates requested that the protocol be adopted without modification during the Conference. Other delegations, fewer in number, referred to the situation in the Middle East and held that the time was not yet ripe to settle the question. They signalled their opposition to adopting the protocol. Most of this discussion, by far, concerned the situation in the Middle East and, in particular, in the Golan Heights occupied by Israeli forces since June 1967. The delegations also referred to the draft amendments proposed by Yemen and Pakistan with the support of the member States of the Organisation of the Islamic Conference.

After statements by the representatives of States, the Conference chairman invited the representatives of the Palestine Red Crescent, the Syrian Arab Red Crescent, the Magen David Adom, the ICRC and the International Federation to make their expectations known. The representatives of the ICRC and the Federation stressed that although the additional emblem was designated in the draft protocol as the “third Protocol emblem” the designation “red crystal” was gaining currency and would be confirmed in the next revision of the Statutes of the International Red Cross and Red Crescent Movement. They also underlined their hope of soon being able to welcome both the Palestine Red Crescent and the Magen David Adom to full membership in the Movement.

Alongside the general debate, intensive negotiations took place with a view to reaching an agreement between the Syrian Arab Red Crescent and the Magen David Adom, either modelled on the agreement of 28 November 2005 between the Palestine Red Crescent and the Magen David Adom, or in the form of an exchange of letters. Since bilateral contact was not possible between the delegations directly concerned, the negotiations took the form of “proximity talks” thanks to the good offices of the depositary and of various delegations.

At the end of the general debate, Mrs Calmy-Rey and Mr Kellenberger again addressed the Conference to appeal for a spirit of compromise and to stress the importance, after three days of intensive and almost uninterrupted proceedings, of succeeding in adopting the draft protocol.

In the name of a small group of delegations, the head of the Chilean delegation then submitted a new proposal: to adopt draft protocol III without modification and at the same time to adopt paragraphs to be inserted in the Final Act of the Diplomatic Conference recalling the agreement signed on 28 November 2005 between the Magen David Adom and the Palestine Red Crescent, and calling for a similar agreement between the Syrian Arab Red Crescent and the Magen David Adom. Under this proposal, the draft protocol and the provisions to be inserted into the Final Act would have been adopted in one single operation. This solution was not accepted, however.

Despite protracted negotiations, night sessions and the good offices of the Conference chairmanship and of several delegations, it became apparent that there was unfortunately no possibility of arriving at a consensus. Voting was therefore necessary. A first vote was called on the amendments proposed by Yemen and Pakistan in the name of the member States of the Organisation of the Islamic Conference. After a meeting of the General Committee of the Conference, the head of the Pakistan delegation, speaking on behalf of these States, made it known that they were not against the Conference reaching a decision on the entire set of these amendments all at once. Put to a roll-call vote, these amendments were rejected by 72 votes to 35 with 29 abstentions.<sup>96</sup>

The Conference then proceeded to adopt Protocol III by 98 votes to 27 with 10 abstentions.<sup>97</sup>

In the explanations of vote that followed, several delegations expressed regret that Protocol III had been adopted by vote and that the international community had split over a treaty of international humanitarian law. Several of the delegations that had voted against adopting the protocol were keen to emphasize, however, that their opposition was not aimed at the draft protocol

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96 *Final Act of the Diplomatic Conference*, paragraphs 18 and 20. The *Final Act* was published in the *IRRC*, No. 861, March 2006, pp. 187-191; it is also appended to this article (Annex 8).

97 *Ibid*, paragraphs 21 and 23. The Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) of 8 December 2005 was published in the *IRRC*, No. 861, March 2006, pp. 191-196; it is also appended to this article (Annex 9).

but had to do with the timing and with the situation in the Middle East. Others stressed that although they had voted against the adoption of Protocol III their countries would respect the new distinctive emblem if it was adopted by other countries.

Despite the late hour, 27 heads of delegation signed Protocol III additional to the Geneva Conventions during the brief signing ceremony that followed the closing of the Diplomatic Conference on 8 December 2005 in the early morning hours.<sup>98</sup>

The Final Act of the Conference stated that the ICRC and the Federation had 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.<sup>99</sup> The Conference had also noted the signing of a Memorandum of Understanding between the Magen David Adom in Israel and the Palestine Red Crescent on 28 November 2005 with the aim of facilitating the adoption of Protocol III and paving the way for the admission of both Societies to the Movement at the next International Conference of the Red Cross and Red Crescent.<sup>100</sup> Lastly, the Final Act recorded the fact that Switzerland had agreed to monitor the implementation of the Memorandum of 28 November 2005 in close cooperation with the ICRC and the Federation and to report to the next International Conference of the Red Cross and Red Crescent.<sup>101</sup>

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98 Austria, Belgium, Bolivia, Burundi, Chile, Colombia, Congo, Costa Rica, Denmark, Ecuador, France, Greece, Guatemala, Israel, Italy, Liechtenstein, Luxembourg, Madagascar, Malta, Norway, Peru, Portugal, Switzerland, Tanzania, Timor-Leste, United Kingdom, United States.

99 *Final Act of the Diplomatic Conference*, paragraph 14.

100 *Ibid*, para. 15.

101 *Ibid*, para. 16.

## **8. The 29th International Conference of the Red Cross and Red Crescent and the revision of the Statutes of the International Red Cross and Red Crescent Movement**

The adoption of Protocol III additional to the Geneva Conventions was a decisive step towards a comprehensive and lasting solution to the question of the emblem, but did not by itself constitute such a solution. A final step still had to be taken to enable National Societies deciding to adopt the red crystal to be admitted into the Movement: a revision of the Statutes of the International Red Cross and Red Crescent Movement taking into account the adoption of Additional Protocol III and opening the way for the admission into the Movement of the National Societies that would adopt the red crystal.

Accordingly, the Standing Commission gave the ICRC and the Federation the responsibility of organizing in June 2006 the 29th International Conference of the Red Cross and Red Crescent.

In a letter dated 16 December 2005, the ICRC and the Federation invited the members of the Conference to meet in Geneva on 20 and 21 June 2006.

The purpose of the 29th International Conference was:

- 1) to consider and adopt amendments to the Statutes of the International Red Cross and Red Crescent Movement consequent upon the adoption on 8 December 2005 of Protocol III additional to the Geneva Conventions;
- 2) to consider and decide upon the proposed name of “red crystal” for the distinctive emblem of Protocol III; and
- 3) to create a framework for the recognition and admission of the Palestine Red Cross Society.<sup>102</sup>

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<sup>102</sup> *Convocation to the 29th International Conference of the Red Cross and Red Crescent*, 16 December 2005, Geneva, ICRC – International Federation.

In order to avoid protracted debate, it was decided to limit the proposed amendments to the strict minimum. Accordingly, these concerned only Article 3, paragraph 2, and Article 4, paragraph 5, of the Statutes of the Movement.<sup>103</sup>

In accordance with the provisions of Additional Protocol III, there were no plans to change the names of the ICRC, the Federation, or the Movement.

Lastly, the ICRC, the Federation and the Standing Commission wanted the Conference to achieve its three main objectives through the adoption of a single resolution.<sup>104</sup>

In view of the exceptional circumstances which motivated the convening of the 29th International Conference, the Standing Commission decided that regular business, including the election of members of the Standing Commission, should be deferred to the 30th Conference, which would take place as planned in Geneva in November 2007.<sup>105</sup>

The 29th International Conference was preceded by intensive diplomatic preparations. The support group assisting the ICRC, the Federation and the Standing Commission (“Friends of the Chair”) met three times<sup>106</sup> with the aim of advising the host institutions and the future chairman of the Conference on matters of substance as well as of procedure and participation. Numerous informal meetings, bringing together members of the support group and representatives of various permanent missions, were also held in the months leading up to the Conference.

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103 Proposed amendments to the Statutes of the International Red Cross and Red Crescent Movement, 16 December 2005, annex to the Convocation to the 29th International Conference of the Red Cross and Red Crescent, 16 December 2005, Geneva, ICRC – International Federation.

104 Twenty-Ninth International Conference of the Red Cross and Red Crescent, *Draft resolution* (REV 2), presented jointly by the International Federation of Red Cross and Red Crescent Societies, the International Committee of the Red Cross and the Standing Commission of the Red Cross and Red Crescent, 18 June 2006.

105 *Convocation to the 29th International Conference of the Red Cross and Red Crescent*, 16 December 2005, Geneva, ICRC – International Federation.

106 On 12 April, 18 May and 12 June 2006.

As announced at the Diplomatic Conference, Switzerland spared no effort in contributing to the implementation of the Memorandum of Understanding of 28 November 2005. With the support of the ICRC and the Federation, it held several meetings for the heads of the Israeli and Palestinian relief societies and carried out high-level representations among the governments concerned, in particular the Israeli government, in order to ensure that all the provisions of the Memorandum and its annex (which dealt with operational arrangements) were implemented. Although major delays in the implementation process could not be avoided, there is no doubt that the process itself brought the two societies closer together and led to improved operational cooperation between them. This was all the more remarkable an achievement as, meanwhile, the political environment continued to deteriorate.<sup>107</sup>

The Joint ICRC/Federation Commission for National Society Statutes maintained an ongoing dialogue with the Magen David Adom and the Palestine Red Crescent in order to help the two societies ensure that their statutes met the requirements laid down in the Statutes of the Movement, in particular the conditions for the recognition of new National Societies.<sup>108</sup> On 27 April 2006, the ICRC Assembly examined the statutes of the two societies and, taking into account the favourable opinion already given by the Joint Commission, authorized the president of the ICRC to announce the recognition of the two societies, providing that the 29th International Conference adopted the proposed amendments to the Statutes of the Movement and the framework necessary for the recognition of the Palestine Red Crescent.<sup>109</sup>

Moreover, the ICRC took steps to set up a medical facility in the occupied Golan, as it had agreed to do at the Diplomatic Conference.<sup>110</sup>

107 Swiss Federal Department of Foreign Affairs, Implementation of the Memorandum of Understanding and the Agreement on Operational Arrangements between the Magen David Adom in Israel and the Palestine Red Crescent Society signed on 28 November 2005, *Monitoring Report of Switzerland*, 29th International Conference of the Red Cross and Red Crescent, Geneva, 20-21 June 2006.

108 These conditions are listed in Article 4 of the Statutes of the Movement, *Handbook, op. cit.*, pp. 421-422.

109 ICRC Archives, *Procès-verbaux de l'Assemblée du CICR* (ICRC Assembly summary reports), meetings of 26 and 27 April 2006, item 10.

110 *ICRC Golan Emergency and Diagnostic Center*, 2 June 2006.



Lastly, as she had done on the eve of the Diplomatic Conference, Mrs Calmy-Rey returned to Jerusalem, where she met with both Israeli and Palestinian contacts.

In conformity with the Statutes of the Movement, the Council of Delegates met on 19 June 2006. Its sole task was to prepare for the International Conference that opened the next day. Following a tradition of more than one hundred years, the Council elected the president of the ICRC, Mr Jakob Kellenberger, as its chairman. Mr Tom Bukuru, president of the Uganda Red Cross Society, was elected as vice-chairman. The Council adopted, without any discussion, the agenda of the Conference and the proposed list of elected officers (chairman, vice-chairmen, secretary-general and assistant secretaries-general).<sup>111</sup>

The 29th International Conference opened on Tuesday, 20 June 2006, in the presence of 1,083 delegates representing 150 governments, 177 National Societies, the ICRC, the International Federation and 46 observers.

Speaking on behalf of the host State, Mrs Calmy-Rey underscored the Conference's two objectives: to strengthen the protection afforded to war victims and to enable the International Red Cross and Red Crescent Movement to achieve universality with the admission of the Israeli and Palestinian relief societies. She also emphasized the close cooperation that the two societies had developed despite the sharp rise in tension in the region, saying that it proved how worthy they were of being admitted as full members of the Movement. Lastly, she voiced the hope that the Conference would reward the long efforts made to bring a successful conclusion to the protracted debate on the emblems used under the Geneva Conventions.<sup>112</sup>

111 Twenty-ninth International Conference of the Red Cross and Red Crescent, 20-21 June 2006, *Agenda and Programme, adopted by the Council of Delegates of the International Red Cross and Red Crescent Movement*, Resolution 1, 19 June 2006. Twenty-ninth International Conference of the Red Cross and Red Crescent, 20-21 June 2006, *Proposal of Persons to Fill Posts at the 29th International Conference of the Red Cross and Red Crescent, endorsed by the Council of Delegates of the International Red Cross and Red Crescent Movement*, Resolution 2, 19 June 2006.

112 Swiss Federal Department of Foreign Affairs, statement by Federal Councillor Micheline Calmy-Rey on the opening of the 29th International Conference of the Red Cross and Red Crescent, Geneva, 20 June 2006. ICRC Archives, file B AI 2006 231-16.

The Fundamental Principles were then read out loud to the participants.

As proposed by the Council of Delegates, the 29th International Conference elected Dr Mohammed Al-Hadid, president of the Jordan National Red Crescent Society and of the Standing Commission, as its chairman. It also elected four vice-chairmen: Ms Mandisa Kalako-Williams, president of the South African Red Cross Society, Senator Richard Gordon, president of the Philippine National Red Cross, Ambassador Juan Martabit, permanent representative of Chile, and Ambassador Wegger Chr. Strommen, permanent representative of Norway. Ambassador Christoph Bubb (Switzerland) was elected as secretary-general and Mr Olivier Dürr (ICRC) and Mr Frank Mohrhauer (International Federation) as assistant secretaries-general.

As soon as the Conference opened, its legitimacy was called into question by some delegates who argued that the Statutes of the Movement could not be amended to take account of the provisions of Protocol III before the latter had entered into force.<sup>113</sup> Moreover, the permanent representatives of Tunisia and Pakistan reminded the participants that several draft amendments had been submitted to the Conference on behalf of the member States of the League of Arab States and the member States of the Organisation of the Islamic Conference.<sup>114</sup>

Following a decision by the chairman, these points were taken up by the Bureau of the Conference,<sup>115</sup> which received two legal opinions. The first, which was submitted by the ICRC, the International Federation, the British Red Cross and Switzerland in its capacity as the depositary State for the Geneva Conventions

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113 Pursuant to Article 11, paragraph 1, of Protocol III, the latter was to enter into force six months after the first two instruments of ratification or accession had been deposited. As Norway had ratified it on 13 June 2006 and Switzerland on 14 July 2006, Protocol III entered into force on 14 January 2007. As of 31 December 2006, 84 States had signed Protocol III and nine had ratified it, namely Bulgaria, Honduras, Hungary, Iceland, Liechtenstein, the Netherlands Norway, the Philippines and Switzerland.

114 Proposal from the governments of Pakistan and Tunisia, 29th International Conference of the Red Cross and Red Crescent, Amendments to the draft resolutions of 9 June 2006, 18 and 19 June 2006.

115 In addition to the chairman, the vice-chairmen, the secretary-general and the assistant secretaries-general, the Bureau included the presidents of the ICRC and the International Federation.

and their Protocols, concluded that the Conference had been legitimately convened and that, as Protocol III had been signed by over 60 States, there was no need to await its entry into force before taking the measures required to implement it.<sup>116</sup> The second opinion, which was submitted by the Arab Group and the Organisation of the Islamic Conference, concluded that the Conference could not validly deliberate, since Protocol III had not yet entered into force.<sup>117</sup> The Bureau decided that the two legal opinions would be included in the report on the Conference and that the amendments to the draft resolution submitted by the Federation, the ICRC and the Standing Commission would be examined within the framework of a negotiating group headed by Ambassador Strommen, vice-chairman of the Conference.

Once that decision had been taken, the Conference resumed its work in conformity with the agenda proposed by the Council of Delegates.

Ambassador Philippe Cuvillier, the Standing Commission's special representative on the emblem, reported to the Conference on the work carried out by the Commission in order to achieve a comprehensive and lasting solution to the question of the emblem, pursuant to the mandate it had received from the 28th International Conference of the Red Cross and Red Crescent. Stressing that it was up to the 29th International Conference to complete a process that had been initiated several years earlier, Mr Cuvillier reminded the participants of the different steps that had already been taken. First of all, the Conference had been convened pursuant to Resolution 5 of the Council of Delegates held in Seoul in 2005 and that had 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

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116 *Legal opinion on the question of whether the Statutes of the International Red Cross and Red Crescent Movement can be amended before the Third Additional Protocol has entered into force*, 20 June 2006. ICRC Archives, file B AI 2006 231-151.

117 *Legal position of the Arab group and the Organisation of the Islamic Conference relative to the item on the amendment of the Statutes of the Movement*, 21 June 2006. ICRC Archives, file B AI 2006 231 121/3.

universality.”<sup>118</sup> Lastly, Mr Cuvillier expressed the hope that the Conference would achieve its aim and clear the final hurdles by means of a consensus, as befitted a Movement guided by the principle of unity.<sup>119</sup>

Mr Jakob Kellenberger then reported on the medical facility that the ICRC had proposed to set up in the occupied Golan after consultation with the local authorities, doctors and representatives of the population concerned,<sup>120</sup> and Ambassador Pfirter reported on the representations made by Switzerland in order to ensure the implementation of the Memorandum of Understanding signed on 28 November 2005 by the heads of the Magen David Adom and the Palestine Red Crescent.<sup>121</sup>

Forty-three delegations took part in the general debate. Some expressed their support for the draft resolution submitted by the Standing Commission and asked the Conference to take the necessary steps to admit the Magen David Adom and the Palestine Red Crescent relief societies to the Movement without delay. Others stated their opposition to the draft resolution and asked that the Conference be postponed. Still others voiced their opinions on the draft amendments submitted by Tunisia and Pakistan on behalf of the member States of the League of Arab States and the member States of the Organisation of the Islamic Conference.

In parallel, Ambassador Martabit and Ambassador Strommen, vice-chairmen of the Conference, conducted informal negotiations with the objective of reaching an agreement on the draft resolution and the proposed amendments.

118 Council of Delegates, Seoul, November 2005, Resolution 5, *IRRC*, No. 860, December 2005, p. 768 (Resolution 5 of the November 2005 Council of Delegates is appended to this article (Annex 5)).

119 Twenty-ninth International Conference of the Red Cross and Red Crescent, statement by Ambassador Philippe Cuvillier, the Standing Commission’s special representative on the emblem, 20 June 2006, ICRC Archives, file B AI 2006 231-16.

120 “Majdal Shams Hospital” project, occupied Golan: ICRC statement, *Statement to the 29th International Conference of the Red Cross and Red Crescent by ICRC President Dr Jakob Kellenberger, 20 June 2006, on the establishment of an emergency and diagnostic centre at Majdal Shams* (<http://www.gva.icrc.priv/web/eng/siteeng0.nsf/htmlall/conference29-statement-200606?opendocument>) ICRC Archives, file B AI 2006 231-121/2.

121 Twenty-ninth International Conference of the Red Cross and Red Crescent, statement by Ambassador Didier Pfirter, 20 June 2006, ICRC Archives, file B AI 2006 231-121/1.

However, once the Conference had concluded its general debate – during which time the informal negotiations had continued virtually uninterrupted – there was still no compromise solution in sight that might lead to a consensus. In reporting back to the Conference on the work of the informal consultation group, Ambassador Strommen acknowledged that, despite the enormous efforts undertaken by the group, the negotiations had been to no avail.

Consequently, the Conference moved towards a vote. In conformity with Rule 20, paragraph 1, of the Rules of Procedure of the International Red Cross and Red Crescent Movement,<sup>122</sup> the chairman first put to the vote the amendments to the draft resolution submitted on behalf of the member States of the League of Arab States and the member States of the Organisation of the Islamic Conference.

At the request of 10 delegations, the vote was taken by roll call. The draft amendments were rejected by 191 votes to 73, with 43 abstentions.

The chairman then put to the vote the draft resolution submitted by the Federation, the ICRC and the Standing Commission, again by roll call at the request of 10 delegations. The draft resolution was adopted by 237 votes to 54, with 18 abstentions.<sup>123</sup>

In the voting, several National Societies demonstrated their independence by distancing themselves from the positions taken by their governments. On the whole, more National Societies than State representatives supported the draft resolution.

When given a chance to explain their vote, several delegations expressed their regret that the Conference was divided on the question of the emblem and underscored the importance of getting back to work and restoring unity to the Movement. Certain delegations stressed their willingness to cooperate with the new National Societies despite having opposed the draft resolution.

122 *Handbook, op. cit.* p. 442.

123 Resolution 1 of the 29th International Conference of the Red Cross and Red Crescent, adopted on 22 June 2006, is appended to this article (Annex 10)

At the conclusion of the 29th International Conference, Mr Kellenberger stated that the ICRC's Assembly had examined the applications submitted by the Magen David Adom and the Palestine Red Crescent prior to the opening of the Conference and that he could therefore announce the recognition of the two National Societies and their admission to the Movement.<sup>124</sup>

The statement by the ICRC president enabled the president of the International Federation, Mr Juan Manuel Suarez del Toro, to immediately call a meeting of the Federation's General Assembly.<sup>125</sup> The National Societies regrouped while the State representatives left the hall. The Palestine Red Crescent and the Magen David Adom were then admitted to the Federation by acclamation.<sup>126</sup> Visibly moved, Mr Younis al-Khatib, president of the Palestinian National Society, and Dr Noam Yifrach, chairman of the Magen David Adom's Executive Committee, climbed onto the podium to general applause. Mr al-Khatib announced that he wished to dedicate the day to all of the volunteers of the Palestine Red Crescent, who carried out their humanitarian duties in extremely difficult conditions, sometimes risking their lives. Mr Yifrach thanked all those who had helped the Magen David Adom become a full member of the Movement.

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124 ICRC press release No. 06/65, *International conference paves way for red crystal*, 22 June 2006.

125 The General Assembly of the International Federation had already met on 19 June 2006, prior to the Council of Delegates.

126 Press release No. 48/06 of the International Federation of Red Cross and Red Crescent Societies, "The International Federation admits two new National Societies," 22 June 2006.

## Looking ahead

The simultaneous admission of the Palestine Red Crescent and the Magen David Adom to the Movement was the culmination of almost 15 years of negotiations that had begun after the publication of an article by ICRC President Cornelio Sommaruga in the *International Review of the Red Cross* in July 1992.<sup>127</sup> The admission marked a decisive step towards achieving the full universality to which the Movement aspires and which is included among its fundamental principles. The fact that the admission of the two new Societies took place by acclamation during the Federation's General Assembly acted like a healing balm on the wounds caused by the voting over the adoption of Protocol III and the resolution of the 29th International Conference. It was also a sign of the Movement's unity and endurance.

In the final analysis the Movement has no doubt been strengthened by this ordeal during which it demonstrated its ability to remedy a painful situation that had lasted far too long, one that had jeopardized its unity and clouded its future, and one that was loaded with symbolic but also political and moral consequences since it was related to the identity of two peoples of the Middle-East. By recognizing the humanitarian commitment of the Palestine Red Crescent and the Magen David Adom, and by accepting the two Societies as fully fledged members, the Movement also acquired two operational partners subject to the same rules and benefiting from the same rights as all the other National Societies, a fact that can only enhance the effectiveness of its action.

In divesting itself of an obstacle that threatened its future and limited its potential, and in finding a balanced solution to a question that had consumed its energy and cast a pall over its deliberations for decades – a solution respectful of its fundamental principles – the Movement has acquired greater freedom of action and a greater capacity to meet the challenges of the future.

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127 Cornelio Sommaruga, "Unity and plurality of the emblems," *IRRC*, No. 289, July-August 1992, pp. 333-338.

Through the adoption of Protocol III, the Movement has also convinced the States party to the Geneva Conventions to create a new tool that will strengthen the protection afforded to war victims: a distinctive sign that is free of any national, political or religious connotation and that is recognized, alongside the red cross and red crescent, as a means of identifying military and civilian medical personnel, vehicles, installations and objects in wartime. In view of the increasing polarization we have witnessed in recent years, there can be no doubt that this new tool will make it possible, in some situations, to better protect medical services, humanitarian personnel and victims of war, and thus to save lives.

Lastly, the lead-up to the 29th International Conference fostered cooperation between the Magen David Adom and the Palestine Red Crescent, a fact all the more remarkable as the environment in which the two Societies were working never ceased to worsen. The simultaneous admission of the two National Societies to the Movement sent out a message of peace to all the people of the Middle-East at a time when their region was once again plunging into crisis.



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## **ANNEX 1**

### **Council of Delegates, Geneva, 11-14 November 2001 Resolution 6**

#### **EMBLEM**

The Council of Delegates,

*having taken note of* the report presented by the Standing Commission of the Red Cross and Red Crescent (Standing Commission) on the follow-up given to Resolution 2 of the Council of Delegates convened in Geneva on 29 and 30 October 1999 and Resolution 3 of the 27th International Conference of the Red Cross and Red Crescent,

1. *commends* the efforts made by the joint working group on the emblems, which was set up by the Standing Commission with a view to finding a comprehensive solution to the question of the emblem and is composed of representatives of the Movement and of States;
2. *recalls* the Fundamental Principles of the International Red Cross and Red Crescent Movement, in particular the Principle of the Universality of the Movement;
3. *confirms* its objective of finding, as rapidly as possible, a comprehensive solution to the emblem issue which is acceptable to all parties in terms of substance and procedure;
4. *recognizes* the legal and protective value of the emblems used by the International Red Cross and Red Crescent Movement, which, by virtue of their inclusion in the 1949 Geneva Conventions and continuous practice for over a century, have become universally recognized symbols of

impartial and neutral aid and protection to the victims of war, natural disasters and other catastrophes;

5. *notes* that the adoption of an additional emblem which is devoid of any political, national or religious connotation whatsoever will be conducive to strengthening the protection of the victims of war and other situations of violence;
6. *notes* that the draft third protocol additional to the Geneva Conventions, which was drawn up by the International Committee of the Red Cross (ICRC) in consultation with the International Federation of Red Cross and Red Crescent Societies (International Federation) and was circulated on 12 October 2000 by Switzerland in its capacity as the depositary of the Geneva Conventions, constitutes an acceptable working basis for the resumption of negotiations when circumstances permit;
7. *sincerely regrets* the fact that developments in the Middle East in September 2000 created a situation which compelled Switzerland to postpone the Diplomatic Conference which was to be convened with a view to examining and, if possible, adopting the third protocol;
8. *expresses* the wish that the Diplomatic Conference can meet as soon as circumstances suggest favourable prospects for reaching an agreement;
9. *invites* the International Federation and the ICRC to take all possible initiatives with a view to pursuing cooperation – in particular in the operational field – with the National Societies which are not yet recognized;
10. *requests* the Standing Commission to continue consultations with a view to finding a comprehensive solution to the question of the emblem on the basis of the work already carried out and to report on the implementation of the present resolution at the next Council of Delegates and the 28th International Conference of the Red Cross and Red Crescent.

## **ANNEX 2**

### **Council of Delegates, Geneva, 30 November – 2 December 2003 Resolution 5**

#### **FOLLOW-UP TO RESOLUTION 6 OF THE 2001 COUNCIL OF DELEGATES**

##### **EMBLEM**

The Council of Delegates

*taking note* of the report submitted by the Standing Commission as requested by the 27th International Conference of the Red Cross and Red Crescent, held in Geneva in 1999, and Resolution 6 of the Council of Delegates in 2001,

*reiterating* the commitment of the International Red Cross and Red Crescent Movement to achieve, with the support of the States Parties to the 1949 Geneva Conventions, a comprehensive and lasting solution to the question of the emblem, on the basis of the proposed draft Third Protocol Additional to the Geneva Conventions, once it is adopted, as soon as circumstances permit,

*recalling* the legal and protective value of the emblems used by the International Red Cross and Red Crescent Movement, which, by virtue of their inclusion in the Geneva Conventions and continuous practice for over a century, have become universally recognised symbols of impartial and neutral aid and protection to the victims of war, natural disasters and other catastrophes,

1. *welcomes* the work of the Standing Commission, its Special Representative on the Emblem and its ad hoc Working Group, the ICRC and the International Federation to develop the basis for a comprehensive and lasting solution to the question of the emblem;

2. *further welcomes* the progress made since the 27th International Conference, in particular the drafting of the proposed Third Protocol Additional to the Geneva Conventions on the Emblem (12 October 2000) as well as the adoption of Resolution 6 of the 2001 Council of Delegates;
3. *deeply regrets* developments which have made it impossible to bring the process to its expected outcome with the adoption of the draft Third Additional Protocol;
4. *recalls* the Fundamental Principles of the Red Cross and Red Crescent, in particular the principle of universality;
5. *underlines* the urgency of reinforcing measures for the protection of war victims, medical personnel and humanitarian workers in all circumstances, and the significance in this context of the proposed Third Additional Protocol;
6. *requests* the Standing Commission to continue to give high priority to securing, as soon as circumstances permit, a comprehensive and lasting solution to the question of the emblem, in cooperation with the Swiss government as depositary of the Geneva Conventions and with other concerned governments and components of the Movement, on the basis of the proposed draft Third Additional Protocol;
7. *requests* the Special Representative of the Standing Commission on the Emblem to bring this resolution to the attention of the 28th International Conference of the Red Cross and Red Crescent.

## **ANNEX 3**

### **Council of Delegates, Geneva, 30 November – 2 December 2003 Resolution 7**

#### **STRATEGY FOR THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT**

**(excerpt)**

The Council of Delegates,

[...]

3. *further calls* upon the International Federation and the ICRC to promote capacity building of National Societies and to continue to extend operational cooperation also to National Societies awaiting recognition and admission with the aim of preparing for their membership in the Movement;

[...].

## **ANNEX 4**

### **28th International Conference of the Red Cross and Red Crescent Geneva, 2-6 December 2003 Resolution 3**

#### **EMBLEM**

The 28th International Conference of the Red Cross and Red Crescent,

*recalling* Resolution 3 (27th International Conference) adopted on 6 November 1999,

*adopts* Resolution 5 adopted by the Council of Delegates on 1st December 2003 (see annex).

**Council of Delegates, Geneva, 30 November – 2 December 2003  
Resolution 5**

**FOLLOW-UP TO RESOLUTION 6  
OF THE 2001 COUNCIL OF DELEGATES**

**EMBLEM**

The Council of Delegates

*taking note* of the report submitted by the Standing Commission as requested by the 27th International Conference of the Red Cross and Red Crescent, held in Geneva in 1999, and Resolution 6 of the Council of Delegates in 2001,

*reiterating* the commitment of the International Red Cross and Red Crescent Movement to achieve, with the support of the States Parties to the Geneva Conventions, a comprehensive and lasting solution to the question of the emblem, on the basis of the proposed draft Third Protocol Additional to the Geneva Conventions, once it is adopted, as soon as circumstances permit,

*recalling* the legal and protective value of the emblems used by the International Red Cross and Red Crescent Movement, which, by virtue of their inclusion in the 1949 Geneva Conventions and continuous practice for over a century, have become universally recognised symbols of impartial and neutral aid and protection to the victims of war, natural disasters and other catastrophes,

1. *welcomes* the work of the Standing Commission, its Special Representative on the Emblem and its ad hoc Working Group, the ICRC and the International Federation to develop the basis for a comprehensive and lasting solution to the question of the emblem;



2. *further welcomes* the progress made since the 27th International Conference, in particular the drafting of the proposed Third Protocol Additional to the Geneva Conventions on the Emblem (12 October 2000) as well as the adoption of Resolution 6 of the 2001 Council of Delegates;
3. *deeply regrets* developments which have made it impossible to bring the process to its expected outcome with the adoption of the draft Third Additional Protocol;
4. *recalls* the Fundamental Principles of the Red Cross and Red Crescent, in particular the principle of universality;
5. *underlines* the urgency of reinforcing measures for the protection of war victims, medical personnel and humanitarian workers in all circumstances, and the significance in this context of the proposed Third Additional Protocol;
6. *requests* the Standing Commission to continue to give high priority to securing, as soon as circumstances permit, a comprehensive and lasting solution to the question of the emblem, in cooperation with the Swiss government as depositary of the Geneva Conventions and with other concerned governments and components of the Movement, on the basis of the proposed draft Third Additional Protocol;
7. *requests* the Special Representative of the Standing Commission on the Emblem to bring this resolution to the attention of the 28th International Conference of the Red Cross and Red Crescent.

## **ANNEX 5**

### **Council of Delegates, Seoul, 16-18 November 2005 Resolution 5**

#### **FOLLOW-UP TO RESOLUTION 5 OF THE 2003 COUNCIL OF DELEGATES**

##### **EMBLEM**

The Council of Delegates,

*taking note* of the report submitted by the Standing Commission on developments with regard to the issue of the emblem since Resolution 5 of the Council of Delegates and Resolution 3 of the 28th International Conference held in 2003 in Geneva,

*reiterating* the commitment of the International Red Cross and Red Crescent Movement to achieve, with the support of the States Parties to the 1949 Geneva Conventions, a comprehensive and lasting solution to the question of the emblem, on the basis of the proposed draft Third Protocol Additional to the Geneva Conventions;

*recalling* the Fundamental Principles of the Red Cross and Red Crescent, in particular the principle of universality;

*recognizing* the legal and protective value of the emblems used by components of the International Red Cross and Red Crescent Movement, which, by virtue of their inclusion in the Geneva Conventions and continuous practice for over a century, have become universally recognized symbols of impartial and neutral aid and protection to the victims of war, natural disasters and other catastrophes,

1. *notes with appreciation* the continued efforts of the Standing Commission, its Special Representative on the Emblem and its ad hoc Working Group, the ICRC and the International Federation in support of the process to achieve a comprehensive and lasting solution to the question of the emblem;
2. *welcomes* 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 5 December 2005 of the Diplomatic Conference necessary for the adoption of the proposed Third Protocol Additional to the Geneva Conventions on the Emblem;
3. *urges* 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;
4. *requests* 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;
5. *further requests* the Special Representative of the Standing Commission on the Emblem to report on the implementation of this resolution to the 29th International Conference of the Red Cross and Red Crescent.

## **ANNEX 6**

### **Diplomatic Conference on the adoption of a Third Protocol additional to the Geneva Conventions**

**Opening speech by Federal Councillor Micheline Calmy-Rey  
5 December 2005**

Ladies and Gentlemen, distinguished Delegates,

Ladies and Gentlemen, distinguished representatives of the Red Cross and Red Crescent Movement,

It is a great pleasure for me to address the opening of this Diplomatic Conference, which I hope will bring an end to the century-old controversy over the emblems of the Geneva Conventions and the Red Cross and Red Crescent Movement. The fact that we are gathered here today with the aim of resolving once and for all this thorny question is the result of a difficult search for compromise which has taken years to reach. In addition to issues of substance, we have had to work in a complex environment where it has not been easy to maintain a clear distinction between humanitarian and political issues.

Tradition has it that it is for Switzerland to make the call for support for the development of international humanitarian law. The Swiss Federal Council accords importance to this task, which it regards both as a great honour and a major responsibility for my country. We take it upon ourselves to approach this task from a standpoint of neutrality and objectivity. We will see to it that the views of all States Parties are taken into account without discrimination, and we will endeavour to find solutions which are acceptable to the largest majority. We are grateful for the support in this task that we have received from the ICRC,

which in accordance with the Statutes of the Movement has in particular the role of preparing any developments in humanitarian law, as well as that from the whole Red Cross and Red Crescent Movement and from the States Parties.

This meeting could not have taken place today without the enormous efforts of a large number of people over a period of years as well as of the Movement and of the States Parties. It is also to a great extent due to the flexibility and courage of a number of States Parties, observers and National Societies. I congratulate them on this demonstration of the humanitarian spirit, which is so urgently needed, and I express the wish that it will guide us all in the coming days, enabling us to arrive at the adoption of the Protocol in an atmosphere of serenity and harmony becoming of a cause such as this.

The passage of time has perhaps allowed us to forget that this process started with the request of a number of States to obtain recognition of their own emblems. It is true that the three emblems recognized up to now are derived from national symbols. The Red Cross is the inversion of the Swiss flag, symbolizing Switzerland's neutrality. The Red Crescent as well as the Red Lion and Sun, which were recognized in 1929, were taken from the national symbols of Turkey and Iran respectively. None of these symbols had any religious connotation, and it is wrong to make this association as some do today.

In view of the decision taken in 1929, the claims of other States for recognition of their individual symbols are understandable. At the same time however, it is important to acknowledge that a proliferation of emblems would seriously harm the universal nature of respect for these emblems. It is therefore imperative to prevent any such proliferation. I pay tribute to the wisdom and sense of responsibility of those States which have renounced their national aspirations in the interest of the humanitarian cause by adopting the recognized emblems, as well as to those which have declared themselves willing to renounce their claims in favour of an additional emblem devoid of any national, political or religious connotation. Without this spirit of compromise we would not have today a draft Additional Protocol which enjoys such wide support.

Our thoughts and demarches have also been guided by the concern to strengthen protection for the victims of war. Whether we like it or not, the current emblems have given rise to interpretations which all too often have led in recent years to violations of these emblems and to the deaths of members of health services and of humanitarian actors. The adoption of an additional emblem, free of any national, political or religious connotation will provide a new instrument for the protection of military and civilian health services on the battlefield and of humanitarian workers in precisely those situations where the current emblems are not sufficiently recognized and respected.

The emergence of a consensus in favour of adding a last emblem without connotation has paved the way for the process which we hope to see crowned with success at this Conference. I am very happy to see among us today HRH Princess Margriet of the Netherlands, former President of the Permanent Commission of the Red Cross and Red Crescent whose role was crucial to the launching of this process. I also welcome here today Mrs Christina Magnuson, former President of the Working Group of States Parties and members of the Movement which drafted the text of the Protocol on the basis of a proposal made by the ICRC in the year 2000. For all those involved in the process five years ago, it was a bitter blow to see it broken off only days before its conclusion due to political events. Other people who gave a lot at that time, in particular the current Legal Advisor of the United Nations, are unable to be here today but are following our demarches very closely. The torch held by those who have since been called to other functions has been passed on to successors who have pursued the cause with the same vigour. I am thinking in particular of the current President of the Permanent Commission, Dr Mohammed Al-Hadid, of his Special Representative, Mr Philippe Cuvillier, as well as of the President and of the Secretary-General of the Federation, Mr Juan Manuel Suárez del Toro and Mr Markku Niskala.

But we also have some “veterans” among us, who have followed and supported the cause all these years, including during the years of postponement, and who have been waiting for better days. In particular, I would like to mention the unrelenting commitment of the President of the ICRC, Mr Jakob Kellenberger, of

the Director of Legal Affairs of the ICRC, Mr François Bugnion – who some call the father of the new emblem – and of Mr Christopher Lamb, Special Counsellor of the Federation.

It is to a large extent thanks to these people as well as to the many others who supported them that we are here today. The 28th International Conference of the Red Cross and Red Crescent, which was convened in Geneva in December 2003, launched an appeal calling on us to continue “to give high priority to the efforts to achieve as soon as circumstances permit a global and lasting solution to the question of the emblem [...] on the basis of the draft Third Additional Protocol”. The Permanent Commission took up the torch and contacted the Depositary on behalf of the Movement. The Depositary appointed an “Ambassador at Large for the Emblems of the Geneva Conventions” in March this year, who immediately started consultations with the Permanent Representatives in Geneva and in various capitals.

At the end of May, the Depositary opened a formal consultation procedure via diplomatic note which showed that the draft protocol as it stood met with no opposition, but that there were a number of differences of view regarding the appropriate time of its adoption. Informal discussions were subsequently held in Geneva on 12 and 13 September 2005.

These confirmed an agreement in principle on the substance of the draft Third Additional Protocol and the widely shared wish that the Diplomatic Conference for the adoption of the Protocol be held as soon as possible. Nevertheless, a group of States wanted to see a number of points addressed before the Conference took place, in particular the questions of the territorial use of the emblem, the geographical area of operational activities and competences of the National Societies in conformity with the Statutes and rules of the International Movement of the Red Cross and Red Crescent. Finally, they showed themselves in general to be positively disposed to dialogue and to finding common ground, as well as to a widely shared desire for a consensus-based approach.

Encouraged by this state of affairs, in his final declaration, the President of the meeting said that the Depositary intended to convene a Diplomatic Conference in the near future, at the latest by the end of the year, and with this end in view had committed itself to conduct a consultation process to note the concerns expressed by certain delegations. In spite of a number of reservations, this way to proceed was not contested.

I took the matter in hand immediately and conducted intensive consultations at the United Nations General Assembly in New York with a large number of my counterparts from countries with a special interest in this issue. These consultations indicated that we still had a certain way to go before the Conference could be held in a harmonious atmosphere.

On Tuesday 27 September 2005, Dr Noam Yifrach, President of the Executive Committee of the Israeli National Society, Magen David Adom, signed a declaration of principle in the presence of the Presidents of the Permanent Commission of the Red Cross and Red Crescent, of the International Committee of the Red Cross, and of the International Federation of Red Cross and Red Crescent Societies, as well as with High Representatives of the Depositary. The Declaration, which was sent to all the missions in Geneva, provides answers to the above-mentioned questions. Magen David Adom declared itself ready to negotiate among other things cooperation agreements with its neighbouring Societies, in particular the Palestinian Red Crescent and the Syrian Arab Red Crescent.

Thereupon the Special Envoy of the Federal Council travelled to the Middle East to make contact with the governments and National Societies concerned. He urged the neighbouring Societies of MDA to accept the offer to negotiate agreements which would open up the way to giving concrete form to the declaration of principle. The Palestinian Red Crescent and Magen David Adom finally agreed to the parameters of such a negotiation process in my presence at the end of October, and asked Switzerland to facilitate these discussions.



On 28 November, I had the pleasure to preside over the signing ceremony of a Memorandum of Understanding and of an agreement on operational arrangements between these two Societies in the presence of representatives of the Israeli Government and the Palestinian Authority in this very Conference Centre. In their Memorandum, the two Societies express the wish that it facilitate the adoption of the Third Additional Protocol as well as the wish of the two Societies to be admitted to the International Movement of the Red Cross and Red Crescent.

At the request of the two Societies, the Swiss government accepted to monitor the implementation of this agreement in close cooperation with the ICRC and the Federation and in full respect for the latter's prerogatives.

I would like to congratulate Magen David Adom and the Palestinian Red Crescent for the exemplary attitude of mutual understanding with which they conducted the negotiations, and I am grateful to the Israeli and Palestinian authorities for having delegated representatives to the signing of these agreements.

It has only been possible to commence negotiations between Magen David Adom and the Red Crescent Society of the Syrian Arab Republic in the last few days. They are being conducted under the auspices of the Depositary with the indirect assistance of the Federation and of the ICRC. In spite of the constraints of time and procedure, some progress can be reported, and efforts are continuing in a constructive spirit on both sides.

Ladies and Gentlemen,

It is exactly one month since the Federal Council decided to convene this Diplomatic Conference to examine and adopt the Third Additional Protocol to the Geneva Conventions. It addressed a note to this effect to all the States you represent. Before taking this decision, I went in person to a number of States with a particular interest in this question and I held telephone discussions with representatives of a number of others. The Swiss Special Envoy visited other capitals, in some cases in the company of representatives of

the ICRC and the Federation, and he has maintained intensive contact with the Permanent Representatives in Geneva for the purpose of preparing the ground for this Conference. We have taken very seriously the responsibility for this decision in all senses, and we have arrived at the conclusion that the moment has come to seize the opportunity to adopt the Third Additional Protocol and in this way finally to close this file.

When communicating our decision, we reiterated our wish to do everything within our power to find the largest possible consensus, and we have spared no effort to achieve this end. This spirit will also continue to guide our actions during the Conference. We are grateful for the assurances we have received from all the groups of States that this spirit of compromise will also guide their action at the Conference. It allows me to hope that we will be able to adopt the Protocol by consensus and thus to pursue the tradition which characterizes the action of the international community in the codification of international humanitarian law.

For only the second time since 1949, the Geneva Conventions will be further developed – Protocols I and II having been adopted simultaneously in 1977. The Third Additional Protocol will allow the Movement to come closer to achieving its objective of universality. It will also strengthen protection for the victims of war in the current political climate. We are all called upon to meet this challenge and to understand its crucial importance for humanitarian law and the Red Cross and Red Crescent Movement. On behalf of the Depositary, I thank you now for your cooperation.

## **ANNEX 7**

### **Diplomatic Conference on the adoption of a Third Protocol additional to the Geneva Conventions**

#### **Opening remarks by the President of the International Committee of the Red Cross, Dr. Jakob Kellenberger,**

**5 December 2005**

Madame Minister, Excellencies, Ladies and Gentlemen,

This conference is called to take a decisive step toward the true universality of the Red Cross and Red Crescent Movement.

“This protocol” – I quote from Article 1 of the draft Third Protocol Additional to the Geneva Conventions – “reaffirms and supplements the provisions of the four Geneva Conventions (...) and, where applicable, of their two 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.”

By adopting the Third Additional Protocol to the Geneva Conventions this Conference will reaffirm existing international humanitarian rules regarding the emblems and introduce an additional emblem with equal status and relevance.

For long, the International Red Cross and Red Crescent Movement has sought, with the help of the governments, a comprehensive and lasting solution on the question of the emblems, acceptable to all parties in terms of substance and procedure. The International Conferences of the Red Cross and Red Crescent adopted resolutions supporting this objective in 1999 and 2003. The Council

of Delegates of the International Red Cross and Red Crescent Movement, at its last session in Seoul on 16-18 November, adopted by consensus a Resolution urging all National Red Cross and Red Crescent Societies to approach their respective governments in order to underline to them the necessity to settle the question of the emblem at this Diplomatic Conference through the adoption of the proposed draft Third Additional Protocol with the aim of achieving subsequently, as soon as possible, the principle of universality.

The Council of Delegates is, as you are well aware, the body where the representatives of all components of the Movement meet to discuss matters which concern the Movement as a whole. As Chairman of the Council in Seoul and as President of the International Committee of the Red Cross, “guardian” of international humanitarian law, I invite you to both support the Movement’s goal to reach universality and to foster the efficiency of international humanitarian law by adopting an additional emblem for the protection of the victims of armed conflict.

The Third Additional Protocol on the emblems is of an exclusively humanitarian nature. As an international treaty it has to be adopted by the States Party to the Geneva Conventions. The Red Cross and Red Crescent Movement therefore needs and requests your support to reach universality and fulfil its mission as best as it can. I thank the Swiss Government, in particular the Foreign Minister, Madame Calmy-Rey, Ambassador Godet and Ambassador Pfirter for the strong commitment to this important humanitarian issue and for having convened this Conference today.

A week ago, in this very building, the Chairman of Magen David Adom in Israel and the President of the Palestine Red Crescent Society signed a Memorandum of Understanding and an Agreement on Operational Arrangements. These texts, beyond the precise wording of the different points, reflect a strong common humanitarian commitment, a genuine spirit of cooperation and mutual respect. The dedication and courage of the two Societies who carry out their humanitarian tasks admirably well under often very difficult circumstances deserve to be praised. You can, by adopting the Third

Additional Protocol, also facilitate their humanitarian task. The Memorandum of Understanding starts with the following words: “Magen David Adom in Israel and the Palestine Red Crescent Society, in an effort to facilitate the adoption of the Third Additional Protocol to the Geneva Conventions of 1949 and to pave the way for the membership of both societies in the Red Cross and Red Crescent Movement;...”. The ICRC, the International Federation of Red Cross and Red Crescent Societies and the Standing Commission support these objectives. I hope this Conference will do so as well.

In the interest of the credibility of the Movement’s fundamental principle of universality and in the name of all those in need of the best possible protection and assistance I would be grateful to you for adopting the Third Additional Protocol at this Conference, I would be very grateful indeed. It is time. Thank you.

## **ANNEX 8**

**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.
3. The list of observers who were present at the Conference is enclosed in Annex 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, 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 cooperation 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).<sup>128</sup>

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<sup>128</sup> So as not to unduly increase the size of this publication, Annexes 1-3 of the Final Act of the Diplomatic Conference are not reproduced here. The Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), of 8 December 2005 (Annex 4 of the Final Act), is appended to this article (Annex 9).

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.

## **ANNEX 9**

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

**(Protocol III)**

Geneva, 8 December 2005

**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,*

- (PP1) *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,

- (PP2) *Desiring* to supplement the aforementioned provisions so as to enhance their protective value and universal character,
- (PP3) *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,
- (PP4) *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,
- (PP5) *Stressing* that the distinctive emblems are not intended to have any religious, ethnic, racial, regional or political significance,
- (PP6) *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,
- (PP7) *Recalling* that Article 44 of the First Geneva Convention makes the distinction between the protective use and the indicative use of the distinctive emblems,
- (PP8) *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,
- (PP9) *Recognizing* the difficulties that certain States and National Societies may have with the use of the existing distinctive emblems,

(PP10) *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***

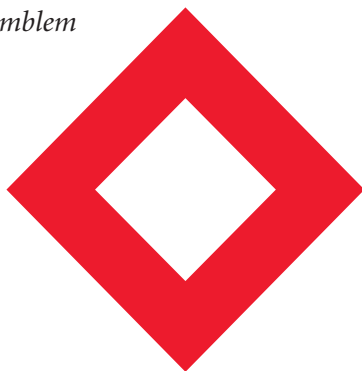
1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.
2. The depositary shall also inform the Secretariat of the United Nations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

### ***Article 17 – Authentic texts***

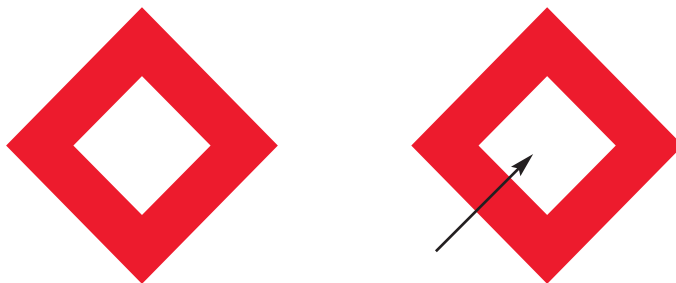
The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Geneva Conventions.

**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

## **ANNEX 10**

### **29th International Conference of the Red Cross and Red Crescent Geneva, 20-22 June 2006 Resolution 1**

The 29th International Conference of the Red Cross and Red Crescent,

*noting* the report of the Standing Commission of the Red Cross and Red Crescent on the follow up to resolution 3 of the 28th International Conference,

*taking account* of the Third Protocol Additional to the Geneva Conventions adopted on 8 December 2005 in Geneva, and of the Final Act of the Diplomatic Conference on the emblem,

*acknowledging* that the Memorandum of Understanding signed on 28 November 2005 and referred to in paragraph 15 of the Final Act of the Diplomatic Conference was concluded in an effort to facilitate the adoption of the Third Protocol and to pave the way for the membership of both signatory societies in the International Red Cross and Red Crescent Movement,

*considering* the unique and special situation of the Palestine Red Crescent Society,

*emphasizing* that the recognition and admission of the Palestinian Red Crescent Society do not under any circumstances create a precedent for any other entity or territory,



*guided* by the Fundamental Principles of the Red Cross and Red Crescent, in particular the Principle of Universality,

1. *adopts* the draft amendments to the Statutes of the International Red Cross and Red Crescent Movement annexed hereto;
2. *decides* that the Third Protocol emblem will henceforth be designated as the “red crystal”;
3. *requests* the International Committee of the Red Cross to recognize the Palestine Red Crescent Society, and *requests* the International Federation of Red Cross and Red Crescent Societies to admit this Society as a member.

## **Annex to resolution 1**

### **PROPOSED AMENDMENTS TO THE STATUTES OF THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT**

#### **Statutes of the International Red Cross and Red Crescent Movement**

##### *Title*

Complete as follows the parenthesis below the title (adopted by the Twenty-fifth International Conference of the Red Cross at Geneva in 1986, *amended in 1995 and 2006*)

##### *Article 3*

Replace as follows the last sentence of **Article 3, paragraph 2**: “They also cooperate with their governments to ensure respect for international humanitarian law and to protect the *distinctive emblems recognized by the Geneva Conventions and their Additional Protocols*.”

##### *Article 4*

Replace as follows **Article 4, paragraph 5**: “5. Use a name and *distinctive emblem in conformity with the Geneva Conventions and their Additional Protocols*.”

##### *Article 21*

Replace as follows **Article 21, paragraph 2**: “2. The present *amended* Statutes shall enter into force on 22 June 2006.”

## SELECTED BIBLIOGRAPHY

Council of Delegates, Geneva, 11-14 November 2001, *Emblem, Document prepared by the Standing Commission of the Red Cross and Red Crescent*, Geneva, August 2001.

28th International Conference of the Red Cross and Red Crescent, *Report on the Follow-up of Resolution 3 of the 27th International Conference on the Emblem*, Report prepared by the Standing Commission of the Red Cross and Red Crescent, Geneva, October 2003.

Council of Delegates, Seoul, 16-18 November 2005, *Report on the Emblem*, document prepared by the Standing Commission of the Red Cross and Red Crescent, Geneva, September 2005.

29th International Conference of the Red Cross and Red Crescent, 20-21 June 2006, *Report: Follow-up to Resolution 3 on the Emblem of the 28th International Conference (2003)*, Document prepared by the Standing Commission of the Red Cross and Red Crescent, May 2006.

*The Geneva Conventions of 12 August 1949: Commentary*, published under the general editorship of Jean S. PICTET, vol. I, *Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva, 1952, in particular pp. 297-339.

QUÉGUINER, Jean-François, with the participation of Anne RYNIKER, “Commentary on the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005”, *International Review of the Red Cross*, Vol. 89, No 865, March 2007, in press.

BUGNION, François, *The Emblem of the Red Cross: A Brief History*, ICRC, Geneva, 1977, 81 p. (off-print from *International Review of the Red Cross*, No. 194, April 1977, pp. 167-190; No. 195, May 1977, pp. 229-256; No. 196, June 1977, pp. 283-298).

BUGNION, François, *The Red Cross and Red Crescent Emblems*, ICRC, Geneva, 1989 (off-print from the *International Review of the Red Cross*, No. 272, September-October 1989, pp. 408-419).

BUGNION, François, *Towards a Comprehensive Solution to the Question of the Emblem*, ICRC, Geneva, June 2000; second edition, November 2003; third edition, April 2005; fourth edition, April 2006.

DUNANT, Maurice, “Les origines du drapeau et du brassard de la Croix-Rouge”, *La Croix-Rouge suisse*, XXXth year, No. 1, 1 January 1922, pp. 2-5.

FRUTIGER, Perceval, “L’origine du signe de la croix rouge”, *Revue internationale de la Croix-Rouge*, No. 426, June 1954, pp. 456-467.

GAER, Felice D., *Israel and the International Red Cross and Red Crescent Movement: The Status of Magen David Adom*, The American Jewish Committee, New York, March 2000.

PICTET, Jean S., *The sign of the red cross*, ICRC, Geneva, 1949.

PILLOUD, Claude, *Reservations to the Geneva Conventions of 1949*, ICRC, Geneva, 1976 (off-print from the *International Review of the Red Cross*, No. 180, March 1976, pp. 107-124; No. 181, April 1976, pp. 195-221).

ROSENNE, Shabtai, "The Red Cross, Red Crescent, Red Lion and Sun and the Red Shield of David", *Israel Yearbook on Human Rights*, Vol. 5, 1975, pp. 1-46.

SOMMARUGA, Cornelio, *Unity and Plurality of the Emblems*, ICRC, Geneva, 1992 (off-print from the *International Review of the Red Cross*, No. 289, July-August 1992, pp. 333-338).

TANSLEY, Donald D., *Final Report: An Agenda for Red Cross*, Henry Dunant Institute, Geneva, 1975, in particular pp. 125-127.



## **MISSION**

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance. It directs and coordinates the international relief activities conducted by the Movement in situations of conflict. It also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the International Red Cross and Red Crescent Movement.



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