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Model Act on IDRL



Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (with commentary)

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International Federation
of Red Cross and Red Crescent Societies



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The drafters of the Model Act benefitted from the advice and comments of over 200 experts from around the world, including senior experts from governments, National Red Cross and Red Crescent Societies, UN agencies and NGOs, legislative drafters, members of parliament, regional organizations and academia. These included participants at the following meetings:

- Advisory Committee on the Project to Develop a Model Act on International Disaster Assistance, Geneva, 28 May, 2010;
- Expert Meeting on the Model Act for International Disaster Assistance, Geneva, 23-24 May, 2011;
- National Societies Legal Advisors Meeting, Geneva, 7 September 2011;

- Expert Meeting on the Model Act on International Disaster Assistance, Oxford, 19-20 September 2011;
- Expert Meeting on the Model Act for International Disaster Assistance (Asia Pacific region), Kuala Lumpur, 28-29 September 2011;
- Workshop on the facilitation and regulation of international disaster assistance in the Horn of Africa (Horn of Africa region), 17-19 April 2012;
- Regional Seminar on the Role of Customs in Natural Disaster Relief (Asia Pacific region), Bangkok 8-10 May 2012;
- Expert Meeting on the Model Act for Disaster Act for International Disaster Assistance (Americas region), Panama City, 26 June 2012;
- Workshop on Disaster Law for Southern African Stakeholders (Southern Africa region), Gaborone, 3-4 October 2012;
- Regional Seminar on the Role of Customs in Natural Disaster Relief (Americas region), Santo Domingo, 13-15 November 2012;
- Final Expert Meeting on the Draft Model Act and Next Steps, Geneva, 10-11 December 2012.

Written comments were also gathered from humanitarian organizations and from permanent missions in Geneva. The project partners greatly appreciate the assistance of all those who provided their input.

Key points:

- Managing international disaster assistance is becoming increasingly complex.
- Solid domestic law, rules and procedures are needed.
- This model is a reference tool for officials and lawmakers who wish to develop their own laws, rules or procedures.

Introduction

The “Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” is intended as a reference tool for voluntary use by disaster management officials and/or legislators who wish to develop domestic legislation, regulation, and/or procedures in their countries for managing potential future international disaster assistance.

Why should they want to do this? Simply put, global experience has shown that managing international assistance operations is becoming increasingly complex. The absence of a specific domestic regulatory framework can make it very difficult for an affected state to properly oversee, regulate and facilitate the entry of life-saving relief. Ad hoc approaches, hastily devised in the wake of a catastrophic disaster, have often led to a loss of state control and the arrival of inappropriate or poor quality relief. They also frequently result in unnecessary restrictions, delays and expenses hampering the right aid, just when it is most urgently needed.¹

Unfortunately, very few governments have comprehensive rules or procedures in place related to international disaster assistance, notwithstanding the common experience of regulatory problems. This model draws on elements that do already exist in domestic laws of countries from various regions and is designed as a concept for a functioning system of oversight and facilitation.

Origins of the Model Act

In November 2007, the 30th 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) adopted the Guidelines for the Domestic Facilitation of International Disaster Relief and Initial Recovery Assistance (also known as “the IDRL Guidelines”).² The IDRL Guidelines are a set of recommendations to governments on how to prepare their disaster laws and procedures for the common regulatory problems in international disaster relief operations. The IDRL Guidelines were based on seven years of country case studies, legal research, and consultations with governments and relief specialists, carried out by the International Federation of Red Cross and Red Crescent Societies (IFRC).

Key points:

- The Model Act is based on internationally-accepted guidelines.
- It responds to requests for sample legislative language.
- It has benefitted from the input of numerous experts.

¹ For a comprehensive summary of several dozen case studies looking at these types of problems around the world, see IFRC, Law and Legal Issues in International Disaster Response (2007), available at www.ifrc.org/dl.

² Available in multiple languages at www.ifrc.org/dl. The term “IDRL” refers to “International Disaster Response Laws, Rules and Principles.”

Starting in 2008, and annually thereafter, the UN General Assembly has adopted resolutions encouraging states to make use of the IDRL Guidelines.³ Similar resolutions have been adopted by the World Customs Organization,⁴ and various regional bodies, including the Organization of American States,⁵ and the Pacific Island Forum⁶ and reference to them has been included in the African Union's draft Disaster Management Policy.

Since the approval of the IDRL Guidelines, the IFRC and its members have provided technical assistance to governments in 25 countries to implement them. As of the date of this document, eleven states had developed new laws or regulations drawing on the IDRL Guidelines and approximately a dozen others were considering draft bills. In the course of these technical assistance projects, governmental officials have frequently requested model legislative language to assist them in implementing the IDRL Guidelines in their domestic law and procedures.

In response to these requests, the IFRC partnered with the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Inter-Parliamentary Union (IPU) in 2009 to begin work on this Model Act. The project partners benefited from expert assistance from a number of international law firms and institutions, including Allen & Overy LLP, Baker & McKenzie, CMS, Cameron McKenna LLP, the legal department of Microsoft Corporation, and the World Customs Organization. On a pro bono basis, experts from these agencies undertook extensive background research on existing law in countries around the world and provided advice on drafting. A series of expert meetings were also convened in Geneva, Oxford and Kuala Lumpur to provide feedback and advice on earlier drafts.

In 2011, a pilot version of this Model Act was launched on the occasion of the 31st International Conference of the Red Cross and Red Crescent. In its Resolution 7, the participants of the International Conference (the state parties to the Geneva Conventions and the components of the Red Cross and Red Crescent Movement) welcomed the efforts of the project partners to develop the Model Act and invited "further consultation with states and other stakeholders on the use of the model act as a reference tool."⁷ To facilitate further state involvement, a formal request for additional comments was circulated to all permanent missions in Geneva in December of 2011, and a side event was organized at the Economic and Social Council in New York in June 2012. Additional consultation meetings were also held in Africa, Asia-Pacific and the Americas as well as a final experts meeting in Geneva. Recognizing the progress of this work, in December 2012, UN General Assembly Resolution 67/87 also welcomed the efforts of the project partners to develop the model act.

³ The most recent language can be found in UN GA Res. 66/119 of 15 December 2011 at paragraph 13.

⁴ Resolution of the World Customs Organization on the Role of Customs in Natural Disaster Relief, June 2011.

⁵ OAS General Assembly Res. 2647 (XLI-O/11) June 7, 2011.

⁶ Communique of the Forty-Third Pacific Islands Forum, Rarotonga, Cook Islands, 28-30 August 2012.

⁷ Resolution 7, Strengthening normative frameworks and addressing regulatory barriers concerning disaster mitigation, response and recovery, 31C/11/R7 (November 2011).

In all, the Model Act benefitted from the advice and suggestions of over 200 experts from around the world, including senior officials from governments, National Red Cross and Red Crescent Societies, UN agencies and NGOs, legislative drafters, members of parliament, regional organizations and academia. It has also been “field tested” in country-based technical assistance projects carried about by National Societies and the International Federation of Red Cross and Red Crescent Societies (IFRC) in 2012.

Key points:

- The Model Act seeks to limit delays, restrictions and costs while ensuring adequate oversight.
- It calls for certain legal facilities to be provided to chosen international providers.
- It requires those providers to abide by clear standards.

Purposes of the Model Act

Like the IDRL Guidelines, this Model Act is intended to help states to be prepared for the most common legal and regulatory issues that arise in major international disaster operations. These issues relate to the entry and operation of assisting international actors, and also to the coordination of their assistance, especially in the relief and initial recovery period.

Issues in legal entry and operation often include:

- Delays in the entry of international humanitarian personnel, goods and equipment due to the requirements of customs and immigration laws which are not adapted to a situation of urgency;
- Imposition of duties, tolls and taxes on relief items and activities;
- Problems granting legal recognition of foreign qualifications for specialised professional personnel;
- Difficulties in granting legal recognition for foreign humanitarian organizations, which mean they may not be able to open bank accounts, hire local staff, lease premises, or other legal actions necessary for efficient in-country assistance.

Issues in the quality and coordination of international relief may include:

- 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.

Issues in transit of relief goods to another state affected by disaster may include:

- Delays in the entry and exit of international humanitarian personnel, goods and equipment destined for the other state;
- Imposition of duties, tolls and taxes on relief items in transit to the other state.

Key points:

- This Model can and should be adjusted to the circumstances of each country.
- A stand-alone act may not be the right solution in every country – this Model may also be used as inspiration for “cut and paste” amendments to various existing acts, or for regulations or procedures.
- This Model assumes that there is already a law on domestic disaster management .

Uses of the Model Act

Given the diversity of legal systems around the globe, and especially the different domestic approaches to disaster management, it is well understood that not every clause in this model will be equally relevant to each country. In every case, the text will need to be adapted to local circumstances. Moreover, in some countries, it may not be possible or desirable to adopt a single stand-alone act embracing all of the topics included in this model.

In these cases, various portions of the model language suggested here might rather be used as inspiration for amendments to other existing laws or rules, such as legislation or regulations concerning disaster management, immigration, customs, taxation, health, telecommunications or transport. Accordingly, side notes in this draft suggest the other key domestic legislation in which certain elements of the Model Act could be inserted. If such a “modular” approach is taken, however, it is recommended that certain key elements of the Model Act be kept together. In particular, it would be most useful that the regime for the approval and termination of which international actors will be eligible for special legal facilities be kept within one act, even if the details of the facilities they receive may be regulated under other laws (such as customs, or immigration).

It should also be noted that the Model Act does not set out a system for coordinating domestic disaster response. It assumes that such a system already exists under the disaster management legislation in the country enacting it. Accordingly, efforts have been made in drafting to avoid provisions overlapping with the usual content of domestic disaster management acts. Nevertheless, it is still quite possible that some provisions in this text will be found to be contradictory or overlapping with existing legislation in some countries. It is therefore important to examine existing laws and rules in each instance before using this Model to fashion anything new.

Drafting key

Drafter's note text boxes in the margin indicate how law-makers might use sections of this model language as individual amendments to various existing laws, if it makes better sense in their circumstances to do so rather than adopting the whole text as a single stand-alone act.

Bracketed text in the Model Act text refers to elements that might be particularly subject to differing approaches based on the specific circumstances and legal and institutional structures of the adopting country.

Italicized text within brackets is meant to be replaced with the appropriate domestic equivalent (for example, the name of the country or the name of the national disaster management agency, if one exists).

Text within brackets that is not italicized is either proposed as a choice between several options (for example, “President/Prime Minister,” “district/province”) or is an element considered to be especially subject to differing choices between countries (such as the precise length in time of certain deadlines).

Defined terms, as described in Article 3, are capitalized throughout the text for easy reference.

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

MODEL ACT FOR THE FACILITATION AND REGULATION OF INTERNATIONAL DISASTER RELIEF AND INITIAL RECOVERY ASSISTANCE

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Drafting note

While this Model Act is presented as a stand-alone statute, it may be deemed more appropriate to use various elements as amendments to various laws, regulations or other instruments.

Marginal boxes like this one are included to suggest where various sections of this text might be placed if that is the case. They are not intended to be published into law as part of an act.

Chapter I General Provisions

Article 1 Short Title

a. This Act shall be known as the Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance.

b. This Act may also be cited as the International Disaster Assistance Act of [YEAR].

Article 2 Purpose and Scope of the Act

a. This Act [implements Articles *** of the Constitution of country name.] It is based on the understanding that [country name/states/territories] bears [bear] the primary responsibility to respond to Disasters on its/[their] territory, but that International Disaster Assistance may sometimes be required to supplement domestic efforts.

b. This Act sets out procedures, roles and responsibilities related to the facilitation and regulation of International Disaster Assistance provided to [country name] in the event of a Disaster on its territory, as well as for International Disaster Assistance transiting through [country name]'s territory to aid another affected state.

c. In particular, this Act:

(i) sets out roles and responsibilities for key ministries and departments concerned with the facilitation and regulation of International Disaster Assistance;

(ii) establishes procedures for initiating, coordinating, and terminating International Disaster Assistance;

(iii) establishes the mechanism for recognition of eligibility for Legal Facilities for certain Assisting Actors;

(iv) specifies the Legal Facilities to be provided to such Eligible Actors;

(v) specifies that minimum standards are expected from Assisting Actors providing International Disaster Assistance; and

(vi) facilitates the transit of International Disaster Assistance to other countries affected by a Disaster.

d. The provisions of this Act do not apply to situations of armed conflict or to Disasters that occur in an area of *[country name]* also affected by an armed conflict. International assistance provided in those circumstances is governed by *[International Humanitarian Law or Act Implementing the Geneva Conventions]*.

Drafting note

If parts of this Model Act are apportioned to amendments of other acts or regulations, care should be taken to ensure that defined terms are also clear in those individual amendments, potentially, by also including one or more of the relevant definitions here in the amendment.

Article 3 Definitions

For the purposes of this Act:

“Assisting Actor” means any Assisting International Actor and any Assisting Domestic Actor responding to a Disaster in *[country name]*.

“Assisting Domestic Actor” means any not-for-profit entity established under the laws of *[country name]*, which is responding to a Disaster in the territory of *[country name]*.

“Assisting International Actor” means any foreign state, organization, entity or individual responding to a Disaster on the territory of *[country name]* or transiting through the territory of *[country name]* to respond to a Disaster in another country.

“Assisting State” means any foreign government that is providing Disaster Relief or Initial Recovery Assistance to *[country name]*, whether through its civilian or military institutions.

“Disaster” [is defined as set out in Article *** of the *[national disaster management act]* [or 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.]

“Disaster Relief” means the Goods, Equipment, Services and Internationally Donated Funds provided to meet the immediate humanitarian needs of Disaster-affected communities, including rescue.

“Domestic Non-Governmental Organization” or “Domestic NGO” means any non-governmental, not-for-profit entity, which has its headquarters in *[country name]* and whose mandate and activities are focused on humanitarian relief, recovery or development.

“Eligible Actor” means any Assisting Actor that has been determined to be eligible to receive Legal Facilities, in accordance with Chapters V and VI of this Act.

“Equipment” means physical items, other than Goods, which come from international sources and are designated for use in Disaster Relief or Initial Recovery Assistance, including, but not limited to, vehicles, medical, and telecommunications equipment.

“Foreign Components of the International Red Cross and Red Crescent Movement” means foreign National Red Cross or Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross.

“Foreign Non-Governmental Organization” or “Foreign NGO” means any non-governmental, not-for-profit entity not headquartered in *[country name]*, whose mandate and activities are focused on humanitarian relief, recovery or development.

“Goods” means supplies from international sources intended to be provided to Disaster-affected communities for their relief or initial recovery.

“Initial Recovery Assistance” means Goods, Equipment, Services and Internationally Donated Funds intended to restore or improve the pre-Disaster living conditions of Disaster-affected communities, including initiatives to increase resilience to Disasters and reduce Disaster risk.

“International Disaster Assistance” means Disaster Relief and Initial Recovery Assistance that is provided by Assisting International Actors, or imported or otherwise brought to *[country name]* from abroad by or on behalf of Assisting Domestic Actors.

“International Disaster Relief Period” means the period following a Disaster, as described in Article 8 and Article 9 of this Act, during which the relevant Legal Facilities described in Chapter VI are made available to Eligible Actors for the purpose of providing Disaster Relief.

“International Initial Recovery Period” means the period following a Disaster, as described in Article 8 and Article 10 of this Act, during which the relevant Legal Facilities described in Chapter VI are made available to Eligible Actors for the purpose of providing Initial Recovery Assistance.

“Internationally Donated Funds” means any funds donated by foreign persons or entities directly to the Government of *[country name]* or to an Assisting Domestic Actor for purposes of Disaster Relief or Initial Recovery Assistance.

“International Personnel” means the staff and volunteers of any Assisting Actor providing Disaster Relief or Initial Recovery Assistance in *[country name]*, being persons who are neither citizens of *[country name]* nor domiciled in *[country name]* prior to their recruitment by the Assisting Actor.

“Legal Facilities” means the special entitlements and exemptions that are made available to Eligible Actors under Chapter VI of this Act.

“Locally Engaged Personnel” means nationals of or persons domiciled in *[country name]* who are recruited as staff or volunteers by Assisting International Actors to provide Disaster Relief or Initial Recovery Assistance.

“Services” means activities undertaken by Assisting Actors to assist Disaster-affected communities with their relief or initial recovery, such as search and rescue activities, medical care, protection activities and information.

“Transit Facilities” means the special entitlements and exemptions that are made available to Assisting International Actors under Chapter VIII of this Act.

“Transit Facilities Period” means the period following a Disaster in another country, as described in Article 62 of this Act, during which the relevant Legal Facilities described in Chapter VIII are made available to Assisting Actors for the purpose of providing Disaster Relief or Initial Recovery Assistance.

“Transport” means the land, air or water vehicles operated by or on behalf of Assisting Actors to transport International Personnel, Goods and Equipment across an international border for the purpose of providing Disaster Relief or Initial Recovery Assistance.

Article 4 Existing Rights, Privileges and Immunities

Nothing in this Act shall be interpreted to limit or reduce any existing rights, privileges or immunities that may be enjoyed by an Assisting Actor as separately recognized by other laws or agreements of *[country name]*, including the [International Organisations Act and the Diplomatic/Consular Relations Act] and any status or headquarters agreement between *[country name]* and an Assisting Actor.

Drafting note

The provisions of Chapter II might alternatively be placed in the national disaster management act or its implementing regulations.

Chapter II Initiation and Termination of International Disaster Assistance

Article 5 Assessment of the Need for International Disaster Assistance

- a. Immediately after the onset of a major Disaster, and after consultation with relevant [provincial/district/state] and local authorities, the *[relevant disaster management authority]* shall make a determination, based on initial estimates of needs and damage, as to whether domestic capacities are likely to be sufficient to attend to the needs for Disaster Relief and Initial Recovery Assistance. This determination may also be made, at the discretion of the *[relevant disaster management authority]*, prior to the onset of an imminent major Disaster.
- b. In the event of a determination that domestic response capacities are not likely to be sufficient due to the scale of the Disaster, the *[relevant disaster management authority]* shall advise the [President/Prime Minister] and recommend that an immediate request be made for International Disaster Assistance.
- c. If such a recommendation is made, the *[relevant disaster management authority]* shall, after consultation with relevant [provincial/district/ state] and local authorities, develop a preliminary list of Goods, Equipment and Services required. The *[relevant disaster management authority]* shall make this list available to potential Assisting International Actors immediately upon the commencement of an International Disaster Relief Period pursuant to Article 8. The list shall be updated as needed to reflect new information and changing circumstances.
- d. A determination that domestic capacities are likely to be sufficient and that International Disaster Assistance is therefore unnecessary may be reviewed and rescinded by the *[relevant disaster management authority]* at any time, in light of updated information.

Article 6 Requests for International Disaster Assistance

- a. Upon the advice of the *[relevant disaster management authority]*, the [President/Prime Minister] may make a request for International Disaster Assistance. That request may be specifically directed to particular international actors, or it may be a general request directed to the international community as a whole. [In the latter case, the request shall be directed to the *[relevant regional organization and]* the United Nations Emergency Relief Coordinator for assistance in dissemination to potential Assisting International Actors.]
- b. The request shall be accompanied by:

- (i) information as to the extent and type of assistance required, based on the list prepared by the *[relevant disaster management authority]* pursuant to Article 5, unless gathering such information would lead to undue delay in issuing the request; and
- (ii) information on the procedures for Assisting International Actors to make offers or provide assistance pursuant to Article 7.

Article 7 Offers and Acceptance of International Assistance

- a. Except as otherwise provided in subsection (d), Assisting International Actors may provide International Disaster Assistance in *[country name]* only if they have made an offer that has been accepted pursuant to this Article.
- b. Assisting States and intergovernmental organizations *[including the United Nations]* interested in providing International Disaster Assistance shall direct offers to the Ministry of Foreign Affairs *[through the appropriate [country name] embassy]*. Offers should indicate, in general terms, the type, amount, means of delivery and estimated duration of assistance to be provided. The Ministry of Foreign Affairs shall then consult with the *[relevant disaster management authority]* about such offers. Upon the direction of the *[relevant disaster management authority]*, the Ministry of Foreign Affairs may accept such offers, in whole or in part.
- c. Assisting States planning to provide aid through military actors shall make such offers according to *[regulations to be made under this Act / agreement between [country name] and the Assisting States / relevant regional agreement]*. They may be accepted, in whole or in part, with the specific conditions set out in *[the aforementioned regulations / agreement]*.
- d. In the event of a general request for International Disaster Assistance made pursuant to Article 6(a), Assisting International Actors that have previously been found or deemed eligible for Legal Facilities pursuant to Chapter V of this Act are not required to make formal offers. However, they shall comply with the terms of the general request and shall inform the *[relevant disaster management authority]* of the type, amount and estimated duration of assistance to be provided *[at least ** hours]* in advance of their arrival. This provision shall not apply to Assisting States or intergovernmental organizations.
- e. In the absence of a general request for International Disaster Assistance, Assisting International Actors may make unsolicited offers to the Ministry of Foreign Affairs *[through, the appropriate [country name] embassy]*. The Ministry of Foreign Affairs shall consult with the *[relevant disaster management authority]* and, upon its direction, may accept such offers, in whole or in part.
- f. The *[relevant disaster management authority]* shall determine whether to accept or reject offers of International Disaster Assistance with urgency appropriate to the circumstances.

Article 8 International Disaster Relief and Initial Recovery Periods

- a. The International Disaster Relief and Initial Recovery Periods shall both commence simultaneously upon the issuance of a request for International Disaster Assistance under Article 6, or upon acceptance of an offer under Article 7, and shall continue until terminated pursuant to Article 9 or Article 10, as appropriate.
- b. The Legal Facilities described in Chapter VI shall only be effective during the International Disaster Relief and Initial Recovery Periods.

Article 9 Termination of the International Disaster Relief Period

- a. When, on the basis of updated needs assessments and other information, and in consultation with Assisting Actors, the *[relevant disaster management authority]* is satisfied that the need for Disaster Relief is coming to an end, it shall advise the *[President/Prime Minister/ high level committee or council on national disaster management]* to approve a termination date for the International Disaster Relief Period, with due consideration for the impact on on-going relief activities. This termination shall not affect the on-going validity of the International Initial Recovery Period.
- b. The termination date shall be announced to Assisting Actors no later than *[**]* days prior to the proposed date. The announcement shall also include information about the anticipated on-going needs for Goods and Services related to Initial Recovery Assistance, if any.
- c. Upon the issuance of an announcement pursuant to this Article, the *[relevant disaster management authority]* shall consult with Assisting Actors actively involved in Disaster Relief work in order to reduce any negative impact from the termination and, where necessary, to ensure an adequate handover of responsibilities.

Article 10 Termination of the International Initial Recovery Period

- a. When, on the basis of updated needs assessments and other information, and in consultation with Assisting Actors, the *[relevant disaster management authority]* is satisfied that the need for Initial Recovery Assistance is coming to an end, it shall advise the *[President/Prime Minister/ high level committee or council on national disaster management]* to approve a termination date for the International Initial Recovery Period, with due consideration for the impact on on-going initial recovery activities.
- b. The termination date shall be announced to Assisting Actors no later than *[90]* days prior to the proposed date.

c. Upon the issuance of an announcement pursuant to this Article, the *[relevant disaster management authority]* shall consult with Assisting Actors actively involved in Initial Recovery Assistance work in order to reduce any negative impact from the termination and, where necessary, to ensure an adequate handover of responsibilities.

Article 11 International support for the *[country name]* National [Red Cross/Red Crescent] Society

a. Notwithstanding the provisions of Article 7, and in line with its fundamental principles and auxiliary role as set out in *[National Red Cross/Red Crescent act or decree]*, the *[country name Red Cross/Red Crescent]* Society may request assistance from any of the Foreign Components of the International Red Cross and Red Crescent Movement to supplement its disaster relief and recovery work at any time. The *[national disaster management agency]* shall be informed of any such request.

b. In the event that a general request for international assistance has not yet been made pursuant to Article 6, the *[national disaster management agency]* may, upon request of the *[country name Red Cross/Red Crescent]* Society, approve the commencement of the international disaster relief and initial recovery periods with respect to assistance from the Foreign Components of the International Red Cross and Red Crescent Movement. These periods shall continue until terminated pursuant to Article 9 or Article 10, as appropriate.

Drafting note

The provisions of Chapter III might alternatively be placed within the text of the national disaster management act or an implementing regulation to that act.

Moreover, specific institutional structures suggested here may not be appropriate to every state. They are not essential to the functioning of the Model Act, but it is recommended that the functions attributed to the structures herein be clearly allocated to some state organ.

Chapter III

Coordination and Preparedness for International Disaster Assistance

Article 12

Coordination Duties and Powers of the Focal Point Agency

- a. The *[relevant disaster management authority]* established by the *[national disaster management act]* shall serve as a central focal point agency for liaison between the government of *[country name]* and Assisting International Actors, promoting the effective facilitation, coordination and oversight of International Disaster Assistance pursuant to this Chapter. As such, the *[relevant disaster management authority]* shall serve as the main counterpart for any applicable international or regional coordination mechanisms, including those of the United Nations.
- b. The *[relevant disaster management authority]* shall inform Assisting Actors and relevant national, *[provincial/district/state]* and local governmental agencies of their rights and responsibilities under this Act and orient them to other laws, rules or procedures especially relevant to Disaster Relief and Initial Recovery Assistance.
- c. [During the International Disaster Relief and Initial Recovery Periods,] the *[relevant disaster management authority]* may *[request/order]* any relevant governmental body to undertake actions or make available assets or premises required to facilitate the work of Assisting International Actors to provide Disaster Relief or Initial Recovery Assistance. Such bodies *[shall/may]* comply to the fullest extent possible within their legal mandates. Any *[request/order]* that may impose a substantial burden on the cooperating agency may be reviewed at its request by the *[appropriate high-level official]*.
- d. [During the International Disaster Relief and Initial Recovery Periods,] the *[relevant disaster management authority]* may request any private actor to undertake voluntary actions, at their own expense, as needed to facilitate the work of Assisting International Actors to provide Disaster Relief or Initial Recovery Assistance. This may include a request to lower or waive fees or charges for key services required by Assisting International Actors and/or to extend operating hours for their provision.
- e. The *[relevant disaster management authority]* shall ensure that attention is paid as appropriate to potential international assistance in simulations, exercises and training that it organizes.

Article 13 Taskforce on International Disaster Assistance Preparedness

- a. A Taskforce on International Disaster Assistance Preparedness (*hereinafter “the Taskforce”*) is hereby established under the chairmanship of the *[relevant disaster management authority]*, with the primary role of enhancing preparedness for implementation of this Act in case of a Disaster requiring International Disaster Assistance.
- b. The Taskforce shall be composed of representatives from:
- (i) the *[relevant disaster management authority]*;
 - (ii) *[other appropriate governmental ministries, agencies and/or departments]*;
 - (iii) the *[country name Red Cross/Red Crescent] Society*;
 - (iv) *[domestic NGOs active in disaster management]*; and
 - (v) such other members as the *[relevant disaster management authority]* may invite to participate, including but not limited to relevant officials from *[provincial/district/state]* and local government offices, and other national stakeholders, as well as relevant United Nations agencies, regional organizations, Foreign NGOs, or Foreign Components of the International Red Cross and Red Crescent Movement.
- c. The Taskforce shall provide technical advice on preparedness for the facilitation of International Disaster Assistance to the *[relevant disaster management authority]* as requested. In fulfilling this role, the Taskforce shall:
- (i) prepare and update manuals, guidelines, plans or other procedures related to the entry and coordination of Disaster Relief and Initial Recovery Assistance;
 - (ii) compile and update information on existing bilateral, regional and international coordination mechanisms applicable to *[country name]*, and provide advice to the *[relevant disaster management authority]* on the further development of such mechanisms;
 - (iii) develop and maintain a list of personnel nominated by the relevant ministries to participate in Single Window International Facilitation Teams (*SWIFTs*), as described in Article 14, and assist the *[relevant disaster management authority]* to convene the *SWIFTs* immediately upon the commencement of an International Disaster Relief Period pursuant to Article 8, if required for the volume of International Disaster Assistance expected;

(iv) [advise the relevant disaster management authority on the development of/ develop] quality standards for Disaster Relief and Initial Recovery Assistance, as described in Chapter IV of this Act;

(v) develop, in accordance with Chapter IV of this Act, procedures, documentation requirements and information about the responsibilities of Assisting Actors under this Act; and

(vi) undertake other tasks related to International Disaster Assistance, as requested by the *[relevant disaster management authority]* or *[other relevant authority]*.

d. The Taskforce shall meet:

(i) immediately upon the commencement of an International Disaster Relief Period pursuant to Article 8, to ensure the effective operation of the SWIFTs described in Article 14 and to advise the *[relevant disaster management authority]* on the application of relevant procedures, manuals and other technical materials concerning the facilitation of International Disaster Assistance; and

(ii) otherwise as necessary, and in any event, no less frequently than once per year, to review national preparedness for implementing the provisions of this Act and to carry out the functions assigned to it pursuant to this Article.

Article 14 Single Window International Facilitation Teams (SWIFTs)

a. Single Window International Facilitation Teams (*SWIFTs*) shall be established in accordance with this Article, for the purpose of consolidating and expediting the legal requirements concerning entry of incoming International Personnel, Goods, Equipment and Transport, as well as the application process for eligibility, as described in Chapter V.

b. In consultation with the Taskforce on International Disaster Assistance Preparedness, the *[relevant disaster management authority]* shall establish the number, membership, functions, authorities and operating procedures for the SWIFTs, consistent with this Act and other relevant legislation.

c. The SWIFTs shall be composed of representatives of relevant ministries and agencies, from the list established and updated by the Taskforce on International Disaster Assistance Preparedness in accordance with Article 13.

d. Upon the commencement of an International Disaster Relief Period pursuant to Article 8, SWIFTs shall be deployed to primary points of entry for International Disaster Assistance, including, as circumstances dictate, relevant airports, seaports and land border crossing points.

e. In the absence of a SWIFT team at a particular border crossing, officials involved in regulating the entry of International Personnel, Goods, Equipment and Transport shall nevertheless apply the relevant provisions of this Act.

Article 15 Operational Coordination of Assisting International Actors

a. National [*provincial/district/state*] and local authorities shall endeavour to integrate the role of Assisting International Actors into their contingency planning and mechanisms for operational coordination of Disaster Relief and Initial Recovery Assistance efforts [calling, as appropriate, on the assistance and advice of the UN Emergency Relief Coordinator]. In particular, they shall endeavour to facilitate the work of Assisting International Actors, while balancing the urgent needs of people affected by Disaster and necessary safeguards relating to public safety and health, coordination and oversight.

b. Assisting International Actors shall cooperate and coordinate with national, [*provincial/district/state*] and local authorities in their Disaster Relief and Initial Recovery Assistance. In particular, they shall provide them with such information as is available to them on the needs of Disaster-affected persons, and on the location, type and extent of their Disaster Relief and Initial Recovery Assistance operations, as required for a coordinated and effective response.

c. With due consideration for the need to adequately coordinate and oversee their work, no [*country name*] official shall seek to prevent Assisting International Actors from acting according to humanitarian principles, as set out in Article 16.

(i) Assisting International Actors shall cooperate with any international or regional mechanisms for coordination that have been specifically approved for a particular operation by the [*relevant disaster management authority*], including those of [appropriate regional organization and] the United Nations.

Drafting note

The provisions of Chapter IV might alternatively be placed in the national disaster management act or in its implementing regulations.

Chapter IV General Responsibilities of Assisting Actors

Article 16 Principles of International Disaster Assistance

- a. The government of *[country name]* bears the primary responsibility for responding to disasters on its territory. Assisting Actors' role is to supplement and complement domestic efforts.
- b. Assisting Actors shall comply with national law and respect the culture of communities they assist.
- c. Assisting Actors shall comply with the principles of humanity, neutrality and impartiality in providing International Disaster Assistance. In particular, they shall establish their aid priorities on the basis of need alone and they shall not:
 - (i) engage in any adverse distinctions, exclusions or preferences based on status, such as nationality, race, ethnicity, religion, class, gender, sexual orientation, disability, age or political opinion;
 - (ii) seek to further a particular political or religious standpoint or interfere in internal matters irrelevant to the Disaster response;
 - (iii) seek to obtain commercial gain from their assistance; or
 - (iv) gather sensitive information of a political, economic or military nature that is irrelevant to Disaster Relief or Initial Recovery Assistance.
- d. In addition, non-governmental organizations shall comply with the principle of independence. In particular, they shall not act as instruments of the foreign policy of any government.

Article 17 Respect for the Dignity and Privacy of Persons Affected by Disaster

- a. Assisting Actors providing International Disaster Assistance shall respect the dignity of persons affected by a Disaster. In particular, they shall consult with the beneficiaries of their assistance in the design, implementation, monitoring and evaluation of the Disaster Relief and Initial Recovery Assistance they provide.

b. Assisting Actors shall respect the privacy of persons affected by a Disaster in their data management. They shall share personally-identifiable information about their beneficiaries only when essential to provide humanitarian assistance, avoid duplication in aid, or prevent fraud.

Article 18 Quality of Goods and Services

a. Assisting Actors shall ensure that the Goods and Services they provide are appropriate to the needs and circumstances of persons affected by the Disaster and in compliance with the requirements of this Act and all applicable laws of *[country name]*.

b. Except as described in subsection (c) of this Article, Assisting Actors shall additionally make their best efforts, in light of all of the circumstances, to ensure that the Goods and Services they provide conform to the minimum standards in the Sphere Project Humanitarian Charter and Minimum Standards in Humanitarian Response”

c. If an Assisting Actor believes that the circumstances make it impractical or unwise for it to make any attempt to conform with a significant aspect of the Sphere Standards, it may so inform the *[relevant disaster management authority]* and seek its advance approval for an exemption from the requirement of subsection (b) of this Article.

[Alternative Article 18(b) & (c): Assisting Actors shall additionally comply with technical quality standards as contained by regulations to be developed by the *[relevant disaster management authority]*, in consultation with the Technical Taskforce on International Disaster Assistance, within *[six months]* of the entry into force of this Act.]

Article 19 Removal or Disposal of Unusable Goods, Non-Functioning Equipment and other Waste

Assisting Actors shall ensure that any Goods or Equipment they import for the purpose of Disaster Relief or Initial Recovery Assistance, which are or which become unusable, as well as any other waste products (*including hazardous waste*) produced by them in the course of their Disaster Relief or Initial Recovery Assistance operations, are removed, destroyed, recycled or otherwise disposed of in a safe, environmentally sensitive and effective manner, in compliance with *[country name]*’s law, and at their own cost.

Drafting note

The provisions of Chapter V might alternatively be placed in the national disaster management act or its implementing regulations.

Chapter V Eligibility for Legal Facilities

Article 20 Provision of Legal Facilities to Eligible Actors

- a. The Legal Facilities described in Chapter VI are available only to Eligible Actors as described in this Chapter and are effective only during the International Disaster Relief and Initial Recovery Periods. Unless otherwise stated in Chapter VI, the Legal Facilities are equally effective during both of those periods.
- b. All of the Legal Facilities described in Chapter VI shall be available to Assisting International Actors deemed eligible pursuant to Article 21, or approved as eligible pursuant to Article 22.
- c. The Legal Facilities described in Parts 1 to 5 of Chapter VI only shall be available to Assisting Domestic Actors deemed eligible pursuant to Article 21 or approved as eligible pursuant to Article 22, with respect to International Personnel, Goods, Equipment and Transport they bring to the country from abroad to provide Disaster Relief or Initial Recovery Assistance.

Article 21 Deemed Eligibility for Legal Facilities for Certain Assisting Actors

- a. Upon the commencement of an International Disaster Relief Period pursuant to Article 8, the following Assisting Actors shall be deemed eligible to receive the Legal Facilities described in Chapter VI of this Act without a further application process pursuant to Article 22:
 - (i) Assisting States;
 - (ii) relevant intergovernmental organizations, including United Nations and regional organizations;
 - (iii) the *[country name Red Cross/Red Crescent]* Society and Foreign Components of the International Red Cross and Red Crescent Movement; and
 - (iv) any other Assisting Actor that the *[relevant disaster management authority]* wishes to deem eligible.
- b. In order to facilitate access to the Legal Facilities, the *[relevant disaster management authority]* shall provide Assisting Actors described in subsection (a) a certificate of eligibility, upon their request.

Article 22 Application for Eligibility for Legal Facilities by Assisting Actors

- a. With the exception of those deemed eligible pursuant to Article 21, Assisting Actors seeking eligibility shall apply in accordance with this Article. Assisting International Actors may apply only if they are recognized as a legal person in a foreign country or under international law.
- b. The eligibility of private businesses for Legal Facilities shall be limited to assistance from which they make no profit or other commercial gain.
- c. Applications for eligibility may be made in advance of any Disaster, or after the onset of a Disaster. In the event that eligibility for Legal Facilities is granted in advance of a Disaster, it will remain valid for *[5 years]*, after which a new application is required. The Legal Facilities will enter into legal effect only during an International Disaster Relief or Initial Recovery Period.
- d. All Assisting Actors seeking eligibility shall submit:
 - (i) certified copies of documents evidencing their legal personality in a foreign jurisdiction or under international law, in the case of Assisting International Actors, or under the laws of *[country name]*, in the case of Assisting Domestic Actors;
 - (ii) the name and full contact details of the authorized representative of the organization and the address of its headquarters, if any, in *[country name]*;
 - (iii) documentation relating to their previous experience and current capacity in providing effective Disaster Relief or Initial Recovery Assistance;
 - (iv) documentation of adequate liability insurance; and
 - (v) an undertaking relating to their organizational commitment and practices concerning the responsibilities set out in Chapter IV.

Article 23 Eligibility Determination and Certificates

- a. The *[relevant disaster management authority]* shall respond to any application under Article 22 by either approving it and issuing a certificate of eligibility for the relevant Chapter VI Legal Facilities, or by giving notice that the application has not been approved.
 - (i) For applications made during the International Disaster Relief Period, the *[relevant disaster management authority]* shall respond no later than *[specified time]* after receipt of all required documents.

(ii) For applications made after the termination of an International Disaster Relief Period but during an International Initial Recovery Period, the *[relevant disaster management authority]* shall respond no later than *[specified time]* after receipt of all required documents.

b. Upon approval of an application pursuant to Article 22 or upon the request of an Assisting Actor deemed eligible pursuant to Article 21, the *[relevant disaster management authority]* shall issue a certificate indicating that the Assisting Actor is eligible for the relevant Chapter VI Legal Facilities. In the case of a Domestic Assisting Actor, the certificate shall state that the eligibility extends to the Legal Facilities in Parts 1 to 5 of Chapter VI.

c. A certificate issued in accordance with this Article shall be valid for a period of *[5 years]* from the date of issue and may be renewed through a new decision under Article 21 or Article 22.

Article 24 Termination of Eligibility for Legal Facilities

Eligibility of Assisting Actors for the relevant Chapter VI Legal Facilities may be terminated upon the request of the Eligible Actor concerned or upon the termination of the Legal Facilities for failure to comply with this Act, pursuant to Article 57.

Drafting note

If the provisions of Chapter VI are placed in various other acts rather than in a stand-alone statute, they should refer back to the eligibility procedure described in Chapter V.

Drafting note

Article 25 might alternatively be placed in the immigration act.

Chapter VI Legal Facilities for Eligible Actors

Part 1 International Personnel

Article 25 Disaster Visa

- a. The International Personnel of Eligible Actors shall be entitled to a Disaster Visa, unless national security or public health and safety concerns related to the particular individual preclude it. Disaster Visas shall be issued without a fee for an initial period of [three months], and renewable without a fee for periods of up to [six months] from within [*country name*], then as often as necessary throughout the International Disaster Relief and Initial Recovery Periods.
- b. During the International Disaster Relief Period, Disaster Visas shall be issued to the International Personnel of Eligible Actors, upon arrival at the point of entry [or by prior application to the appropriate embassy, which shall adjudicate them within [*specified time*]].
- c. After the termination of the International Disaster Relief Period but during the International Initial Recovery Period, Disaster Visas shall be issued by prior application to the appropriate [*country name*] embassy, which shall adjudicate them within [*specified time*].
- d. Holders of the Disaster Visa shall be allowed to undertake Disaster Relief and Initial Recovery Assistance work for their sponsoring entities during the International Disaster Relief and Initial Recovery Periods without the requirement to seek a separate residence or work permit.

[Alternative Article 25

Visa Waiver

The International Personnel of Eligible Actors shall be entitled to waiver of entry visa requirements, including any associated fees or charges. International Personnel who enter [*country name*] under this Disaster visa waiver, shall be allowed to undertake Disaster Relief and Initial Recovery Assistance work for their sponsoring entities without the requirement to seek a separate residence or work permit. As long as they continue as International Personnel of their sponsoring entities, they shall be entitled to remain in or re-enter the territory as often as necessary throughout the International Disaster Relief and Initial Recovery Periods. After that time, they may apply for a relevant visa from within the country.]

Drafting note

Article 26 might alternatively be placed in the disaster management act, or in the relevant regulatory acts concerning recognition of professional qualifications.

Article 26 Recognition of Foreign Professional Qualifications

- a. Eligible Actors wishing to deploy International Personnel for tasks requiring legal recognition of their foreign professional qualifications shall certify the validity of those qualifications under the law of the country where they were obtained and the competence of their Personnel for the tasks envisaged.
- b. Within [six months] of the entry into force of this Act, the *[relevant authority]* shall establish lists of countries and/or educational institutions whose [health professionals, architectural, engineering and other relevant professionals] may be given automatic recognition of their foreign qualifications when certified by an Eligible Actor pursuant to subsection (a) of this Article. The lists shall be reviewed at least [once per year] and published [electronically].
- c. The *[relevant authority]* shall also establish expedited procedures to be applied for the assessment and recognition of the foreign qualifications of the International Personnel originating from countries or institutions not included on the above-mentioned lists, when certified by their sponsoring Eligible Actor pursuant to subsection (a) of this Article.
- d. Recognition of qualifications under this Article shall exempt International Personnel of Eligible Actors from any obligations for compulsory membership of professional associations or other professional registration processes within *[country name]* until the end of the International Initial Recovery Period.
- e. Recognition of qualifications under this Article shall remain valid until the end of the International Initial Recovery Period, absent individual criminal conduct, or other professional misconduct sufficient to bar the individual from professional practice in *[country name]*.

Drafting note

Article 27 might alternatively be placed in the transport act.

Article 27 Recognition of Foreign Driving Licenses

The *[relevant authority]* shall accord temporary recognition of the foreign driving licenses of the International Personnel of Eligible Actors, during the International Disaster Relief and Initial Recovery Periods.

Drafting note

Article 28 might alternatively be placed in the disaster management act or its implementing regulations.

Drafting note

The provisions of Part 2 of Chapter VI might alternatively be placed in the customs act or its implementing regulations.

Article 28 Facilitation of Access

The International Personnel of Eligible Actors shall be allowed access to Disaster-affected areas and persons requiring Disaster Relief or Initial Recovery Assistance, subject to coordination requirements pursuant to Article 15 and limitations based on national security, public order or public health, weighed in the context of the urgency of the Disaster needs. They shall be permitted to provide their Goods and Services directly to affected persons.

Part 2 Entry of International Disaster Goods and Equipment

Article 29 Customs Facilitation and Priority Treatment

As further described in this Part, the *[customs authority]* shall facilitate the rapid importation of consignments of Goods and Equipment by Eligible Actors and shall accord them priority treatment in handling.

Article 30 Duty of Compliance by Eligible Actors

In order to benefit from the Legal Facilities in this Part, Eligible Actors shall:

- a. declare that all the Goods and Equipment they seek to import under this Part are exclusively for Disaster Relief or Initial Recovery Assistance and that they comply with any relevant standards under national law, including as provided in this Act or its regulations; and
- b. pack, classify and mark their consignments in accordance with the requirements described in this part and as directed by the *[customs authority]*.

Article 31 Representation to Customs

Eligible Actors may make representations directly to the *[customs authority]* with respect to their International Disaster Assistance consignments or through a designated third party acting on their behalf.

Article 32 Exemption from Import Duties, Taxes and Restrictions

Consignments of Goods and Equipment by or on behalf of Eligible Actors shall benefit from:

- a. exemption from all duties and taxes;
- b. waiver of economic prohibitions and restrictions except for categories of

special Goods and Equipment as provided in Part 3 of this Act; and

c. clearance without regard to the country of origin or the country from which the Goods have arrived, subject to monitoring for reasons of public health and security.

Article 33 Simplification of Documentation Requirements

The *[customs authority]* shall:

- a. clear or release consignments of Goods and Equipment sent by or on behalf of Eligible Actors on the basis of a [simplified / provisional goods declaration] providing the minimum information necessary for the *[customs authority]* to identify the Goods and Equipment and subject, when deemed necessary, to completion of a more complete declaration within a specified period;
- b. allow a single goods declaration for all imports of Goods or Equipment by or on behalf of Eligible Actors;
- c. allow the goods declaration and any supporting documents relating to consignments of Goods or Equipment sent by or on behalf of Eligible Actors to be lodged [electronically and] without any fee;
- d. allow the lodging and registering or checking of the goods declaration and supporting documents prior to the arrival of consignments of Goods or Equipment sent by or on behalf of Eligible Actors, to facilitate their release upon arrival; and
- e. waive any requirement of translation of details in documents relating to consignments of Goods or Equipment sent by or on behalf of Eligible Actors unless it is absolutely necessary for the purposes of release or clearance.

Article 34 Extended Hours for Customs

During the International Disaster Relief Period only, the *[customs authority]* shall:

- a. upon request, and without additional charges, carry out the functions necessary for the release or clearance of consignments of Goods or Equipment imported by or on behalf of Eligible Actors outside their designated hours of business and/or away from customs offices when necessary; and
- b. coordinate with the business hours and competencies of any other relevant [departments/ ministries] involved in the approval of incoming consignments and, whenever possible, carry out joint operations, such as joint customs controls, including participation in SWIFTS, if established under Article 14.

Article 35 Inspections and Customs Security

During the International Disaster Relief Period only, the *[customs authority]* shall:

- a. on the basis of risk analysis, take only such action as it deems essential to ensure compliance with customs and related laws for the purpose of checking the goods declaration of a consignment sent by or on behalf of Eligible Actors;
- b. use risk analysis, preferably on the basis of advance information, to determine which consignments of Goods and Equipment imported by or on behalf of Eligible Actors shall be inspected and the extent of that inspection; and
- c. waive, as feasible, any customs security that would normally be required in respect of consignments of Goods and Equipment imported by or on behalf of Eligible Actors. However, if, in an exceptional case, customs security is deemed necessary, it shall accept as security an undertaking from the relevant Eligible Actor or, where appropriate, a general customs security.

Article 36 Agreements on Pre-Positioning of Stock

The *[relevant authority]* may enter into an agreement with an Eligible Actor to extend the relevant Legal Facilities of this Part to pre-positioning of stocks in *[country name]*, in preparation for potential Disaster, or after a specific Disaster warning.

Part 3 Expedited Entry and Use Restrictions for Specific International Disaster Goods and Equipment

Article 37 Telecommunications Equipment

- a. Eligible Actors shall be permitted to import telecommunications Equipment for the purpose of Disaster Relief or Initial Recovery Assistance without restrictions, except as required for purposes of national security or public order.
- b. Upon notification of the names, frequencies, as applicable, and locations of intended use of such telecommunications Equipment imported by Eligible Actors, the *[relevant telecommunications authority]* shall waive any licensing requirements or fees for their use.
- c. The *[relevant telecommunications authority]* shall also grant Eligible Actors the same level of priority as domestic emergency responders in access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with Disaster Relief and Initial Recovery Assistance.

Drafting note

Article 37 might alternatively be placed in the telecommunications law or its implementing regulations.

Drafting note

Article 38 might alternatively be placed in the pharmaceuticals law or its implementing regulations.

Article 38 Medications

a. Eligible Actors shall be permitted to import medications and medical Equipment for the purpose of Disaster Relief or Initial Recovery Assistance so long as they conform to the requirements of this Article.

b. Any such medications and medical Equipment shall be appropriate to the needs of the Disaster-affected persons, and shall be legal for use in the country of origin according to its laws as well as in *[country name]* according to *[appropriate law on pharmaceuticals]*. Pursuant to subsections (c) and (d) below, a distinction shall otherwise be made between medications intended to be donated for the use of others and those that Eligible Actors intend to use directly in providing medical Services.

c. Medications that Eligible Actors intend to use directly in providing medical services in Disaster Relief or Initial Recovery Assistance, shall be:

(i) transported and maintained by the Eligible Actor in appropriate conditions at all times to ensure their quality; and

(ii) guarded against misappropriation and abuse.

d. Medications intended for donation for the use of others shall be:

(i) at least 12 months from their expiry date upon arrival, unless otherwise specifically agreed by the *[relevant health authority]*;

(ii) transported and maintained by the Eligible Actor in appropriate conditions to ensure their quality until they reach their intended domestic recipients; and

(iii) appropriately labelled in a language understood in the affected State with the International Non-proprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.

Drafting note

The intention behind Article 39 might be achieved in implementing regulations for a food safety law.

Article 39 Food

Food imported by Eligible Actors shall be admitted pursuant to expedited procedures set out by regulations to be developed within [6 months] of the entry into force of this Act by the *[relevant agricultural or health authority]*.

Drafting note

Article 40 might alternatively be placed in the motor vehicles or road safety act.

Drafting note

Article 41 might alternatively be placed in a veterinary health act.

Drafting note

The provisions of Part 4 might alternatively be placed in the customs law or its implementing regulations.

Article 40 Imported Vehicles

The *[relevant transportation authority]* shall grant temporary recognition to foreign registration and plates to vehicles imported by Eligible Actors pending the provision of local registration and plates.

[Alternative Article 40: The *[relevant transportation authority]* shall expedite the granting of local registration and [temporary] plates for vehicles imported by Eligible Actors.]

Article 41 Search Dogs

Search dogs imported temporarily by Eligible Actors shall be admitted without the need for quarantine so long as they meet the conditions and requirements of special regulations to be developed within [6 months] of the entry into force of this Act by the *[relevant authority]*.

Part 4 Permitted Disposition of Equipment and Unused Goods

Article 42 Disposition of Equipment and Unused Goods

- a. This part sets out the permitted disposition of Goods or Equipment for which Eligible Actors have received waivers or exemptions from fees, duties, taxes or other charges pursuant to this Chapter and which remain in their possession as of the end of their Disaster Relief and Initial Recovery Assistance operations.
- b. Such Goods and Equipment may be:
 - (i) retained by Eligible Actors that are not-for-profit entities and used or distributed by them for humanitarian, development or charitable purposes in *[country name]*;
 - (ii) re-exported pursuant to Article 43;
 - (iii) donated pursuant to Article 44; or
 - (iv) disposed of pursuant to Article 19.
- c. Additionally, such Goods and Equipment may be sold, but only:
 - (i) after the termination of the Initial Recovery Period; and

(ii) with payment of all fees, duties, taxes or charges that were previously waived or exempted for these items under this Chapter.

Article 43 Re-Export of Goods and Equipment

Eligible Actors that import Equipment or Goods benefitting from the Legal Facilities in this Chapter are permitted to re-export any Equipment or unused Goods and to do so without the imposition of any taxes, export duties, or similar charges, provided that:

- a. re-export is commenced no later than [three months] after the termination of the International Initial Recovery Period; and
- b. they provide documentary evidence that the Equipment and Goods in question were originally imported for the purpose of Disaster Relief or Initial Recovery Assistance pursuant to this Chapter.

Article 44 Donation of Unused Goods and Equipment

When they are no longer needed for their Disaster Relief or Initial Recovery Assistance, Eligible Actors are permitted to donate any imported or locally purchased Goods and Equipment without the imposition of any taxes, fees, duties, or similar charges on either the donor or the beneficiary, provided that :

- a. the donation is made no later than [three months] after the termination of the International Initial Recovery Period;
- b. the Eligible Actor provides documentary evidence to *[the relevant authority with copies to the beneficiary]* of the identity of the importer or purchaser, the date of import or purchase, and the fact that the item or group of items was imported or purchased pursuant to the Legal Facilities in this Chapter;
- c. the beneficiary of the donation is a not-for-profit charitable or humanitarian organization established in *[country name]*, *[or an appropriate governmental agency of country name]* and it is willing to accept the donation.

Drafting note

The provisions of the articles in Part 5 might alternatively be placed separately in laws concerning ground vehicles, marine traffic and aviation.

Drafting note

Article 46 might also be placed in the immigration act.

Part 5 Transport

Article 45 Facilitation of Means of Transport

Ground, air and water transport vehicles operated by or on behalf of Eligible Actors to transport International and Locally Engaged Personnel, Goods, or Equipment for the purposes of Disaster Relief or Initial Recovery Assistance shall be:

- a. accorded priority treatment for passage, including, as appropriate, priority in air traffic routing and landing permissions;
- b. exempt from any applicable taxes, levies, duties, fees or charges normally imposed by governmental entities of *[country name]*, including, but not limited to:
 - (i) overflight, landing, parking, taking off and navigation service fees;
 - (ii) demurrage and docking fees; and
 - (iii) road tolls; and
- c. exempt from any prohibitions, limitations or restrictions in respect of their arrival, overflight, landing, stay and departure, other than those necessary to guarantee national security, public safety or public health.

Article 46 Entry of Transport Operators

The *[relevant authorities]* shall endeavour to reduce and expedite any procedures for the entry of drivers, pilots and crew of Transport vehicles operated by or on behalf of Eligible Actors.

Article 47 Notice of Transport

To facilitate the provision of the Legal Facilities in this Part, Eligible Actors or their carriers shall:

- a. inform the *[relevant aviation authority]* in advance of the intended route of flights, type and call signs of the aircraft, number of crew members, the character of the cargo, time-table of flights, and the list of all passengers, and shall comply with any directions from the *[relevant aviation authority]* as to air traffic control and landing procedures; and

b. inform the *[relevant marine authority]* in advance, of the intended port or location of arrival of each water vessel, the type, make and registration number of each vessel, the number of personnel operating and on board each vessel and the equipment, facilities and other materials on board each vessel, and shall comply with any directions from the *[relevant authority]* as to the control of incoming vessels or docking procedures.

Part 6 Legal Capacity and Employment

Article 48 Legal Capacity of Assisting International Actors

The status of eligibility for Legal Facilities of an Assisting International Actor includes such legal capacity as may be relevant for the exercise of its functions and the fulfilment of its purposes in providing Disaster Relief or Initial Recovery Assistance in accordance with the laws of *[country name]* during the International Disaster Relief and Initial Recovery Periods, in particular the capacity to:

- a. open bank accounts;
- b. enter into contracts and leases;
- c. acquire and dispose of immovable and movable property;
- d. receive and disburse private and public funds;
- e. instigate legal proceedings; and
- f. engage and terminate Locally Engaged Personnel, as set out in Article 49 of this Act.

Article 49 Engagement and Termination of Locally Engaged Personnel

- a. Subject to Article 4 of this Act, and except as provided in this Article, all Eligible Assisting International Actors shall comply with the applicable law in *[country name]* with regard to the employment of Locally Engaged Personnel, being persons normally resident or domiciled in *[country name]*.
- b. Eligible Assisting International Actors shall not be required to make any separate registration as employers, including for the purposes of taxation, social security, and social insurance registration requirements relating to the employment of Locally Engaged Personnel.

Drafting note

Aspects of Article 48 might alternatively be placed in a disaster management act, the banking act and the labour relations act.

Drafting note

Article 49 might alternatively be placed in the labour relations act.

c. Notwithstanding any provisions of labour and employment laws to the contrary, Eligible Assisting International Actors may:

(i) recruit any individual legally entitled to perform the work envisaged in *[country name]* through a non-discriminatory process; and

(ii) engage local personnel pursuant to fixed-term contracts, which may be of short duration, and may be renewed as required without creating an open-ended obligation.

Drafting note

The provisions Article 50 might alternatively be placed in a jurisdictional statute for the appropriate court or in a labour relations act.

Article 50 Jurisdiction over International Personnel

Notwithstanding any public order or provisions of labour and employment laws to the contrary, the courts, administrative tribunals and officials of *[country name]* shall not seek to exercise jurisdiction concerning contracts between Eligible Assisting International Actors and International Personnel engaged by them, where such contracts contain choice of law provisions that establish the exclusive jurisdiction of a foreign or international court, tribunal or other mechanism.

Part 7 Taxation of Eligible Assisting International Actors

Article 51 Value-Added Tax (VAT)[and other similar taxes]

a. The supply of Disaster Relief and Initial Recovery Assistance by an Eligible Assisting International Actor shall be exempt from all VAT, service taxes and similar taxes, duties, levies and governmental fees where such supply takes place during the International Disaster Relief or Initial Recovery Periods. Eligible Assisting International Actors shall also be exempt from registration for VAT during the same periods.

b. In providing this Legal Facility, the *[relevant taxation authority]* shall take all practical steps to ensure that local suppliers suffer no negative financial or administrative impact in providing goods or services to Eligible Assisting International Actors.

c. The rate of VAT in respect of the supply of merchandise or a service to an Eligible Assisting International Actor in connection with its Disaster Relief or Initial Recovery Assistance shall be zero where such supply is of a value exceeding *[specific value]*. Accordingly, a supplier of such goods and services shall not be required to account for, and shall not charge the relevant Eligible Assisting International Actor, any VAT in respect of such supplies.

Drafting note

The provisions in Part 7 might alternatively be placed in the appropriate tax laws.

[Alternative options for Article 51(c):

VAT – exemption approach

The supply of merchandise or a service to an Eligible Assisting International Actor in connection with its Disaster Relief or Initial Recovery Assistance shall be exempt from VAT where such supply is of a value exceeding [specific value] and, accordingly, a supplier shall not be required to account for, and shall not charge the relevant Eligible Assisting International Actor, any VAT in respect of such supplies.

VAT – deemed no supply approach

The supply of merchandise or a service to an Eligible Assisting International Actor in connection with its Disaster Relief or Initial Recovery Assistance shall be disregarded for the purposes of VAT where such supply is of a value exceeding [specific value] and, accordingly, a supplier shall not be required to account for, and shall not charge the relevant Eligible Assisting International Actor, any VAT in respect of such supplies.]

Article 52 Income Tax [and other similar taxes]

- a. The activities of an Eligible Assisting International Actor carried on for the purpose of providing Disaster Relief or Initial Recovery Assistance shall be disregarded for tax purposes during the International Disaster Relief and Initial Recovery Periods and, accordingly, any actual or deemed income or gain arising from such activities shall not be subject to any taxes, duties, levies or governmental fees having similar effect.
- b. The activities of the International Personnel of Eligible Assisting International Actors carried on in connection with the provision of Disaster Relief or Initial Recovery Assistance shall be disregarded for tax purposes during the International Disaster Relief and Initial Recovery Periods and, accordingly, taxes, duties, levies or governmental fees having similar effect shall not be payable in respect of such activities.
- c. The International Personnel of an Eligible Assisting International Actor shall not be treated as resident in [country name] or as having any other connection with [country name] relevant for taxation purposes by reason of their presence in [country name] or activities undertaken there during the International Disaster Relief and Initial Recovery Periods. Accordingly, such International Personnel shall not be subject to or required to account for any taxes, duties, levies, social security contributions and governmental fees or employment levies having similar effect.

Article 53 Property, Assets [and other similar] Taxes

During the International Disaster Relief or Initial Recovery Periods, no taxes, duties, levies or governmental fees having similar effect shall accrue or be payable by Eligible Assisting International Actors in connection with:

- a. land, a building or any part of a building where such land, building or part thereof is wholly or primarily used by an Eligible Assisting International Actor for the purpose of Disaster Relief or Initial Recovery Assistance; and
- b. the assets of an Eligible Assisting International Actor.

Drafting note

Part 8 might alternatively be placed in the banking or financial services acts.

Part 8 Currency and Banking

Article 54 Facilitation to Bring Necessary Funds and Currencies into the Country

The *[relevant authority]* shall facilitate the entry of such funds and currencies required by Eligible Assisting International Actors to provide Disaster Relief and Initial Recovery Assistance.

Article 55 Preferential Exchange Rates

The *[relevant authority]* shall make available to Eligible Assisting International Actors the best available legal exchange rates into the state's currency for funds to be used for the purpose of providing Disaster Relief or Initial Recovery Assistance.

Drafting note

The provisions of Chapter VII might alternatively be placed in the national disaster management act or its implementing regulations.

Chapter VII Supervision, Reporting and Sanctions

Article 56 Supervision of Assisting Actors

- a. The [relevant disaster management authority or ombudsman] shall be responsible for monitoring the compliance of Assisting Actors with their responsibilities under this Act, and in particular Chapter IV.
- b. To facilitate the [relevant disaster management authority's or ombudsman's] oversight, it may require Assisting Actors to report to it, at reasonable intervals, about the Disaster Relief and Initial Recovery Assistance they provide. These reports shall be made publicly available [through electronic means].
- c. Any reporting requirements imposed by the [relevant disaster management authority or ombudsman] under this Article shall be designed so as to reduce any administrative burden on Assisting Actors to the minimum necessary.

Article 57 Non-Compliance by Assisting Actors

- a. If, on the basis of information it deems credible, the [relevant disaster management authority or ombudsman] suspects that any Assisting Actor has failed to materially comply with its responsibilities under this Act, and in particular its responsibilities under Chapter IV, it shall immediately consult with the Assisting Actor and seek clarification or explanation. If still unsatisfied, the [relevant disaster management authority or ombudsman] shall provide written notice of non-compliance along with a decision either:
 - (i) to require the Assisting Actor to bring itself into compliance within a specified period of time, with or without temporary suspension of its eligibility, if any, for Legal Facilities under Chapter VI;
 - (ii) to revoke the Assisting Actor's eligibility, if any, for Legal Facilities under Chapter VI;
 - (iii) in the case of deliberate misrepresentation or fraud, to impose fines to be set out by implementing regulation; or
 - (iv) in the most extreme cases concerning an Assisting International Actor, to revoke [country name's] consent for it to provide Disaster Relief or Initial Recovery Assistance in response to the Disaster.
- b. In the event of a decision to revoke pursuant to subsection (a)(iv) of this

Article, if the Assisting International Actor lacks a legal basis independent of this Act to remain in the country, it may be required to depart, as of a date no sooner than [30] days from the date of the notice.

c. Decisions to suspend or revoke Legal Facilities pursuant to subsections (a) (i) or (a)(ii) of this Article may not be given retroactive effect, except in cases of fraud or criminal misconduct attributable to the Assisting International Actor.

d. The Assisting Actor may appeal any negative decision to *[an ombudsman or other appropriate agency]*.

e. Nothing in this Article precludes the prosecution of Assisting International Actors or their International and Locally Engaged Personnel for criminal offences or for the imposition of civil liability under the laws of *[country name]*.

Drafting note

The regulation of international donations may already be covered under existing legislation concerning disaster management, financial transactions and/or domestic non-governmental organizations.

Article 58 Transparency as to Internationally Donated Funds

a. Internationally Donated Funds received by the Government of *[country name]* for the purposes of Disaster Relief and Initial Recovery Assistance may be accepted by *[the relevant governmental body or bodies]*. They shall be:

(i) [included in the national disaster management fund established by the national disaster management act, the procedures for which shall be set out by regulation; and]

(ii) subject to audit by the *[appropriate authority]* no later than *[six months]* after the termination of the International Disaster Relief Period or *[three months]* after the termination of the International Initial Recovery Period. The results of these audits shall be made publicly available *[by electronic means]*.

b. Internationally Donated Funds received by Assisting Domestic Actors for the purposes of Disaster Relief and Initial Recovery Assistance shall be:

(i) maintained in a dedicated account for Disaster Relief or Initial Recovery Assistance; and

(ii) subjected to an external audit no later than *[six months]* after the termination of the International Disaster Relief Period or *[three months]* after the termination of the International Initial Recovery Period, whichever is sooner. The results of these audits shall be reported to *[appropriate authority]* and made publicly available *[by electronic means]*.

Article 59 Annual Reporting on Implementation

The *[relevant disaster management authority]* shall report annually to the *[relevant committee of the]* Parliament on steps taken to implement this Act, including preparedness measures taken prior to a Disaster.

Article 60 Sanction for Non-Compliance by Officials

Officials of *[country name]* that fail to abide by their responsibilities under this Act may be subject to *[discipline pursuant to a civil service code, and/or]* a fine of up to *[amount]*. This Article is without prejudice to any civil or criminal liability under other laws that might also attach to the official's actions or omissions.

Drafting note

The provisions of Chapter VIII might alternatively be placed in the customs law or its implementing regulations.

Chapter VIII Transit of International Disaster Assistance

Article 61 Facilitation for Transit

In the event a Disaster occurs in another country for which International Disaster Assistance is required the *[relevant customs, immigration, and transport authorities]* shall facilitate the speedy transit or transshipment across national territory of International Disaster Assistance by Assisting International Actors, including International Personnel, Goods, Equipment and Transport, in order to reach the affected country, as further described in this Part.

Article 62 Transit Facilities Period

- a. When, after seeking the views of the relevant authorities of a Disaster-affected country, the *[relevant authority]* is satisfied that Disaster Relief or Initial Recovery Assistance is likely to be required and that the transit or transshipment of International Personnel, Goods or Equipment through its territory is likely to be helpful, the *[relevant authority]* may declare the beginning of a Transit Facilities Period.
- b. The Transit Facilities Period shall continue until terminated by the *[relevant authority]*, when it is satisfied that Transit Facilities are no longer required.
- c. The termination of a Transit Facilities Period shall be announced to Assisting International Actors no later than *[time period]* prior to the proposed date.
- d. The Transit Facilities described in this Chapter shall be effective only during the Transit Facilities Period.

Article 63 Entitlement to Transit Facilities

- a. Subject to subsection (b), all Assisting International Actors shall be entitled to the Transit Facilities provided in this Chapter upon declaration that the International Personnel, Equipment and Goods that they seek to send in transit through *[country name]* are for the purpose of providing Disaster Relief or Initial Recovery Assistance to a Disaster-affected country.
- b. The *[relevant authority]* may deny Transit Facilities to any Assisting International Actor, in case of actual or suspected fraud or if necessary to safeguard national security or public health. The denial of Transit Facilities may be appealed pursuant to the process described in Article 57 of this Act.

Article 64 Disaster Transit Visa

The International Personnel of Eligible Actors entering *[country name]* for the purpose of transit to a Disaster-affected country shall be entitled to a *[single entry]* Disaster Transit Visa on arrival, unless national security or public health and safety concerns related to the particular individual preclude it. Disaster Transit Visas shall be issued without a fee.

[Alternative Article 64: International Personnel entering *[country name]* for the purpose of transit to a Disaster-affected country shall be entitled to waiver of entry visa requirements, including any associated fees or charges [on the condition that they exit the territory of *[country name]* within a period of *[number of days]*.

Article 65 Goods and Equipment in Transit and Transshipment

The provisions of Parts 2 and 3 of Chapter VI shall apply, *mutatis mutandis*, to consignments of Goods and Equipment by Eligible Actors, when placed under customs transit or transshipment to an affected country.

Article 66 Transport for Transit and Transshipment

The provisions of Part 5 of Chapter VI shall also apply, *mutatis mutandis*, to the ground, air and water vehicles of Eligible Actors in transit through the territorial lands, waters or airspace of *[country name]* to provide Disaster Relief or Initial Recovery Assistance to an affected country.

Chapter IX Implementation, Transitional and Final Provisions

Article 67 Implementing Regulations

The *[relevant authorities]* may make regulations concerning all matters which are required or permitted to be prescribed, or which are necessary to carry this Act into effect or to give effect to any power, function, duty, or authority under this Act.

Article 68 Repeals and Revocations

[Names of relevant acts and sections / The legislative provisions listed in Schedule [#]] are repealed from *[date]*.

Article 69 Severability

Each of the articles of this Act is severable. If any such article is or becomes illegal, invalid or unenforceable in any respect, that shall not affect or impair the legality, validity or enforceability of the other articles of this Act.

Article 70 Entry into Force

This Act shall enter into force on *[date / the [cardinal number] day following its publication in the [title of official publication]*.

Article 71 Transitional Provisions

The *[relevant authority]* may make such transitional, transitory or savings provisions as are necessary for the implementation of this Act.