

Submission 3
TT 9 May 2007



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5 June 2007

Committee Secretary
Joint Standing Committee on Treaties
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Sir/Madam

Pleased find attached the submission of Australian Red Cross to the **Joint Standing Committee on Treaties inquiry relating to Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)**.

As indicated in the submission, Australian Red Cross unequivocally supports ratification of Protocol III, which has the exclusively humanitarian objective of enhancing the protection of victims and humanitarian aid providers in time of conflict.

Protocol III recognises an additional distinctive emblem, the "red crystal", for use by military medical services and chaplains and the International Red Cross and Red Crescent Movement. This emblem will have the same conditions for use, respect, and status, as the existing emblems designated by the Geneva Conventions, which form part of the fundamental law protecting human life and dignity in time of armed conflict. The additional emblem is free of any national, cultural, religious, political or ethnic connotations and will thereby provide enhanced protection for the provision of humanitarian aid, particularly in situations where the red cross and red crescent may not have been well understood.

Kind regards,

A handwritten signature in blue ink, appearing to read "Robert Tickner", written over a large, light blue oval shape.

Robert Tickner
Chief Executive Officer



**Australian Red Cross submission to the Joint Standing Committee on
Treaties inquiry relating to:**

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

Introduction

Australian Red Cross would like to thank the Joint Standing Committee on Treaties for the opportunity to make a written submission on Australia's proposed binding treaty action to ratify the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

The issue is of particular importance to the Australian Red Cross given the International Red Cross and Red Crescent Movement's role in providing humanitarian assistance in times of conflict, and the recognition of the distinctive emblems by the Geneva Conventions of 12 August 1949, and their Additional Protocols of 8 June 1977 and 2005. Recognition, respect and protection of the three distinctive emblems are essential to enhance the provision of humanitarian aid around the world in time of conflict.

The red cross and red crescent emblems are used in more than 190 countries to protect medical personnel, buildings and equipment in time of armed conflict, and to identify national Red Cross and Red Crescent societies, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies. The emblems are recognised by the Geneva Conventions and their Additional Protocols of 1977 and 2005, which constitute part of the fundamental law protecting human life and dignity in time of armed conflict.

The Third Protocol introduces a third protective emblem called the red crystal alongside the red cross and red crescent emblems. The Third Protocol was adopted by a large majority of States at a diplomatic conference, held in December 2005 in Geneva. The International Red Cross and Red Crescent Movement then amended its statutes at its International Conference in 2006 to incorporate the red crystal emblem. The adoption of the red crystal by the International Red Cross and Red Crescent Movement affirms its determination to consolidate its universality, and enhances the protection of victims, and humanitarian aid providers in time of armed conflict.

Ratification of the Additional Protocol is essential to ensure the same worldwide recognition of and respect for the red crystal as is widely afforded to the red cross and the red crescent emblems.

1. Summary of Protocol III and use of the additional emblem

In summary, Protocol III recognises an additional distinctive emblem, known as the "red crystal", for use by military medical services and chaplains and the International Red Cross and Red Crescent Movement ('the Movement'). This additional emblem shall have the same conditions for use, respect, and status, as the existing emblems designated by the Geneva Conventions.

Pursuant to Protocol III, National Societies may, in accordance with their national legislation, use the red crystal in the course of their humanitarian activities, to indicate that they are part of the Movement. This will assist National Societies that have been unable or unwilling to use the red cross or red crescent for domestic reasons.

In addition, Protocol III recognises that medical and religious personnel of the armed forces, and the humanitarian workers of the International Red Cross and Red Crescent Movement may, without prejudice to their current emblems, make temporary use of the red crystal, where it would provide additional protection and safety for victims, staff and operations.

As with the existing emblems, Protocol III requires state parties to take effective measures to prevent and repress misuse of the red crystal. Protocol III also reiterates the need for state parties to educate the military and general population, ensuring greater recognition, respect for, and protection of the emblems.

2. Background to Protocol III

The emblems recognised by the Geneva Conventions of 1949 are the red cross, the red crescent and the red lion and sun. Since 1980, only the red cross and red crescent emblems have been in use. As indicated above, the emblems were intended to indicate that the user is involved in the provision of humanitarian relief, is not taking part in hostilities, and is therefore to be respected and protected.

Unfortunately, in recent conflicts, the red crescent and the red cross have been wrongly perceived as having religious, cultural or political connotations. This has affected respect for the emblems and has diminished the protection they offer to victims, and to humanitarian and medical personnel operating in war zones around the world.

Concerns about religious, cultural or political connotations have also been raised by a small number of national relief societies that have sought to join the International Red Cross and Red Crescent Movement. Since the Geneva Conventions and the rules of the Movement require a National Red Cross or Red Crescent Society to use one of the existing distinctive emblems, this has precluded a small number of National Societies from joining the Movement.

The solution, endorsed by governments, national red cross and red crescent societies, and the International Red Cross and Red Crescent Movement, was the creation of an additional emblem (the red crystal) to the red cross and red crescent, designed to be free of any national, cultural, religious, political or ethnic connotations. It has the same international status as the existing emblems.

National Societies facing difficulties in using either the red cross or the red crescent can adopt the additional emblem, and (if other conditions are satisfied) become members of the International Red Cross and Red Crescent Movement. This ensures true universality of the Movement.

Additional Protocol III was adopted by vote at the Diplomatic Conference in Geneva on 8 December 2005. In June 2006 at the International Conference of the Movement, the Movement's statutes were amended to incorporate recognition of the red crystal and Protocol III.

3. Importance of ratification by Australia

Ratification of Protocol III is important to ensure additional protection and safety for humanitarian workers, and medical and religious personnel of the armed forces, in conflict situations where the red crescent or red cross may not be well understood. Ratification of Protocol III provides Australia with the option to use the red crystal in circumstances where it considers that doing so would ensure greater additional protection for humanitarian workers and medical and religious personnel of the armed forces.

Ratification by Australia would also serve to indicate the importance of the distinctive emblems and to promote respect for their neutrality and universality, thus encouraging ratification in the region by states who are not yet party to Protocol III.

4. Implementation

If Australia ratifies Protocol III, it will be necessary to appropriately amend the *Geneva Conventions Act 1957* and the *Criminal Code* to properly incorporate Protocol III and the red crystal. It is essential that the Australian government take effective steps to promote knowledge of, respect for, and protection of the distinctive emblems. Misuse of the distinctive emblems in peacetime and in conflict significantly reduces the protective power of the emblems, endangering the lives of those who depend upon the emblems' protection in situations of armed conflict.

Despite unauthorised use of the red cross emblem being a criminal offence in Australia, there have been no prosecutions and Australian Red Cross is notified of a significant number of instances of misuse each month. Given continuing domestic misuse of the distinctive emblems by hospitals, medical centres, pharmacies and the producers of medical related products, Australian Red Cross would welcome the Australian government taking additional steps to ensure enhanced protection of the distinctive emblems

from misuse, and continued support for promoting awareness of the need to respect the emblems at all times. This is of particular importance if Australia is to ensure the protection of its military, medical and religious personnel and the humanitarian workers of Australian Red Cross and the International Red Cross and Red Crescent Movement.

5. Conclusion

Australian Red Cross strongly supports Australia ratifying Protocol III and incorporating its provisions into domestic legislation. The additional emblem provides enhanced protection for the provision of humanitarian aid, particularly in situations where the red cross and red crescent may not have been well understood. Ratification also provides Australia with the opportunity to augment measures to promote respect for, and safeguard the distinctive emblems from misuse, thereby enhancing the protective power of the emblems.