



International Federation
of Red Cross and Red Crescent Societies

Report of the Asia-Pacific IDRL Forum

International Disaster Response Laws, Rules and Principles (IDRL)



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ANNEX

Draft Declaration of Principles for the Domestic Facilitation and Regulation of International Disaster Relief and Recovery Assistance (version dated 2 November 2006)

Additional documents, participant list and photo gallery are located on the IDRL Programme website: www.ifrc.org/idrl

Background

The Asia-Pacific IDRL Forum was held on 12–13 December 2006 in Kuala Lumpur, Malaysia, co-convened by the International Federation of Red Cross and Red Crescent Societies ('International Federation') and the Malaysian Red Crescent Society and hosted by the Government of Malaysia. This was the second of a series of high-level regional meetings to be convened by the International Federation's International Disaster Response Laws, Rules and principles (IDRL) Programme and its partners over the course of 2006–2007.¹ These Forums contribute to the fulfilment of the mandate, arising from the 28th International Conference of the Red Cross and Red Crescent of 2003, to study and disseminate information on the legal and regulatory frameworks in international disaster response, identify their gaps and problem areas, and develop recommendations and tools to address them.

The Asia-Pacific IDRL Forum gathered over 130 participants, representing 21 National Red Cross and Red Crescent Societies, 13 governments and regional bodies, 7 UN agencies, 7 NGOs and NGO networks, the International Federation and the International Committee of the Red Cross, as well as 11 independent experts and academics to discuss the common legal issues in international disaster response and potential solutions.

The objectives of the Asia-Pacific IDRL Forum were to:

- i) Review common legal issues encountered by Asia-Pacific actors involved in receiving and providing international disaster response.
- ii) Analyze the current frameworks for international disaster response to identify gaps in scope and implementation and to share good practice.
- iii) Develop recommendations on ways to improve the effectiveness and implementation of regulatory frameworks at the international, regional and national levels.

The Asia-Pacific IDRL Forum also included the first official consultation on the *Draft Declaration of Principles for the Domestic Facilitation and Regulation of International Disaster Relief and Early Recovery Assistance* ('Draft Declaration'), see Annex, prepared with a view to potential adoption by the 30th International Conference of the Red Cross and Red Crescent in November 2007. The draft included in this report was the version circulated and considered during the Forum but has since undergone a process of revision incorporating feedback from this Forum and other consultations.

Welcoming remarks

In welcoming the Forum participants, Ahmad Fuad bin Ab. Aziz, Director General, National Security Division, Prime Minister's Department, Government of Malaysia thanked the International Federation for offering Malaysia the opportunity to host this important event and highlighted the vulnerability of the Asia-Pacific region to disasters. He emphasised the importance of continuing to develop mutual cross-border cooperation, but noted that various administrative procedures hamper these efforts, hence the need to ensure that legal issues are addressed to ensure the smooth delivery of relief. Mr Aziz hoped that the IDRL Asia-Pacific Forum would build better understanding and collaboration on this topic and would contribute to the objectives of the Hyogo Framework for Action. The outcomes of the Forum, as well as learning from the lessons of the past, would help shape the policies and recommendations to be approved at the International Conference of the Red Cross and Red Crescent in 2007 and would ultimately benefit people affected by disasters.

Ibrahim Osman, Deputy Secretary-General, International Federation of Red Cross and Red Crescent Societies, Switzerland echoed this last sentiment and noted a number of concerning statistics about the frequency and impact of disasters in Asia-Pacific and around the world, many of which have exceeded the capacities of national governments and required international assistance, such as the Indian Ocean tsunami. He observed that while some aspects of disaster response have improved, such as logistics, human resources and technological capacities, unfortunately legal arrangements have continued to lag behind and result in the

¹ The first regional form, focused on Europe, was held in Antalya, Turkey in May 2006. The report and documents from that forum can be found at: <http://www.ifrc.org/idrl> Other forums are planned for the Americas in April 2007, Africa in May 2007, and the Middle East in the first quarter of 2007.

hampering of international assistance. Mr Osman highlighted some of the legal challenges facing international disaster response such as bureaucratic and lengthy procedures relating to customs and visas, taxation and the use of vehicles, as well as issues relating to the lack of cultural awareness and poor practices on the part of some international relief providers. He noted that existing laws and rules are not well known or applied and, as demonstrated by the tsunami relief operations, can result in additional complications when ad hoc measures are put in place. Mr Osman described the various activities which had been undertaken by the International Federation's IDRL Programme since 2001, including legal research and case studies, the development of a legal database, workshops, a global survey and the establishment of the first regional IDRL office in Bangkok. Additionally, the completion of a comprehensive study on IDRL and upcoming regional consultations in Africa and the Americas would help to shape the future direction of work in this area. Lastly Mr Osman reiterated the importance of the IDRL Asia-Pacific Forum as an important step in the process leading up to the presentation of recommendations and Draft Declaration to the International Conference of the Red Cross and Red Crescent in 2007.

Additionally, all participants received a written statement of the UN Secretary-General's Special Envoy for Tsunami Recovery, Former U.S. President Bill Clinton congratulating the Forum organisers and reaffirming the importance of disaster preparedness around the world. Based on experiences from the tsunami, President Clinton highlighted the impact of rules and procedures during international assistance operations, as either a help or a hindrance to fast and effective operations and gave his full support to the Forum and in continuing efforts on such critical issues. The full statement can be found at www.ifrc.org/idrl on the IDRL Asia Pacific Forum page.

Official Opening and Keynote Address

Minister Datuk Seri Mohamed Nazri Abdul Aziz, Prime Minister's Department of Malaysia welcomed the opportunity for Malaysia to host the IDRL Forum, which would help to raise awareness of this issue among governments and humanitarian agencies, generate dialogue, harness cooperation and address any gaps. Noting the significant impact and complexities of disasters and the need for immediate response, Minister Nazri Aziz stated that a lack of preparedness in the region hampered the effectiveness and timeliness of assistance after the Indian Ocean tsunami and thus emphasised the need to ensure adequate mitigation and preparedness measures. In the context of Malaysia, the Minister described the important cooperation between the government and national organisations such as Malaysian Red Crescent Society and Mercy Malaysia to mobilise teams such as the Special Malaysia Disaster Assistance and Rescue Team (SMART) to provide cross-border assistance, as was provided in the wake of disasters in Gujarat, Bam, Aceh, Muzzaferabad, Southern Leyte and Jogjakarta. He noted that the entry of Malaysian Government teams is generally cleared through diplomatic channels and is assisted by having a clear understanding of the host country's administrative procedures. However for other organisations, such as NGOs, their entry is sometimes only possible with a tourist visa and they do not have adequate safety and protection in the affected country. Thus, when time is of the essence, having appropriate laws, rules, regulations and administrative procedures in place can make the difference between life and death. The Minister recognised the need for regional and international structures and mechanisms to address these issues and highlighted the proposed development of the ASEAN Humanitarian Assistance Centre as a positive example, and hoped that legal mechanisms to promote the smooth delivery of international assistance could be the subject of discussion at the regional Ministerial level, which Malaysia would be amendable to hosting.

Special Address

A special address was given by Major General Farooq Ahmed Khan, Chairman, Prime Minister's Inspection Commission, Pakistan on the experiences, lessons and recommendations arising from the recent earthquake in Pakistan. The earthquake resulted in the loss of over 73,000 lives, as well as the significant damage and destruction of infrastructure – the effects of which were worsened by additional tremors, landslides, trauma and the onset of winter. Maj. Gen. Khan's presentation focussed on the challenges posed by the absence of a comprehensive disaster management system, the relative lack of experience in dealing with disasters of this magnitude and the lack of an adequate legal framework for emergency situations. He described how the Pakistan Government established the Federal Relief Commission within 48 hours of the disaster, reporting directly to the Prime Minister with responsibility for the overall management and coordination of the operation with government ministries, local NGOs and international relief providers. In his lessons learned, Maj. Gen. Khan noted the

limitations posed by the absence of institutional arrangements for disaster management in Pakistan. However, a national disaster response plan was developed, which proved critical to ensure coordination and the delivery relief despite the challenges of infrastructure and environment. Among the key recommendations identified from this experience were the need to better harness the capacities of NGOs and international relief providers, and to encourage improved coordination whilst respecting independence. Additionally, it was noted that governments should allow flexibility in the implementation of normal business rules by cutting any unnecessary red tape in the event of disaster. In this regard, the Pakistan Government had allowed all relief organisations to enter the country during the emergency phase and lifted visa restrictions for a period of 3 months, provided access to previously restricted areas, facilitated the entry of relief goods and made efforts to confront organisations which were not adhering to acceptable standards of quality and accountability. In relation to future prospects Maj. Gen. Khan highlighted the need to develop a people-centred disaster management strategy and establish a permanent body to manage disasters. He noted that a new law was about to pass establishing a National Commission supported by a National Disaster Management Agency. This would ensure better integration between the different ministries and tiers of government, as well as civil society and enable "one-window" operations to manage all phases of disaster from emergency relief to rehabilitation and reconstruction.

Theme 1. Legal issues for international disaster response – perspectives from the field

Chair: Andrew Nocon, Board of Governors, Philippines National Red Cross Society

Overview of legal issues in international disaster response

In providing an overview of legal issues in international disaster response, Victoria Bannon, IDRL Asia Pacific Coordinator, International Federation of Red Cross and Red Crescent Societies, Thailand described some of the most common legal challenges faced by governments and international relief providers. Based on a number of studies conducted globally, as well as more recent research conducted in the tsunami affected countries of Indonesia, Thailand and Sri Lanka, Ms Bannon identified a number of common scenarios relating to national legal frameworks in disaster. She emphasised that specific laws to address emergency situations are best developed before disaster strikes and described in more detail a number of the most common legal challenges. These include: the initiation of international disaster response; entry of relief personnel; legal status of foreign organisations; the import of goods, transport and equipment; coordination, quality and accountability; as well as issues related to rehabilitation and reconstruction. Ms Bannon concluded that legal complications and red tape still pose a serious challenge to the effectiveness and efficiency of disaster response and also concluded that there is a lack of understanding of and adherence to international standards relating to the regulation and facilitation of international assistance. However she noted there are opportunities arising in the region as countries are reviewing their disaster management legislation, developing new regional instruments to enhance cooperation and increasingly focussing on risk reduction and greater preparedness for disaster.

Perspectives of International Non-Government Organisations

Datuk Dr Jemilah Mahmood, Asian Disaster Reduction and Response Network, Malaysia presented perspectives from international non-governmental organisations (NGOs) from the region that had faced various legal challenges in the provision of assistance in disaster operations. She highlighted the increasingly varied but important role of the NGO sector in international disaster response and outlined the role of the Asian Disaster Reduction and Response Network in sharing best practices, identifying gaps and building capacities in the region. In relation to the provision of international disaster response, Dr Mahmood noted that governments have generally been generous in opening their doors, for example during the emergency phase of the Pakistan earthquake where 6 month multiple entry humanitarian assistance visas were issued. However there are also challenges which the further development of IDRL could address, such as: controlling inflation of transport,

personnel and procurement costs; strengthening coordination mechanisms; transferral and management of funds; improving cultural awareness; visas for longer term recovery work; information management; and improving accountability to beneficiaries as well as donors. Dr Mahmood stated that improved legal preparedness and an emphasis on partnerships and consultation between NGOs, governments and other actors at all levels would make a significant contribution towards improving international disaster response.

Civil / Military cooperation and the tsunami experience

Lt. Col. Evan Carlin, Australian Defence Force discussed civil / military cooperation and the tsunami experience in Aceh, which required cooperation between NGO and military forces to render effective humanitarian assistance. However a lack of mutual understanding of mandates and organisational charters and at times, a failure to adhere to appropriate standards of conduct, can hamper these efforts. Lt. Col. Carlin described the mandate of the Australia military presence in Aceh after tsunami and recounted a number of examples where international relief providers had engaged in poor practices, such as: sending inappropriate food, relief items and personnel; refusal to coordinate; failing to respect the local social and political context; engaging in religious/ideological conversion; and having a lack of safety or logistics procedures. Conversely, Lt. Col. Carlin observed, organisations which performed best understood the legal and political environment they were working within. He noted that the principles and Code of Conduct of the International Red Cross and Red Crescent provided useful guidance as well as other recognised standards this area, particularly the principles of impartiality and neutrality; however the political realities and social mores of the stricken country should not be ignored.

Theme 2. International disaster response and national law

Chair: Che Moin Bin Umar, Director of Crisis Management, Government of Malaysia

Role of national law in facilitating and regulating international disaster response

In examining the role of national law in facilitating and regulating international disaster response, Atty. Priscilla Duque, Office of Civil Defense, National Disaster Coordinating Council, Philippines, gave an overview of the Philippines Disaster Risk Profile and Disaster Management system. She identified the various laws and policies which have been developed to address disaster situations in the Philippines, highlighting the role of the National Disaster Coordinating Council, which involves 19 government agencies, as well as Philippines National Red Cross. She also described current progress towards developing a comprehensive disaster management framework. In relation to arrangements for international disaster response, Ms Duque referred to the ASEAN Agreement for Disaster Management and Emergency Response as well as the Memorandum of Understanding on the International Humanitarian Assistance Network, which was applied during the recent Philippines landslide and typhoons, and which identified the responsibilities of different government agencies to process and facilitate international search and rescue assistance. However, Ms Duque noted, issues and gaps still remain, such as the dependence on ad hoc arrangements, ensuring that assistance received matches the needs in affected areas, and the need to harmonise the various laws, rules and regulations for the processing of foreign relief.

Institutional arrangements for international disaster response in Indonesia

Rachmat Ahadijat, Deputy Secretary General, Indonesia Red Cross Society gave an overview of the Indonesian disaster management system and described the role of BAKORNAS as the inter-ministerial body for disaster coordination, which also includes the Indonesian Red Cross Society. Mr Ahadijat noted that there is no single, integrated and comprehensive national disaster law in Indonesia, however there is a draft Disaster Management Act in progress, which includes several provisions relating to the role of international institutions in disaster response. Mr Ahadijat outlined a number of existing regulations relevant to international disaster response, noting that standards existed for the import of medicines and recognition of medical qualifications, that exemptions of taxes and duties on relief goods were not automatic but could be granted upon request, and noted the possibility for relief personnel to receive a visa on arrival. In the wake of the tsunami, Mr Ahadijat described

how the Indonesian Government adopted an “open sky” policy and facilitated visas on arrival; however he highlighted a number of lessons learnt from this experience, such as the lengthy and uncoordinated process of goods clearance and the lack of assistance from the private sector in waiving warehousing and related charges for relief goods. Mr Ahadijat also described the role of the Indonesian Rehabilitation and Reconstruction Agency for Aceh and Nias (BRR), the agency established in the wake of the tsunami to coordinate rehabilitation and reconstruction, and its role in streamlining the process of visa applications, customs and other legal and administrative needs of international relief providers. While noting that this was only applicable to the provinces of Aceh and Nias, Mr Ahadijat hoped that the relevant provisions of the new disaster management law would assist in the development of more specific and comprehensive guidelines on these issues in times of disaster.

The role of donor agencies in ensuring quality and accountability in disaster response

In highlighting the important role of donor agencies in ensuring the quality and accountability of international disaster response, Carmel Flynn, Manager International Emergencies, Australian Red Cross used the example of Australia's legal and policy framework for overseas aid. She noted that the Australian Government had recently produced a White Paper which establishes strategies to guide the direction of overseas aid programmes, including issues of quality and effectiveness. Additionally, the AusAID humanitarian policy acknowledges the increasing complexity of humanitarian action and identifies a number of policy considerations to ensure that the assistance programmes it funds address the needs of the most vulnerable. It also emphasises the importance of having effective evaluation and monitoring which integrate both Australian and international law. Ms Flynn also noted that Australia is a member of the Good Humanitarian Donorship Initiative which, through the ‘Stockholm Principles’ provides a number of good practices in donor financing, management and accountability. She described how a number of prominent Australian humanitarian organisations, including Australian Red Cross, have also promoted better quality and accountability through adherence to the Code of Conduct for Australian Aid and Development Agencies, administered by the Australian Council for International Development (ACFID) and that many humanitarian and government agencies promote and adhere to the International Red Cross/Red Crescent Code of Conduct. Additionally, Ms Flynn explained the importance of external evaluations which have directly linked field performance of NGOs to the allocation of government funding. For example AusAID conducted a review of Australian NGO performance in the South Asia Earthquake operation, which gave performance ratings based on quality and accountability criteria. Ms Flynn stated that such initiatives provide additional incentives for organisations to improve their standards and ultimately improve the quality of international disaster response.

Theme 3. Regional and International IDRL Frameworks

Chair: Lt.Gen Dato' Zaini Bin Hj Mohd Said, Malaysia

Experiences from recent international disaster response operations

In his presentation on experiences from recent international disaster response operations, Dr Puji Pujiono, Head and Regional Disaster Response Advisor, UN Office for the Coordination of Humanitarian Affairs, Kobe, Japan highlighted that two of the most important principles in disaster management are that life is preserved and protected, and that state sovereignty is the backbone of humanitarian work. Dr Pujiono provided a brief outline of the evolution of the natural disaster mandate in international emergency response and also explained the roles of the UN Disaster Relief Office (UNDRO) and the Emergency Relief Coordinator (ERC). Dr Pujiono noted that large scale disasters can create a high number of casualties and this sudden surge of need can overwhelm local capacities. This can be further exacerbated by damage to critical infrastructure and communication facilities, yet governments can still be ambivalent about declaring a need for international assistance. However he also observed that major disasters tend to result in an influx of unspecified, unsolicited, and uncoordinated international assistance. This has led to a number of challenges including: arrival of sub-standard relief commodities such as rotten tents, spoiled food and near-expired drugs; issues with flight and landing clearances; lack of clarity regarding the legal status of foreign relief agencies; as well as unclear policies on customs and

immigration. In conclusion, Dr Pujiono made a number of proposals to deal with these challenges including strengthening disaster response preparedness; ensuring adherence to verifiable standards of operation by international responders; achieving consensus on the international response process; and creating corporate guidelines for funding response preparedness. He affirmed the importance of the IDRL programme to meet the needs of these ongoing challenges and emphasised the need for greater commitment to further support the IDRL programme.

ASEAN Agreement on Disaster Management and Emergency Response

Dr Raman Letchumanan, Head of Environment and Disaster Management Unit, Bureau for Resources Development, ASEAN Secretariat, Jakarta, Indonesia was the first of two speakers to present on the ASEAN Agreement on Disaster Management and Emergency Response (AADMER). Dr Letchumanan explained how ASEAN came to focus on Disaster Management, in turn creating AADMER, after recognising that there were many declarations and resolutions in existence, but few examples of regional agreements, and those that did exist were outdated. Dr Letchumanan highlighted that there are a number of disaster risks presently facing ASEAN member states from poverty coupled with a fast growing population, to natural hazards, environmental degradation and pollution. One of the main lessons learned by ASEAN from the tsunami experience is that capacity building for disaster management must be unrelenting and that the commitment to cooperation and collaboration must be steadfast, thus Dr Letchumanan highlighted the important contribution of the ASEAN Committee on Disaster Management. Dr Letchumanan also provided an overview of the AADMER itself, explaining its role as a regional legal framework for cooperation and collaboration in disaster risk reduction and emergency response. The agreement was initiated in 2004, signed in July 2005 and is now in the process of being ratification by ASEAN members. The agreement embodies ASEAN's commitment to effective disaster risk reduction and articulates and supports the priorities for action in the Hyogo Declaration 2005 and Hyogo Framework for Action. Dr Letchumanan outlined the main objectives of the AADMER agreement including preparedness, joint exercises, joint emergency response, prevention and mitigation, technical cooperation, and also the establishment of the ASEAN Coordinating Centre for Humanitarian Assistance. In conclusion, Dr Letchumanan reinforced that ASEAN Committee on Disaster Management is steadfast in its commitment and resolve to reducing disaster risk through coordination, cooperation and collaboration. He also stressed that even though an agreement is crucial for setting out clear roles and responsibilities of different stakeholders, it is the implementation of these roles in times of disaster which is of key importance.

ASEAN Agreement on Disaster Management and Emergency Response

Supt. Aziz Ahmad, Government of Malaysia also spoke on the ASEAN Agreement on Disaster Management and Emergency Response, focussing on some of its most relevant provisions. Supt. Aziz explained that the AADMER sets out a number of provisions relating to the responding entity and also provides guidelines for deployment of resources. As such he noted that the AADMER is particularly important to Malaysia, which has become a responding nation, and that it reinforces important principles of sovereignty, territorial integrity and national unity. Supt. Aziz noted that the agreement makes inroads on the strengthening of cooperation, especially in technical areas such as communications, early warning and disaster risk reduction. He highlighted that the agreement contains provisions for the earmarking, standby and deployment of national assets however the entry points for these assets still need to be determined. Supt. Aziz referred to Article 16 which covers the transit of personnel, equipment, facilities and material, and their exemption from duties, tax and charges. He also referred to Article 20 relating to the ASEAN Coordinating Centre for Humanitarian Assistance and its role in facilitating other aspects of the agreement. Supt. Aziz stressed that a standby agreement such as the AADMER also needs to be accompanied by a Standard Operating Procedure (SOP) which can be adapted to suit all countries, based on a principle of voluntary participation with no minimum standard of engagement.

Regional Arrangements for Disaster Response in the Pacific

Roger Jones, Member, Regional High Level Advocacy Team, South Pacific Applied Geoscience Commission (SOPAC), Fiji began his presentation on Regional Arrangements for Disaster Response in the Pacific by giving some vital statistics on the Pacific region which is home to 7500 islands, 500 of which are inhabited. There are a number of key development issues in the Pacific such as unique fragile environments,

distinct and diverse cultures, limited natural resources, low economic diversification, geographic extremes, frequent natural disasters and demographic transition. Mr Jones explained that in the past, disaster management focussed primarily on national hazards and that response management was poor, mainly due to weak institutional agreements, ineffective instruments and a lack of incentives. In the 1990s, a regional approach was developed placing emphasis on structural disaster mitigation and non-structural disaster preparedness programs. In 1995 the Pacific Forum presented a new vision which was that “vulnerability to the effects of natural disasters, environmental damage and other threats will be overcome”. SOPAC, Mr Jones noted, was established in 1972 as a Regional Intergovernmental Organisation which has 21 members (17 Island States including Australia and New Zealand, and 4 associate members). SOPAC is a member of the Council of Regional Organisations in the Pacific (CROP) and has a regional centre which provides technical expertise, capacity building and support. Mr Jones outlined the mandate to “contribute to sustainable development, the reduction of poverty and the enhancement of resilience through SOPAC’s programmes and described the Pacific Framework, which works towards safer and more disaster-resilient Pacific Island Nations and their communities. The Pacific Framework contains six themes modelled on the Hyogo Framework and is a comprehensive document covering guiding principles as well as key national and regional activities. Mr Jones highlighted the outcomes of the Framework thus far, which include strengthening regional support arrangements, establishing the ‘Pacific Partnership’, and the development of coordinated support mechanisms.

Theme 4. Addressing outstanding needs in the international legal framework

Chair: Prof Dato' Sayed Abdul Rahman Bin Sayed Mohd, Malaysia

Overview of international legal framework: strengths, weaknesses and gaps

Dr Katrien Beeckman, Senior Officer Advocacy and Resource Mobilisation, IDRL Programme, International Federation of Red Cross and Red Crescent Societies, Switzerland began theme four with a presentation titled ‘Overview of international legal framework: strengths, weaknesses and gaps’. Dr Beeckman opened by stating that there is currently no comprehensive legal regime, but there are a diverse range of legal instruments at the global, regional and national levels. Dr Beeckman explained that at the global level, the legal framework is comprised of both hard law and soft law. Hard law is binding, such as treaties, and is mainly sector specific, for example the Kyoto Convention relating to customs or the Tampere Convention relating to telecommunications. Soft law represents more instruments of ‘guidance’, and includes resolutions, codes, standards, guidelines and models. At the regional level, Dr Beeckman noted there are a number of agreements already in place, one example being the ASEAN ADMER and at the bilateral level there exist hundreds of agreements between states about cooperation in the event of a disaster. Dr Beeckman noted that even though there is a large array of different instruments on IDRL, gaps still exist. Regarding hard law, the majority of legal binding instruments have: 1) few parties; 2) limited scope; 3) lack of legal recognition by certain actors; and 4) lack of domestication and uniformity. In terms of soft law instruments, gaps exist due to the lack of enforcement mechanisms. For both hard and soft law, there is a lack of awareness and application in the field. All of these gaps, she concluded, highlight the need for the development of a more comprehensive universal legal framework.

Hyogo Framework on Disaster Risk Reduction: Perspectives from Asia-Pacific

Joseph Chung, Head, United Nations International Strategy for Disaster Risk Reduction, Asia and Pacific, Thailand began his presentation titled ‘The Hyogo Framework on Disaster Risk Reduction: Perspectives from Asia-Pacific’ by giving an overview of disaster trends and impacts. Key issues included the number of disasters the world has experienced in the last two decades, the regional distribution of disasters, the top ten disaster affected countries, and disaster losses in the richest and poorest nations. He pointed out that there are both natural and human induced hazards, and when natural hazards are combined with vulnerability, a high disaster

risk is present. Most likely due to climate change, Mr Chung noted, there has been a five fold rise in disaster events from 1960-1990, predominantly of hydro-meteorological origins. He then gave a brief overview of the structure and systems of UNISDR whose objective is to reduce disaster risk worldwide, focussing on nations and communities. Mr Chung went on to speak on the Hyogo Framework for Action 2005-2015 (HFA) which is the main instrument of UNISDR. The HFA is the primary international agreement among 168 countries and multi-lateral institutions whose three strategic goals are the following: to integrate disaster risk reduction into policies, plans and programmes of sustainable development and poverty reduction; to recognize risk reduction as both a humanitarian and development issue – in the context of sustainable development; and to focus on national implementation, with bilateral, multilateral, regional and international cooperation. Mr Chung then summarized the HFA and its five 'priorities for action': governance, risk identification, knowledge, reducing the underlying risk factors, and strengthening disaster preparedness for effective response at all levels. He concluded by outlining some of the main challenges of HFA implementation, explaining that states are responsible for the welfare and safety of their people, so they must create appropriate legal, socio-economic, political and physical environments for mainstreaming disaster risk reduction into the development process at all levels of society.

Customs and relief goods

Yoko Odashima, Deputy Head, Asia Pacific Regional Office for Capacity Building, World Customs Organisation, Thailand concluded theme 4 with a presentation on customs and relief goods and opened by giving an overview of the World Customs Organisation (WCO). The WCO originated at the Customs Co-operation Council in Brussels in 1952 and was given the working name WCO in 1994. It is an independent intergovernmental organization whose mission is 'efficient and effective customs'. The WCO has 170 Member Customs Administrations covering 99% of world trade. More specifically, Ms Odashima explained, the WCO Asia Pacific Regional Office for Capacity Building (WCO ROCB A/P) in Bangkok strives to build capacity of the 31 Member Customs Administrations in the region, including 23 developing countries. Ms Odashima then spoke on the Revised Kyoto Convention which is one of the main instruments of the WCO. The original convention was concluded in Kyoto, Japan in 1973 and was revised in 1999 before entering into force in February 2006. This convention is the blueprint for modern customs administrations and its core principles are: higher transparency and predictability; standardized and simplified documents; minimum requests and intervention; maximum use of information technology; and finally, greater co-operation with other agencies and foreign counterparts. In recognition of the significance of rapid clearance of relief consignment and to support and contribute to the efforts made in the interest of humanity to assist victims of disasters, the Convention contains a separate Chapter on the subject. Specific Annex J, Chapter 5 outlines the provisions that the Customs administrations should establish. Ms Odashima also spoke on the Istanbul Convention which entered into force in 1993 relating to temporary admission of certain goods. Temporary admission applies to a range of imports that are known to be re-exported in the same state (eg. goods for exhibition and professional equipment) for which customs allows duty-free entry with simplified formalities. The Convention contains a separate Annex on the subject - Annex B9 for goods for Humanitarian purposes outlines the provisions that customs administrations should establish. In conclusion, she noted that the WCO strives to contribute to capacity building of members by raising awareness of WCO conventions and through the provision of relevant training.

Theme 5. Draft Declaration of Principles for the Domestic Facilitation and Regulation of International Disaster Relief and Early Recovery Assistance

Chair: Dr Simon Missiri, Head of Asia Pacific Regional Department, International Federation of Red Cross and Red Crescent Societies, Switzerland

Presentation on Draft Declaration

David Fisher, Senior Legal Research Officer, IDRL Programme, International Federation of Red Cross and Red Crescent Societies, Geneva, Switzerland opened theme 5 with a presentation titled 'The Draft IDRL Declaration: Guidelines for National Legislation and Practice.' Mr Fisher first gave an explanation of the IDRL mandate based on the 28th International Conference held in 2003. The mandate is to: improve awareness and application of existing international norms; work with States to review existing disaster management laws; identify outstanding needs in the legal and regulatory framework and develop models, tools and guidelines; and to report to the International Conference in 2007. Mr Fisher explained the various research and consultation activities conducted by the IDRL Programme. The findings of this work have shown that there are a consistent set of legal problems, such as customs, visas, coordination and inappropriate and poor quality of aid, and further, that these problems are mostly technical, unintentional, amenable to solution - but not easy to place on the legislative agenda. Mr Fisher explained that the numbers of disasters and people affected are increasing, creating a parallel demand to respond more effectively and efficiently. Many things are changing in the international disaster response community explained Mr Fisher, such as a transforming role of the UN, scaling up of the International Red Cross and Red Crescent Movement, expansion of the NGO sector, and increasing involvement of militaries and the private sector. Despite all of these changes, both the international legal framework and most domestic law remain unprepared for the legal problems of international relief. Mr Fisher went on to give an overview of the proposed Draft Declaration which would: provide non-binding guidance for national law; reaffirm the primary role of the affected state government; compile and reaffirm existing international norms; suggest facilities that are needed to ensure effective and efficient assistance; and link to compliance with minimum standards. As a lead up to the 30th International Conference, to be held in Geneva in 2007, there is an ongoing consultation process which is happening through a series of regional forums, one being the Asia-Pacific Forum. Mr Fisher concluded his presentation by highlighting the main definitions and five key provisions of the draft declaration which are core responsibilities, preparedness and early warning, initiation and termination, designation, and legal facilities for entry and operations.

Comments from Expert Panelist

C. Raj Kumar, Assistant Professor and Juris Doctor Programme Leader, School of Law, City University of Hong Kong gave a presentation commenting on the Draft Declaration as an expert panellist. Prof. Kumar began by noting the importance of addressing the outstanding needs in the area and the contribution which could be made through the Draft Declaration. He highlighted a number of aspects which the Draft Declaration should bear in mind for further discussion in the lead up to the 30th International Conference of the Red Cross and Red Crescent. These points include issues relating to: corruption in aid distribution, special protection for vulnerable populations, discrimination and rights violations, legal empowerment of the poor and property rights, and role and functions of NGOs and civil society. He suggested that there is scope for further development in Principle 1 based on the notion of "sovereignty as responsibility" which has already been well developed in the report *The Responsibility to Protect*, prepared by the International Commission on Intervention and State Sovereignty (ICISS). He also noted that states may not only seek international assistance once a disaster has struck, but also may prepare beforehand when they are able to reasonably predict that a disaster situation may occur. In this case, he noted, states can ensure that international actors are better prepared to respond and are given the necessary information regarding the state's capacity to deal with disasters. Prof. Kumar then gave specific comments on a number of points in each section of the declaration. His full set of comments can be found in his paper, which can be accessed at www.ifrc.org/idrl on the IDRL Asia Pacific Forum page.

Working Group Theme 5: Comments on the Draft Declaration of Principles

The participants were divided into working groups and were asked to address questions relating to one of three topics on the Draft Declaration. At the conclusion of the discussion, the working groups for each topic reported their conclusions to a designated rapporteur who presented consolidated conclusions to the plenary on each

topic. A more specific outline of the working group questions and a synthesis of the specific points raised can be accessed on the IDRL website at www.ifrc.org/idrl on the IDRL Asia Pacific Forum page.

A number of general comments from the working groups have been summarised below.

Structure of the Draft Declaration

- § It was suggested to add a preamble at the beginning of the document, which would refer to relevant international agreements and standards eg. Sphere and Code of Conduct.
- § The beginning of the document should also emphasise that it is non-binding.
- § It was suggested that the body of the Declaration be limited to general principles and that the more detailed provisions be included in an annex.

Application of the Draft Declaration to different actors

- § It was recommended to define the term “international actor” and cross-check its use throughout the document for consistency.
- § There was concern about the definition of International Humanitarian Organisation, which groups together a number of organisations with different statutes, mandates and modus operandi.
- § In particular, it was queried whether the UN was included within the definition of an International Humanitarian Organization and if so, whether it would be possible to comply with some of the principles. For example, would it be possible for the UN to be impartial and neutral when working through governments? It was noted that the Convention on Privileges and Immunities for UN Personnel would also need to be reflected in the documents, particularly in the context of compliance with national law.
- § It was asked whether the principles should also address more directly the accountability and standards applicable to Affected States.
- § When using terms such as humanity, impartiality and neutrality, it was suggested that more precise definitions be given, as many organisations have their own understanding about their meaning.
- § It was also queried whether the Declaration a whole was applicable to the media and also to the military – and if so, whether these requirements could be fulfilled by those groups.

Implementation of the Draft Declaration

- § The recommendation was made to support the Draft Declaration through the development of model legislation.
- § It was suggested to link / integrate implementation and follow up processes as part of various provisions. For example, Principle 10 concerning the opening of office hours of State-operated offices and services, should be more directly linked to and articulated within principle 3(3) relating to the designation of national disaster management focal points.
- § The issue was raised about the implementation of the principles by private companies or other non-state actors – many of which deal directly with issues such as customs processing, warehousing, goods handling and port management. Would States be required to compel companies to abide by principles, for example by requiring them to waive fees and processes?
- § Concern was raised about the ability of Affected States with limited capacities to be able to implement the various provisions contained within the Declaration, for example the granting of exemptions and facilities, which would require additional resources and training to ensure compliance by the relevant authorities. This was thought to be particularly challenging in the immediate aftermath of a disaster.
- § It was recommended that Governments would need to be made more aware of existing quality and accountability standards before they can effectively implement them.

- § It was noted that there was no method for resolving disagreements between International Humanitarian Organisations and governments about the application and implementation of Principle 2, which sets out a number of responsibilities and standards for international actors.
- § It was also recommended that the principles include the establishment of a “one stop” agency to facilitate implementation, such as the processing of relief goods, visas and other administrative needs of international relief providers.

Theme 6: Taking IDRL forward in Asia and Pacific

Chair: Umesh Dhakal, Executive Director, Nepal Red Cross

The working groups reconvened to discuss three topics relating to “Taking IDRL Forward in Asia and Pacific”. A rapporteur from each group was asked to give a brief presentation on their recommendations to the plenary, summarised below.

Working Group Theme 6: Recommendations on taking IDRL forward in Asia and Pacific

Topic 1: Opportunities and challenges for taking IDRL forward in the Asia and Pacific Region

- What is the best way to encourage the development of well-prepared national laws?
- What existing projects, mechanisms and processes might be tapped to promote attention to IDRL?

Recommendations

- § Advocacy activities on legal preparedness should be targeted more directly towards legislators, for example through national or regional forums tailored to national government policy makers.
- § The substance of the advocacy activities should address the key issues of concern for governments, and not just the humanitarian sector. It should identify the main incentives for governments to implement change and encourage them to make IDRL a priority. The Tsunami Evaluation Committee Report was seen as an important document which raises many IDRL issues of concern to governments and could be a useful reference point.
- § Ensuring availability of information was also seen as critical for encouraging legal developments, for example through regularly updated websites and by translating key documents into local languages for greater accessibility in different country contexts.
- § The International Federation should continue its efforts through National Societies to consult with governments at the national level, on IDRL both with disaster managers and policy makers.

Topic 2: Resources and activities different stakeholders can contribute to the work on IDRL

- How can states, national societies, UN agencies and NGOs take this issue forward?
- What role can regional organizations play in promoting IDRL?

Recommendations

- § At the regional level, it was recommended that advocacy and consultation on IDRL be incorporated into existing platforms, such as the implementation of the Hyogo Framework for Action and activities of the World Customs Organisation and that partnerships between all relevant stakeholders be developed to ensure a consistent and coordinated approach – in particular UN, NGOs and governments.
- § At the sub-regional level, the importance of engaging with bodies such as ASEAN was emphasised to ensure that IDRL issues had a continuing presence on their agendas and are included in activities such as cross-border simulation exercises and legal reviews. These bodies were also seen as important for encouraging ratification of specific regional instruments or policies.
- § It was suggested also that the participants of the current IDRL Asia-Pacific Forum take steps to “cascade” IDRL materials and information to their sub-regional level.
- § Additionally recommendations were made to convene a series of sub-regional groups or forums comprised of legislators and other experts, to promote dialogue and change at the national level.
- § At the national level, different ministries and non-government partners should work together to develop national action plans on IDRL.
- § The diplomatic community was also seen as key target group – for example, embassies from countries outside of the Asia Pacific region which have a strong interest in disaster management activities could be key supporters and promoters of IDRL in the region and could assist in activities at the national level.
- § Finally, it was recommended that efforts be made to circulate the Draft Declaration as widely and early as possible before the International Conference of the Red Cross and Red Crescent in 2007 to ensure there is adequate time for consultation and to generate support.

Topic 3: Additional tools needed to support work on IDRL

- What additional support should the Federation and/or other international actors provide to governments and other domestic actors to assist them in addressing IDRL issues?
- Would model legislation be helpful?

Recommendations

- § The International Federation was identified as a regional leader to initiate forums with different national government agencies to discuss relevant IDRL issues: customs, immigration, police, military, ministries of foreign affairs, disaster management departments.
- § It was recommended that the International Federation also assist with the development of certified courses and training programmes for individuals / agencies wishing to become more familiar with the subject.
- § The establishment of a database of individuals and organisations within the region who could be called on for technical advice and support on IDRL was also suggested.
- § A secure funding base for IDRL activities was also recommended and donors could be encouraged to contribute through increased advocacy and the identification of a “celebrity ambassador”.
- § On the issue of model legislation, many groups felt that it would be a useful tool for identifying the various technical requirements and as an advocacy tool for promoting legislative change.
- § However, concern was expressed about whether model legislation could adequately account for different country contexts. In such cases, it would serve as a checklist, rather than as a model for implementation.

Concluding session

Hisham Harun Hashim, Deputy National Chairman, Malaysian Red Crescent Society gave the first address of the closing ceremony. He commented that the two day Forum was a successful consultative session at all levels, on pertinent topics surrounding improving international disaster response. He noted that the Forum was successful in identifying common issues and challenges faced by actors in cross border relief and in providing recommendations on overcoming and resolving issues. Speaking from a National Society perspective, as a member of the Federation, and on behalf of all the National Societies present, Mr Hashim expressed that in a region exposed to disasters, a Forum such as this one can contribute to better understanding of the work of volunteers and staff in disaster response. As these National Societies are auxiliary to their governments, Mr Hashim commented, they are fit to lend an edge in the creation of a more amicable atmosphere for those who need to respond to disasters. He highlighted that we all have a common objective, and that is to alleviate the suffering of the most vulnerable. Mr Hashim thanked the International Federation for selecting Malaysia as a host country, and thanked the Government of Malaysia for being the generous host of the Forum. He concluded by stating that the effort not only contributed to the International Red Cross and Red Crescent Movement, but to the cause of humanitarian assistance worldwide. He closed in thanking the organizing committee and all of the volunteers for their efforts in making the Forum as success.

Ibrahim Osman, Deputy Secretary General, International Federation of Red Cross and Red Crescent Societies, Geneva, Switzerland delivered closing remarks on behalf of the International Federation. He noted that the presence of such a large number of stakeholders shows that we are calling on each other in the face of problems and that, though our collective efforts, we are able to produce something that would be helpful to all in humanitarian assistance. He noted the good progress that was made in the Forum, namely that participants were introduced to the various dimensions of the legal framework, that it brought a number of issues and instruments to light, and contributed new knowledge and new experience. Mr Osman commented that there are a number of issues to take forward, and with the momentum that has been created, now is the time to reflect and share with other international and regional organizations. He hoped that the outcomes of this Forum and of upcoming Forums in Africa and the Americas will contribute to the work of many different kinds of actors. Mr Osman highlighted a particular suggestion from the Forum participants to have similar workshops at the national level, creating a small think-tank of different stakeholders, especially governments and offered the support of the International Federation in doing so. This would generate additional substantive international discussions in the lead up to the International Conference. Mr Osman noted the many positive comments from participants at this event and thanked everyone for their willingness to share their experiences, knowledge and wisdom. Mr Osman concluded by expressing his thanks to the Malaysian Government for welcoming and hosting the meeting and to the Malaysian Red Crescent leadership, staff and volunteers in organising the event. Finally he thanked Major General Farooq Khan for sharing the issues and lessons learnt in the Pakistan earthquake as well as the staff of the International Federation Asia Pacific Service Center and from Geneva.

The closing speech was given by Ahmad Fuad bin Ab. Aziz, Director General, National Security Division, Prime Minister's Department, Government of Malaysia. He highlighted that the participants have invested precious time in learning and discussing international law, and it is evident that many issues need to be addressed in this area. He noted that the administrative procedures with regard to cross border coordination can sometime hamper efforts of aid, and even though some disasters are addressed individually by each government, some need international help. Mr Aziz expressed that he believes this Forum has been an excellent platform in facilitating legal procedures, and that there is a need for more harmonization of laws – at the national, regional and international levels. He noted that during the Forum, there were also discussions on issues of funds transfer from one country to another – and although the main purpose of law is to protect people from illegal funds (money laundering), this can however hamper inflow of much needed relief funds. He highlighted that the IDRL Forum's purpose to review common legal issues and best practices. In identifying the next steps, he stated that the challenge is to ensure that all the ideas from the Forum materialize and are included on an international platform in order to benefit those who need it. Even though this process of improving laws could take years, he said, it is all worthwhile in order to save human lives. Mr Aziz believed this is a step forward, and that the outcomes and recommendations will be submitted by the Federation to the International Conference in 2007 so that this need can be heard. He congratulated the International Federation and Malaysian Red Crescent Society for organizing

this Forum, which added a new different dimension to previous forums. He expressed his admiration for the work of the International Federation on IDRL, and thanked the Secretariat for making the Forum successful. He concluded by thanking all of the participants for attending and sharing their ideas and experiences and officially closed the Forum.

NOTE: This Draft is the version dated 2 November 2006, circulated during the IDRL Asia Pacific Forum. It is currently under a process of revision to incorporate feedback from this Forum and other consultations.

Draft Declaration of Principles for the Domestic Facilitation and Regulation of International Disaster Relief and Early Recovery Assistance

Definitions

For the purposes of these Principles,

(a) “**Affected State**” means the State upon whose territory persons or property are affected by a disaster.

(b) “**Assisting State**” means a State providing disaster relief or early recovery assistance, including both civil and military components.

(c) “**Designated International Humanitarian Organization**” means an International Humanitarian Organization that has been approved pursuant to Part IV to receive legal facilities pursuant to Part V of these principles.

(d) “**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, and to which international humanitarian law does not apply.

(e) “**Disaster relief**” means assistance and support designed to meet the immediate needs of persons due to a disaster.

(f) “**Early recovery**” means assistance and support designed to restore or improve, to a defined level, the pre-disaster living conditions of the stricken community, including initiatives to increase resilience and reduce risk, provided for up to a maximum of one year after the immediate needs of disaster-affected persons have been met.

(g) “**International Humanitarian Organization**” means entities whose mandate and activities are primarily focused on humanitarian relief, recovery or development, including: relevant organs and agencies of the United Nations; other international organizations such as the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross; national Red Cross and Red Crescent Societies headquartered outside of the Affected State; and non-governmental organizations headquartered outside of the Affected State.

(h) “**Originating State**” means the State from which disaster relief and early recovery personnel, goods and equipment begin travel to the Affected State.

(i) “**Relief or early recovery goods and equipment**” means the goods intended to be provided to the disaster-affected population for its relief or early recovery and the equipment (including vehicles and means of communication) necessary to undertake disaster relief or early recovery operations.

(j) “**Relief or early recovery personnel**” means the staff and volunteers of international actors providing disaster relief or early recovery assistance.

(k) “**Transit State**” means the State through whose territorial jurisdiction disaster relief or early recovery assistance passes on its way to or from the Affected State in connection with disaster relief or early recovery operations.

Part I: Core Responsibilities of States and International Actors

Principle 1

1. Affected States have the primary responsibility to provide or arrange for disaster relief and recovery within their borders. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and other domestic civil society actors, play a key supporting role.

2. Affected States have the sovereign right to coordinate, monitor and regulate disaster relief and recovery assistance provided by international actors within their borders, consistent with humanitarian principles and international law.

3. In order to ensure that the needs of affected persons are met, Affected States should seek assistance from international actors when a disaster situation exceeds national coping capacities. Affected States should provide these actors with relevant information in their possession to ensure the effectiveness of that assistance, including information about applicable domestic laws and regulations.

Principle 2

1. International actors should ensure that all of their disaster relief and early recovery assistance is:

(a) Allocated solely in proportion to needs, consistent with the principle of humanity, and on the basis of objective needs assessments;

(b) Provided without any adverse distinction (including as to nationality, race, religious beliefs, class, gender and political opinions) to all persons in need, consistent with the principle of impartiality;

(c) Provided without furthering a particular political or religious standpoint, consistent with the principle of neutrality;

(d) Provided in accordance with applicable national and international law and in coordination with the responsible authorities of the Affected State and other relevant domestic actors and international actors; and

(e) Commensurate with the expertise of their personnel and their organizational capacities.

2. To the greatest extent practicable, international actors' disaster relief and early recovery activities should also be:

(a) Culturally appropriate, adequate for the material needs of affected persons and in compliance with any applicable international standards of quality;

(b) Responsive to the special needs, if any, of particularly vulnerable groups, which may include displaced persons, women, children, the disabled, persons living with HIV and other debilitating illnesses and the elderly;

(c) Carried out with adequate involvement of affected persons in their design, implementation, monitoring and evaluation;

(d) Building upon and strengthening local disaster relief and recovery capacities;
and

(e) Carried out so as to avoid negative impacts on the local economy and markets.

Part II: Preparedness and Early Warning

Principle 3

1. As an essential element of disaster preparedness, States should adopt comprehensive legal, policy, and institutional frameworks for disaster risk reduction, relief and early recovery which take full account of the auxiliary role of national Red Cross and Red Crescent Societies and are inclusive of domestic civil society. States, with the support, as appropriate, of relevant 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 early recovery assistance consistent with these principles.

3. National disaster management mechanisms and focal points should be clearly designated and accorded appropriate authority and capacity to ensure the coordination, facilitation and monitoring of international assistance and to liaise between international and government actors at all levels.

Principle 4

1. With a view to reducing the need for international assistance in disaster relief and early recovery, the international community should support States and national Red Cross and Red Crescent Societies, where requested, to build their capacities to mitigate and respond to disasters within their own borders.

2. The international community should also support States to develop the capacity to adequately implement legal and regulatory frameworks to facilitate international relief and Early recovery assistance.

Principle 5

All States should ensure that procedures are in place to facilitate the expeditious sharing of information about disasters, including emerging disasters, with other States and the international community, including the United Nations' Emergency Relief Coordinator, in order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required.

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

Principle 6

1. Disaster relief or early recovery assistance should be initiated either on the basis of a request by the Affected State or through acceptance by the Affected State of an offer from an international actor. Both offers and requests should be as specific as possible.

2. The Affected State should decide without undue delay whether or not to request or accept offers of disaster relief or early recovery assistance.

Principle 7

When an Affected State or an international actor wishes to terminate disaster relief or early recovery assistance, it should provide adequate notice and then arrange to bring the assistance to an orderly conclusion under the terms of these principles, bearing in mind the impact of such termination on the risk to human life and ongoing disaster relief and early recovery operations.

Part IV: Designation

Principle 8

1. Transit and Affected States should provide, at minimum, the legal facilities described in Part V to Assisting States with respect to their disaster relief and early recovery assistance.

2. Originating, Transit and Affected States should likewise provide, at minimum, the legal facilities described in Part V to Designated International Humanitarian Organizations as set out below with respect to their disaster relief and early recovery assistance.

(a) Prior to the onset of a disaster, States should establish a system for pre-designation of International Humanitarian Organizations contingent upon a demonstrated willingness and capacity to comply with Principle 2. This might be by means of a national roster, bilateral agreements, acceptance of accreditation by a recognized humanitarian accrediting body, acceptance of a roster of recommended organizations maintained by a regional or international organization, or other appropriate means.

(b) In the wake of a disaster, International Humanitarian Organizations not pre-designated pursuant to Principle 8(2)(a) should be allowed to apply to Originating, Transit or Affected States for designation for legal facilities with respect to that disaster contingent upon a demonstrated willingness and capacity to comply with Principle 2.

(c) Procedures for application for pre-designation and designation should be as simple and expeditious as possible. Ideally, they should be available without charge; in no case should excessive fees be required. Information about the procedures should be clearly stated and made freely available to International Humanitarian Organizations upon request.

Principle 9

Affected States may call upon Designated International Humanitarian Organizations to provide reasonable information and reports on their activities, funding, and progress toward stated goals. Retention of the designation in the concerned state to receive legal facilities pursuant to Part V should be made dependent on ongoing compliance with such requirements and the obligations in Principle 2. However, entitlement to legal facilities should not be changed arbitrarily or retroactively or without notice appropriate to the circumstances.

Part V: Legal Facilities for Entry and Operations

The legal facilities in this Part are subject to the essential security, public health and environmental health interests of Affected, Originating and Transit States. Exceptions to any of these facilities designed to protect such interests should be clearly stated, tailored to the exigencies of a disaster setting, and consistent with the imperative of addressing the needs of affected persons for disaster relief and early recovery assistance.

Principle 10

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

Principle 11

1. With regard to the relief and early recovery personnel of Assisting States and Designated International Humanitarian Organizations, Affected States should:

- (a) Waive or promptly issue, without cost, multiple entry and exit visas and any necessary work permits for the time necessary to carry out relief or early recovery tasks;
- (b) Recognize foreign university degrees, professional certificates, drivers licences and other types of licenses necessary for the performance of their functions;
- (c) For non-nationals of the Affected State, waive income tax on salaries and emoluments; and
- (d) Facilitate freedom of access to and freedom of movement in the disaster area.

2. Originating and Transit States should likewise waive or promptly issue, without cost, exit or transit visas, as appropriate, for the disaster relief and early recovery personnel of Designated International Humanitarian Organizations.

Principle 12

1. Affected States should ensure that Assisting States and Designated International Humanitarian Organizations benefit as soon as possible upon entry from domestic legal

personality, including the legal right to open bank accounts, enter into contracts and leases, acquire and dispose of immovable and movable property and instigate legal proceedings.

2. Assisting States and Designated International Humanitarian Organizations should also be granted the right to freely bring funds and currencies in or out of the country and to obtain the most favourable legal rates of exchange in connection with disaster or early recovery activities.

3. Affected States should ensure that Assisting States and Designated International Humanitarian Organizations may legally hire local personnel in accordance with domestic labour laws.

Principle 13

1. With regard to the disaster relief and early recovery goods and equipment exported or imported by, or on behalf of, Assisting States and Designated International Humanitarian Organizations, Originating, Transit and Affected States should:

- (a) Exempt them from all customs duties, taxes, tariffs or charges;
- (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 international actor 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 disaster relief and recovery goods and equipment rapidly and as a matter of priority; and
- (b) Arrange for any necessary inspection and release outside business hours, or at a place other than a customs office, as necessary to minimize delay.

3. In order to benefit from the facilities above, Assisting States and Designated International Humanitarian Organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and recovery goods and equipment, and should include detailed manifests with each shipment in a language understood in the Affected State. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the Affected State, and compliance with national law.

Principle 14

1. In addition to the facilities described in Principle 13:

- (a) Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by, or on behalf of, Assisting States and Designated International Humanitarian Organizations.

(b) Affected States should waive or expedite the granting of any applicable licenses and waive or reduce any other barriers to the use, import or export of telecommunications and information technology equipment by, or on behalf of, Assisting States and Designated International Humanitarian Organizations.

(c) Affected States should grant Assisting States and Designated International Humanitarian Organizations priority access (without discrimination against domestic Relief actors) to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations. Originating, Transit and Affected States should waive or reduce legal and administrative barriers to exportation, transit, importation and re-exportation of medications and medical equipment exported or imported by, or on behalf of, Assisting States and Designated International Humanitarian Organizations, to the extent consistent with public safety and international law. Assisting States and Designated International Humanitarian Organizations should ensure the quality, appropriateness and safety of any such medications and equipment, and in particular ensure that any medications are:

- (i) Neither expired nor near expiration;
- (ii) Appropriately labelled in a language understood in the area of intended use;
- (iii) Inspected, and transported and maintained in appropriate conditions, to ensure their quality;
- (iv) Guarded against misappropriation and misuse.

Principle 15

1. Originating, Transit and Affected States should grant, without undue delay, permission for the speedy passage of land, sea and air vehicles operated by or on behalf of an Assisting State or Designated International Humanitarian Organization, for the purpose of transporting disaster relief or early recovery assistance.

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.

Principle 16

Affected States should provide exemptions or the equivalent to Assisting States and Designated International Humanitarian Organizations from value-added and other taxes associated with disaster relief operations, with the exception of reasonable usage fees.

Principle 17

Affected States shall take necessary measures to ensure the security and safety of all disaster relief and early recovery personnel and of all premises, facilities, means of transport and equipment used in connection with disaster relief or early recovery activities.

Principle 18

1. An Assisting State deciding to employ military assets in disaster relief or early recovery should ensure that they are used exceptionally as a tool to complement civilian relief mechanisms where the latter are insufficient to address the needs of affected persons.

2. Military actors from Assisting States involved in disaster relief or early recovery assistance should be unarmed and in national uniforms unless otherwise agreed with the Affected State.

Principle 19

All States and Designated International Humanitarian Organizations should cooperate to initiate appropriate proceedings with respect to acts involving unlawful diversion, misappropriation, or fraud concerning disaster relief or early recovery goods, equipment or resources.

Principle 20

The costs of providing international disaster relief or early recovery assistance pursuant to these principles should normally be borne by the provider, with the following exceptions:

1. Assisting States may agree in advance with the Affected State for the reimbursement of certain costs and fees. Such agreement should be in writing, setting out: (1) the assistance to be provided, (2) the amount of reimbursement and the means by which it will be calculated, and (3) any other terms, conditions or restrictions applicable to such reimbursement, including, but not limited to, the currency in which such payment or reimbursement shall be made.
2. Affected States should consider, to the extent possible under the circumstances, providing certain free or reduced cost services to Assisting States and Designated International Humanitarian Organizations, including:
 - a. Personnel support;
 - b. Transport services, on a priority basis, including on national airlines;
 - c. Use of buildings and land for office and warehouse space; and
 - d. Handling equipment and logistic support.

Principle 21

Affected States should hold harmless, defend and indemnify Assisting States from civil liability for acts or speech related to disaster relief or early recovery operations in the territory of the Affected State, with the exception of wilful misconduct and gross negligence.

Principle 22

The principles set out in this document are without prejudice to existing international law and agreements, and in particular to:

1. International human rights and refugee law;

2. The legal personality and status of States, inter-governmental organizations, and the international components of the Red Cross/Red Crescent Movement;
3. International law related to privileges and immunities; and
4. Other existing agreements between States or between States and international actors.