



ACS/2013/DRR.21/INF.009
Original Language: English
Last Update: 27th August, 2013

ASSOCIATION OF CARIBBEAN STATES

XXI MEETING OF THE SPECIAL COMMITTEE ON DISASTER RISK REDUCTION

Port-of-Spain, Trinidad and Tobago, October 02, 2013

IDRL Guidelines



Introduction to the Guidelines

for the domestic facilitation and regulation of international disaster relief and initial recovery assistance

About the IDRL Programme

The International Federation of Red Cross and Red Crescent Societies' International Disaster Response Laws, Rules and Principles (IDRL) Programme seeks to reduce human vulnerability by promoting legal preparedness for disasters through advocacy, technical assistance, training and research.

© International Federation of Red Cross and Red Crescent Societies, Geneva, 2011.

Copies of all or part of this document may be made for non-commercial use, providing the source is acknowledged. The International Federation would appreciate receiving details of its use. Requests for commercial reproduction should be directed to the International Federation at idrl@ifrc.org.

The opinions and recommendations expressed in this study do not necessarily represent the official policy of the IFRC or of individual National Red Cross or Red Crescent Societies. The designations and maps used do not imply the expression of any opinion on the part of the International Federation or National Societies concerning the legal status of a territory or of its authorities. All photos used in this study are copyright of the IFRC unless otherwise indicated.

P.O. Box 372
CH-1211 Geneva 19
Switzerland
Telephone: +41 22 730 4222
Telefax: +41 22 733 0395
E-mail: secretariat@ifrc.org
Web site: <http://www.ifrc.org>

Foreword

Natural disasters are increasing worldwide. They are striking in new locations, with greater impacts, and affecting more people than ever before. Last year, more than ten times as many people died in a single day as a result of the Haiti earthquake than in all disasters in 2009. We also saw historic flooding submerge one-fifth of Pakistan's national territory, affecting more than 20 million people. In the last few months alone, drought has brought an acute food and livelihood crisis to Kenya, and weeks of intense rain have brought floods and landslides to Bolivia. Capturing the world's attention, Japan had to contend with the effects of not one, but three crises due to an earthquake and the resulting tsunami and radiation leaks.

Greater needs have also led to greater international responses. The number and diversity of international responders has multiplied over the past decades. Non-traditional actors new to disaster response have entered the field. The Haiti earthquake is a striking recent example, attracting more than 400 foreign organizations. This outpouring of generosity demonstrably saves lives – but it can also strain the capacity of local authorities to facilitate, coordinate and oversee the relief effort.

Regulatory mechanisms are often seen as impediments in the aftermath of a disaster – something to be bypassed rather than as tools to enhance the effectiveness of response. But well-designed systems and processes are critical to meet the needs of the affected population. They can swiftly and efficiently direct international assistance to where it is most needed, and they can help ensure that appropriate quality and accountability standards are maintained.

In November 2007, the 30th International Conference of the Red Cross and Red Crescent unanimously adopted a set of recommendations to help governments prepare their regulatory systems for international disaster response. The Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance have been widely endorsed in the years since their adoption. They have been recognised in several UN General Assembly resolutions, and referred to by regional organizations, such as CAPRADE and NATO. Dozens of governments and National Red Cross and Red Crescent Societies made use of the Guidelines to review their national legislation –with support from the IFRC. This progress is encouraging, but with renewed momentum there is potential for much more.

Bekele Geleta
Secretary General



Bekele Geleta, Secretary General, IFRC.

Contents

Foreword	3
Introduction	5
What are the Guidelines?	6
Where did the Guidelines come from?	7
Why are the Guidelines needed?	8
What are the core ideas of the Guidelines?	9
How can the Guidelines be used?	11
Where can I learn more?	12
Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance	13
Adopting resolution	23

Introduction

In the past few decades, many countries have improved their ability to mitigate and respond to the effects of disasters. However, some catastrophic events are still overwhelming domestic capacities. This is unfortunately likely to continue in the near future, in light of the increasing severity of meteorological events caused by global warming and the increasing numbers of people living in precarious situations. When this occurs, international cooperation is essential to meet the humanitarian needs of affected communities.

Recent disasters have also shown that no state can reasonably consider itself immune from the occasional need for international assistance. As demonstrated by the 2010 and 2011 earthquakes in New Zealand and Japan and 2005's Hurricane Katrina in the United States, even the wealthiest societies can sometimes use a helping hand from abroad.

Unfortunately, very few governments are adequately prepared for the possibility that they may one day require international assistance. Often, the result is a poorly attuned approach when the need arises. Over-regulation in some areas leads to unnecessary bureaucratic bottlenecks slowing the entry and distribution of relief, while under-regulation in others allows for poor quality and uncoordinated efforts. These problems are compounded by the increasing number and variety of international actors who may seek to provide assistance in response to large disasters.

Unprepared governments suffer countless administrative and political headaches in these cases, while aid providers are frustrated by unnecessary delays and substantially higher costs. However, the principal victims are the families whose lives have been turned upside-down by a major disaster and who need immediate, effective support.

To address these problems, the International Federation of Red Cross and Red Crescent Societies consulted extensively with governments and relief specialists to develop the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance ("the IDRL Guidelines").

1 What are the Guidelines?

The Guidelines are a set of recommendations to governments on how to prepare their disaster laws and plans for the common regulatory problems in international disaster relief operations. They advise them as to the minimal quality standards they should insist upon in humanitarian assistance as well as the kinds of legal facilities aid providers need to do their work effectively. While responding to today's common problems, they are based on existing international legal and policy documents.

A plane chartered by the IFRC and donated by the UK Department for International Development arrives at Tocumen airport in Panama City to deliver goods to be transported via land to Port-au-Prince, Haiti.



Where did the Guidelines come from?

2

In 2001, the International Federation of Red Cross and Red Crescent Societies began its International Disaster Response Laws, Rules and Principles (IDRL) Programme to investigate how legal frameworks can contribute to improving the delivery of disaster relief. Through this programme, the Federation gathered information on existing international and national law, prepared or commissioned over two dozen individual case studies around the globe, and consulted widely with relevant stakeholders about their experience of legal issues in disaster operations.

In 2003, the 28th International Conference of the Red Cross and Red Crescent (gathering the state parties to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement) commended this ongoing work and called on the Federation to work collaboratively with partners to develop “guidelines for practical use in international disaster response activities.”

In 2006-2007, the Federation and its partners organized a series of high-level regional forums, which resulted in the development of the Guidelines. In all, over 140 governments, 140 National Red Cross and Red Crescent Societies and 40 international organizations, NGOs and NGO networks participated in these forums or otherwise provided input into the drafting of the Guidelines.

In November 2007, states and Red Cross and Red Crescent actors unanimously adopted the Guidelines at the 30th International Conference of the Red Cross and Red Crescent.



Transitional shelter program supplies arrive via sea transport during the tsunami operation in Indonesia

3 Why are the Guidelines needed?

The Guidelines are needed because most countries do not have special laws in place for facilitating and regulating international relief. The result is a common set of problems, including:

a. Unnecessary red tape

- Restrictions and delays in customs clearance for relief goods and equipment
- Imposition of duties, tolls and other taxes on relief items and activities
- Difficulties and delays in obtaining and renewing necessary visas and permits for humanitarian personnel
- Problems obtaining legal recognition of foreign professional qualifications for specialized personnel (particularly medical staff)
- Difficulties in legal registration for foreign humanitarian organizations, leading to restrictions in opening bank accounts and hiring local staff

b. Poor quality and coordination from some international providers

- Importation of unnecessary or inappropriate relief items
- Failure to coordinate with domestic authorities and other relief providers
- Use of inadequately trained personnel
- Failure to consult with beneficiaries
- Culturally unacceptable behaviour
- Proselytizing

Experience has shown that the wake of a major disaster is the wrong time to try to develop new rules and systems to address these kinds of problems. The Guidelines are designed to help governments to prepare for them before disasters strike.

What are the core ideas of the Guidelines?

4

a. Domestic actors have the primary role

The Guidelines recognize that it is first and foremost the responsibility of the government of the affected state to address the humanitarian needs caused by a disaster within its borders. National Red Cross or Red Crescent Societies and other domestic civil society actors in the affected state play a key supporting role. International disaster assistance should be designed and implemented so as to be complementary to the efforts of these domestic actors, rather than displace them.

b. International relief providers have responsibilities

The Guidelines also insist that international assistance providers be held responsible for abiding by certain minimum humanitarian standards in their disaster assistance. These include the principles of humanity, neutrality, and impartiality as well as minimum standards of coordination and quality in their relief goods, personnel and programmes, as drawn from sources such as the Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief and the Sphere Humanitarian Charter and Minimum Standards in Disaster Relief.

c. International actors need legal facilities

The Guidelines set out specific types of legal facilities or accommodations that governments should provide to assisting states and humanitarian organizations so that they can do an effective job of responding to humanitarian needs. For example, they call for:

- Expedited visa processing and customs clearance for relief personnel, goods and equipment
- Facilitation of relief transport
- Exemptions from taxes, duties and fees on relief activities
- Simplified means for humanitarian organizations to acquire temporary domestic legal personality in order to operate legally in the country

A distinction is made in some of these provisions between “relief” and “initial recovery assistance,” inasmuch as speed is much more critical for the former than the latter type of aid. The Guidelines also encourage states to reduce legal barriers to disaster relief originating within or passing through their territories to another country affected by a disaster, in order to avoid delays.

d. Some legal facilities should be conditional

In order to lend some weight to the responsibilities of assisting humanitarian organizations in particular, the Guidelines encourage governments (to the extent permissible under international law) to condition the granting of

legal facilities to these organizations on their commitment to, and ongoing compliance with, the minimal standards described above.

The Guidelines suggest that this could be implemented in various ways, for example, through a simple registration procedure, ideally available not only in the immediate aftermath of a disaster but also as a preparatory measure in advance. The granting state should then monitor the performance of registered organizations for ongoing compliance with the required standards.

The Guidelines note that some states may wish to grant legal facilities to private companies providing charitable relief in a disaster setting. If they do so, they are encouraged to hold them to the same standards as humanitarian organizations. No similar conditionality is suggested for government-to-government aid due to the availability of alternative diplomatic means of redressing quality or coordination issues.

Red Cross workers distribute jerry cans and blankets to people in Paracas, Peru.



How can the Guidelines be used?

5

The Guidelines can be used in a number of ways to strengthen legal preparedness for international disaster relief:

Governments

- Lawmakers might draw on the Guidelines to draft disaster management legislation
- Relevant ministries might use them as the basis for designing implementing regulations, plans and procedures
- Executive authorities might draw on them in developing provisional rules enacted under emergency powers when a state of disaster has been declared
- Governments might use them as a basis for developing bilateral agreements

Humanitarian Organizations

- Humanitarian organizations might draw on the Guidelines to develop agreements and memoranda of understanding with governments
- They might use them as a reference for negotiating rights and obligations when operations must commence before such agreements are in place
- They might also use them as a checklist of potential legal issues for which to prepare in advance of a relief operation

Regional Inter-Governmental Organizations

- Regional organizations might draw on the Guidelines to fashion agreements and standard operating procedures to facilitate cross-border relief among their members

6 Where can I learn more?

The following additional resources are available on the Federation's website free of charge at www.ifrc.org/idrl

a. Annotations

As part of the development process, the Federation prepared an unofficial set of Annotations to the Guidelines. The Annotations provide references to the international legal and policy documents drawn upon for the various provisions of the Guidelines. These include many specialized instruments that may be of key support to governments drafting new laws and policies. The Annotations also provide some explanation as to the rationale and proposed application of the various recommendations of the Guidelines.

b. Desk and case studies

In November 2007, the Federation published a comprehensive desk study entitled "Law and Legal Issues in International Disaster Response." The desk study describes the existing international legal frameworks for disaster response and sets out the major legal problem areas, as identified by the Federation's consultation and research, including over two dozen individual country or regional case studies. The case studies themselves are also separately available.

c. IDRL Database

The Federation's website additionally features a searchable database of over 600 full-text international and national legal instruments relevant to disaster relief. It is the largest collection of its kind in this newly emerging domain of law.

d. Newsletter and weekly news service

For those interested in new developments, the Federation produces an e-newsletter which highlights innovations in disaster management law as well as a weekly internet news service compiling relevant news articles. •

IDRL Guidelines

Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance

Introduction

1. Purpose and Scope

1. These Guidelines are non-binding. While it is hoped that States will make use of them to strengthen their laws, policies and/or procedures related to international disaster response, as appropriate, the Guidelines do not have a direct effect on any existing rights or obligations under domestic law.

2. They draw from many existing international instruments, including United Nations General Assembly Resolutions 46/182 of 1991 and 57/150 of 2002, the Measures to Expedite International Relief of 1977 and the Hyogo Framework for Action of 2005.

3. Their purpose is to contribute to national legal preparedness by providing guidance to States interested in improving their domestic legal, policy and institutional frameworks concerning international disaster relief and initial recovery assistance. While affirming the principal role of domestic authorities and actors, they recommend minimum legal facilities to be provided to assisting States and to assisting humanitarian organizations that are willing and able to comply with minimum standards of coordination, quality and accountability. It is hoped that the use of these Guidelines will enhance the quality and efficiency of international disaster relief and initial recovery assistance in order to better serve disaster-affected communities.

4. These Guidelines are not intended to apply to situations of armed conflict or disasters that occur during armed conflicts, or to imply changes in any rules governing relief in those contexts. They are also not intended to recommend any changes to, or affect the meaning or implementation of, any existing international law or agreements, including but not limited to:

- a. International humanitarian, human rights and refugee law;
- b. The legal personality and status of States, inter-governmental organizations, the
- c. International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross; International law related to privileges and immunities;
- d. The Statutes and regulations of the International Red Cross and Red Crescent Movement and existing legal arrangements between the individual components of the Movement and States; and
- e. Existing agreements between States or between States and assisting actors.

2. Definitions

For the purposes of these Guidelines,

1. **“Disaster”** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.
2. **“Disaster relief”** means goods and services provided to meet the immediate needs of disaster-affected communities.
3. **“Initial recovery assistance”** means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.
4. **“Goods”** means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.
5. **“Services”** means activities (such as rescue and medical care) undertaken by disaster relief and initial recovery personnel to assist disaster-affected communities.
6. **“Equipment”** means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
7. **“Personnel”** means the staff and volunteers providing disaster relief or initial recovery assistance.
8. **“Affected State”** means the State upon whose territory persons or property are affected by a disaster.
9. **“Assisting State”** means a State providing disaster relief or initial recovery assistance, whether through civil or military components.
10. **“Originating State”** means the State from which disaster relief and initial recovery personnel, goods and equipment begin travel to the affected State.
11. **“Transit State”** means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.
12. **“Assisting humanitarian organization”** means a foreign, regional, intergovernmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.
13. **“Eligible assisting humanitarian organization”** means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.
14. **“Assisting actor”** means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

Part I: Core Responsibilities

3. Responsibilities of Affected States

1. Affected States have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.
2. If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.
3. Affected States have the sovereign right to coordinate, regulate and monitor, disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

4. Responsibilities of Assisting Actors

1. Assisting actors and their personnel should abide by the laws of the affected State and applicable international law, coordinate with domestic authorities, and respect the human dignity of disaster-affected persons at all times.
2. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular:
 - a. Aid priorities are calculated on the basis of need alone;
 - b. Provided without any adverse distinction (such as in regards to nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions) to disaster-affected persons;
 - c. Provided without seeking to further a particular political or religious standpoint, intervene in the internal affairs of the affected State, or obtain commercial gain from charitable assistance;
 - d. Not used as a means to gather sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance.
3. To the greatest extent practicable, their disaster relief and initial recovery assistance should also be:
 - a. Responsive to the special needs, if any, of women and particularly vulnerable groups, which may include children, displaced persons, the elderly, persons with disabilities, and persons living with HIV and other debilitating illnesses;
 - b. Adequate for the needs of affected persons and consistent with any applicable international standards of quality;
 - c. Coordinated with other relevant domestic and assisting actors;
 - d. Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions;
 - e. Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;
 - f. Provided by competent and adequately trained personnel;
 - g. Commensurate with their organisational capacities;

- h. Building upon and conducted in a manner that strengthens local disaster risk reduction, relief and recovery capacities and reduces future vulnerabilities to disasters;
- i. Carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment; and
- j. Provided in a transparent manner, sharing appropriate information on activities and funding.

5. Additional Responsibilities of All States

1. States providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.
2. All States should actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.

6. Responsibilities Concerning Diversion and the Intended Use of Resources

1. States and assisting humanitarian organizations should cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.
2. Affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.

Part II: Early Warning and Preparedness

7. Early Warning

1. In order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required, all States should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organizations as appropriate, including the United Nations' Emergency Relief Coordinator.

8. Legal, Policy and Institutional Frameworks

1. As an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy, and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery which take full account of the auxiliary role of their National Red Cross or Red Crescent Society, are inclusive of domestic civil society, and empower communities to enhance their own safety and resilience. States, with the support, as appropriate, of relevant regional and international organizations, should devote adequate resources to ensure the effectiveness of these frameworks.
2. These frameworks should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent with these Guidelines. They should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with States and assisting humanitarian organizations concerning United Nations emergency relief operations. They should also clearly

designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.

3. Where necessary and appropriate, national governments should encourage other domestic actors with authority over areas of law or policy pertinent to international disaster relief or initial recovery assistance, such as provincial or local governments and private regulatory bodies, to take the necessary steps at their level to implement the Guidelines.

9. Regional and International Support for Domestic Capacity

1. With a view to increasing resilience and reducing the need for international disaster relief and initial recovery assistance, the international community, including donors, regional and other relevant actors, should support developing States, domestic civil society actors and National Red Cross and Red Crescent Societies to build their capacities to prevent, mitigate, prepare for and respond to disasters domestically.

2. The international community should also support developing States to build the capacity to adequately implement legal, policy and institutional frameworks to facilitate international relief and initial recovery assistance. This support should be provided to States in a coordinated manner among the relevant actors.

Part III: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance

10. Initiation

1. Disaster relief or initial recovery assistance should be initiated only with the consent of the affected State and in principle, on the basis of an appeal. The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly. In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organisations.

2. Requests and offers for assistance should be as specific as possible as to the types and amounts of goods as well as the services and expertise available or required, respectively. Affected States may also wish to indicate particular types of goods and services likely to be offered that are not needed.

3. Affected States should make available to assisting actors adequate information about domestic laws and regulations of particular relevance to the entry and operation of disaster relief or initial recovery assistance.

11. Initiation of Military Relief

1. Military assets should be deployed for disaster relief or initial recovery assistance only at the request or with the express consent of the affected State, after having considered comparable civilian alternatives. Prior to any such deployment, terms and conditions (including such issues as the duration of deployment, whether they must be unarmed or may be armed the use of their national uniforms, and mechanisms for cooperation with civilian actors) are to be agreed by the affected and assisting States.

12. Termination

1. When an affected State or an assisting actor wishes to terminate disaster relief or initial recovery assistance, it should provide appropriate notification. Upon such notification, the affected State and the assisting actor should consult with each other, bearing in mind the impact of such termination on disaster-affected communities.

Part IV: Eligibility for Legal Facilities

13. Facilities for Assisting States

1. It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V to assisting States with respect to their disaster relief or initial recovery assistance.

14. Facilities for Assisting Humanitarian Organizations

1. Subject to existing international law, it is the prerogative of originating, transit and affected States to determine which assisting humanitarian organizations will be eligible to receive the legal facilities described in Part V with respect to their disaster relief or initial recovery assistance.

2. It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of these Guidelines.

3. Any additional requirements imposed on assisting humanitarian organizations should not unduly burden the provision of appropriate disaster relief and initial recovery assistance.

4. Determination of eligibility by the State granting the facilities should be possible in advance of a disaster, or as soon as possible after its onset. Applicable procedures and mechanisms should be as simple and expeditious as possible. They should be clearly described and information about them should be made freely available. They might include the use of a national roster, bilateral agreements or reliance upon international or regional systems of accreditation, if available.

5. Retention of the legal facilities in Part V should be made dependent on ongoing compliance with the provisions of subsection 2 of this paragraph. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances.

15. Facilities for Other Assisting Actors

1. Affected States may also wish to extend, upon request, some of the legal facilities in Part V to assisting actors other than those covered by paragraphs 13 and 14, such as private companies providing charitable relief, provided this does not negatively affect operations of assisting humanitarian organizations or assisting States. Any actor receiving such facilities should be required to abide, at a minimum, by the same conditions described in paragraph 4.

Part V: Legal Facilities for Entry and Operations

It is recommended that States provide the legal facilities described in paragraphs 16-24 to assisting States and eligible assisting humanitarian organizations. It is understood that the granting of these facilities will be subject to the interests of national security, public

order, public and environmental health, and public morals of the concerned affected, originating and transit States. Measures to protect such interests should be tailored to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of affected communities.

Where specific facilities recommended here are within the competence of authorities other than the national government, the national government should, where possible and appropriate, encourage those authorities to provide the relevant facilities to assisting States and eligible assisting humanitarian organizations.

16. Personnel

1. With regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations, affected States should:

- a. Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;
- b. In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;
- c. Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licences and other types of licenses and certificates that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;
- d. Facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

2. Upon request, originating and transit States should likewise waive or promptly issue, ideally without cost, exit or transit visas, as appropriate, for the disaster relief and initial recovery personnel of eligible assisting humanitarian organizations.

3. Assisting States and eligible assisting humanitarian organizations should consider to what degree disaster relief and initial recovery objectives can be met through hiring local staff.

17. Goods and Equipment

1. With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:

- a. Exempt them from all customs duties, taxes, tariffs or governmental fees;
- b. Exempt them from all export, transit, and import restrictions;
- c. Simplify and minimize documentation requirements for export, transit and import;
- d. Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

2. With regard to disaster relief goods and equipment only, originating, transit and affected States should additionally:

- a. Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a “preclearance” process where feasible; and
- b. Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.

3. In order to benefit from the facilities above, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.

4. Assisting States and eligible assisting humanitarian organizations should assume responsibility for removing or disposing of any unwanted and unused relief and initial recovery goods, particularly if they may pose a threat to human health or safety, or the environment.

18. Special Goods and Equipment

In addition to the facilities described in paragraph 17:

1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.

2. Affected States should waive or expedite the granting of any applicable licenses and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance. Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or where, appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.

3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law. Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:

- a. Any medications they import should be approved for use in the originating and affected State;

- b. Medications they use in their own operations should be:
 - (i) transported and maintained in appropriate conditions to ensure their quality and;
 - (ii) guarded against misappropriation and abuse.
- c. Any medications they donate for use by others in the affected State should be:
 - (i) at least twelve months from their expiration date upon arrival, unless otherwise agreed by receiving authorities;
 - (ii) transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and
 - (iii) appropriately labelled in a language understood in the affected State with the International Nonproprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.

4. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.

19. Transport

1. Originating, transit and affected States should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting State or eligible assisting humanitarian organization or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.

2. In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.

3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

20. Temporary Domestic Legal Status

1. Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.

2. Assisting States and eligible assisting humanitarian organizations should also be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.

3. Affected States should allow assisting States and eligible assisting humanitarian organizations to legally hire and terminate the contracts of local personnel.

21. Taxation

1. Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

22. Security

1. Affected States should take appropriate measures to address the safety and security of disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance. Assisting States and assisting humanitarian organizations should also take appropriate steps in their own planning and operations to mitigate security risks.

23. Extended Hours

1. Affected States should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

24. Costs

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:

- a. In-country transport, including by national airlines;
- b. Use of buildings and land for office and warehouse space; and
- c. Use of cargo handling equipment and logistic support.

Resolution 4 of the 30th International Conference of the Red Cross and Red Crescent Adopting resolution

The 30th International Conference of the Red Cross and Red Crescent,

concerned by the serious plight of all those who urgently require emergency relief and recovery assistance in the wake of disasters;

reaffirming that the fundamental concern of mankind and of the international community in disaster situations is the protection and welfare of the individual and the safeguarding of basic human rights, as stated in the Declaration of Principles for International Humanitarian Relief to the Civilian Population in Disaster Situations, adopted by the 21st International Conference of the Red Cross in 1969;

recalling that the International Red Cross and Red Crescent Movement (Movement) considers it a fundamental right of all people both to offer and receive humanitarian assistance, as stated in the Principles and Rules of the Red Cross and Red Crescent in Disaster Relief as amended by the 26th International Conference of the Red Cross and Red Crescent in 1995;

reiterating that relief actions are an expression of international solidarity and that the extending of relief strengthens friendly relations among peoples and thus contributes to the consolidation of world peace, as stated in Resolution 18 of the 20th International Conference of the Red Cross in 1965;

noting that the United Nations General Assembly has repeatedly highlighted the importance of humanitarian assistance to persons affected by disasters, including in Resolutions 46/182 of 1991, 43/131 of 1988, and 57/150 of 2002, and that both United Nations General Assembly Resolution 32/56 of 1977 and Resolution 6 of the 23rd International Conference of the Red Cross of 1977 adopted a set of “Measures to Expedite Emergency Relief” to facilitate international relief operations;

recalling the commitments undertaken by the international community in the Millennium Declaration of 2000 to intensify cooperation to reduce the number and effects of natural and man-made disasters, and in the Hyogo Declaration and Framework for Action of 2005 to improve national institutional and legal frameworks and to strengthen disaster preparedness for increased resilience and effective response to disasters at all levels;

noting with appreciation the practice of many States to facilitate international disaster relief and recovery assistance when needed and the increased attention and activity of the international humanitarian community to improve the coordination and effectiveness of disaster relief and recovery assistance;

welcoming the progress that has been made in the elaboration and operation of the International Search and Rescue Advisory Group with the support of the United Nations Office for the Coordination of Humanitarian Affairs and the pioneering efforts made by international humanitarian organizations to develop minimum quality and accountability standards and mechanisms for disaster relief and recovery assistance, such as the Code of Conduct for the International Red Cross and Red Crescent Movement

- and Non-Governmental Organizations (NGOs) in Disaster Relief of 1994 and the Sphere Humanitarian Charter and Minimum Standards in Disaster Response as amended in 2004;
- recalling* Final Goal 2.1.1 of the 27th International Conference of the Red Cross and Red Crescent of 1999 calling upon States, where necessary, to incorporate linkages to international systems of disaster response in their national disaster-preparedness plans as well as to include clearly defined roles and responsibilities for National Red Cross and Red Crescent Societies, including representation on appropriate national policy and coordination bodies;
- recalling* further Final Goal 3.2 of the 28th International Conference of the Red Cross and Red Crescent of 2003, and its determination that improved awareness, clarification, application and development of laws, rules and principles applicable to international disaster response will assist in facilitating and improving the coordination, timeliness, quality and accountability of international disaster-response activities and can therefore make a major contribution to the protection of human dignity in situations of disasters;
- noting* the findings of the International Federation of Red Cross and Red Crescent Societies (International Federation), as expressed in the background document to the Conference (30IC/07/9.1), that the framework of international laws and standards on international disaster relief and recovery remains dispersed and under-utilized, that there is often a lack of harmonization between national law and international standards, and that legal barriers to effective international disaster relief and recovery assistance still persist;
- recognizing* that the increasing breadth and diversity of international actors involved in disaster relief and recovery has brought important opportunities but also some challenges to assisting persons in need effectively and ensuring the complementarity of international disaster relief and recovery assistance with domestic response efforts and mechanisms;
- recognizing* the sovereign right of affected States to seek, accept, coordinate, regulate and monitor disaster relief and recovery assistance provided by assisting actors in their territory;
- considering* the crucial role of domestic law and policy in this respect, which should be further developed consistent with relevant norms and principles of international law;
1. adopts the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance;
 2. encourages States to make use of the Guidelines to strengthen their national legal, policy and institutional frameworks as well as when developing, if appropriate, bilateral and regional disaster-assistance agreements, understanding that the Guidelines do not constitute binding legal obligations;
 3. emphasizes that, with regard to Red Cross and Red Crescent disaster relief and recovery activities, the Guidelines will be read consistent with the established rules, principles and practices of the Movement, including the Statutes of the Movement as amended in 1995 and 2006, the Principles and Rules for Red Cross and Red Crescent Disaster Relief as amended in 1995, the Seville Agreement on the Organization of the International Activities of the Components of the International Red Cross and Red Crescent Movement of 1997, and the Supplementary Measures to Enhance the Implementation of the Seville Agreement of 2005, and will not affect any existing legal arrangements between the individual components of the Movement and concerned States;

4. invites States, the International Federation and National Societies to bring these Guidelines to the attention of international and regional inter-governmental and non-governmental organizations concerned with disaster relief and recovery assistance;
5. invites the International Federation and National Societies, in close collaboration with the United Nations as well as other relevant international and regional organizations, to:
 - (i) disseminate and support the use of the Guidelines in strengthening national legal, policy and institutional frameworks for disaster response;
 - (ii) promote the mainstreaming of the Guidelines in all relevant existing legal-development, disaster management and risk reduction initiatives, particularly the strengthened International Strategy for Disaster Reduction (ISDR) system and its regional platforms for disaster risk reduction; and
 - (iii) continue their research and advocacy efforts, and the development of tools and models for the improvement of legal preparedness for disasters;
6. invites the International Federation, in consultation with National Societies, to submit a progress report on the implementation of this resolution to the 31st International Conference of the Red Cross and Red Crescent.

The Fundamental Principles of the International Red Cross and Red Crescent Movement

Humanity / The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality / It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality / In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence / The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

Voluntary service / It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity / There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality / The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.



International Federation
of Red Cross and Red Crescent Societies
www.ifrc.org **Saving lives, changing minds.**

International Federation of Red Cross and Red Crescent Societies

P.O. Box 372
CH-1211 Geneva 19
Switzerland
www.ifrc.org/idrl
idrl@ifrc.org