

INTERNATIONAL GUIDELINES

FOR

HUMANITARIAN ASSISTANCE OPERATIONS

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1991

FOREWORD

This study was prepared in accordance with the request of the Federal Republic of Germany, as represented by the Federal Minister of Defence (VR II 8). The study contains a proposal for a draft international instrument to be entitled "International Guidelines for Humanitarian Assistance Operations". The study is divided into three parts: the text of the proposed draft, a commentary thereon which not only explains the main features of the instrument but also suggests some alternatives, and a collection of the most relevant documentary sources and reference materials.

The form of the proposed draft instrument and its contents are based loosely upon ideas set out in a preliminary paper which was written in the German language and transmitted to the consultant for discussion. At a meeting held on 3 November 1988 the objectives of the project were clarified and it was agreed that the author would work broadly within the general framework indicated by the preliminary paper, while retaining complete freedom in other respects. The stated purpose of the project was to produce, in English, a draft text of a declaratory nature laying down general and specific principles relating to international humanitarian assistance actions in cases of disaster, but excluding any attempt to regulate such actions in situations of armed conflict.

The study was completed by the author in Heidelberg in 1988. The text of the proposed instrument was discussed by the Presidential Commission on International Humanitarian Law of the German Red Cross sitting in Bonn on 30 January 1989. The present version of the draft International Guidelines for Humanitarian Assistance Operations incorporates amendments resulting from that meeting and from consultations with a number of experts in the same year. The first part of the study was published in 1990. In this volume the annexes have been updated to early 1991.

D R A F T
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Concerned by the serious plight of all those who urgently require humanitarian assistance in order to meet their immediate needs;

Seeking to alleviate human suffering and to preserve human life by improving the provision of humanitarian assistance to all those in urgent need;

Reaffirming the sovereignty, territorial integrity and political independence of States;

Recognizing the vital role in providing humanitarian assistance that is played not only by States in bilateral and multilateral actions, but also by the United Nations system, regional intergovernmental organizations, the International Red Cross and Red Crescent Movement, and other international or national non-governmental organizations and their members and supporters;

Considering that the successful provision of humanitarian assistance depends on a speedy, efficient and coordinated response based in turn on suitable legal and administrative foundations;

Recalling that United Nations General Assembly resolution 2816 (XXVI) of 14 December 1971, which established the Office of the United Nations Disaster Relief Co-ordinator, referred to appropriate legislative or other measures to facilitate the receipt of humanitarian assistance;

Welcoming the decision by the United Nations General Assembly in its resolution 42/169 of 11 December 1987 to designate the 1990s as the international decade for natural disaster reduction;

Convinced that international guidelines reflecting generally accepted practices and principles could contribute to ensuring the provision of humanitarian assistance in the most effective possible manner and could eventually further the progress of international law in this field;

Adopts and Recommends to all States, organizations and personnel involved in humanitarian assistance operations the following International Guidelines for Humanitarian Assistance Operations:

PART I

General Provisions

1. The objective of these Guidelines is to contribute to improving the provision of humanitarian assistance for the benefit of all persons in need.

2. Under these Guidelines:

(a) "Humanitarian assistance" means the urgent material consignments and related services of an exclusively humanitarian character including personnel provided at the request or with the consent of a receiving State by an assisting State or organization to meet the immediate requirements of persons in need;

(b) "Receiving State" means the State which has requested or consented to the provision of humanitarian assistance on its territory;

(c) "Assisting State or organization" means the State or organization providing humanitarian assistance at the request or with the consent of the receiving State;

(d) "Consignments" means the goods including vehicles, foodstuffs, medical supplies, clothing, blankets, shelters and other provisions, materials and equipment urgently required as humanitarian assistance;

(e) "Services" means the actions and means of action of an exclusively humanitarian character which are necessary in the provision of humanitarian assistance;

(f) "Personnel" means the staff, employees, consultants, advisers, volunteers and other persons of the assisting State or organization designated for service during the provision of humanitarian assistance.

3. These Guidelines apply during the whole period of humanitarian assistance operations conducted at the request or with the consent of the receiving State and they cease to apply upon the termination of operations as and when determined by the receiving State in consultation with the assisting State or organization.

4. Nothing in these Guidelines shall prejudice the applicability of any agreement to which an assisting State or organization or a receiving State is party.

5. A receiving State and an assisting State or organization may agree on more specific terms for the conduct of humanitarian assistance operations than are contained in these Guidelines without derogating from the basic principles set out below.

PART II

Basic Principles

6. The provisions of these Guidelines are based on the following humanitarian considerations:

(a) Humanitarian assistance should be provided on an impartial basis without any adverse distinction to all persons in urgent need;

(b) Primary responsibility for providing humanitarian assistance within the limits of the resources available rests with the national authorities of the State where persons are in need;

(c) All States, organizations and persons capable of doing so should contribute to humanitarian assistance operations within the limits of the resources available to them and in accordance with the human needs to be met and the requirements set by the receiving State.

7. The conduct of humanitarian assistance operations on the territory of any State shall have the purpose of seeking to alleviate human suffering and to preserve human life among those in urgent need.

8. Humanitarian assistance is intended for the immediate benefit of specified groups of persons in urgent need and it shall be provided, received and employed exclusively for this purpose.

9. Humanitarian assistance shall only be provided in accordance with the principles and rules of international law and, in particular, the following conditions:

(a) Respect for the sovereignty, political independence and territorial integrity of the receiving State;

(b) Cooperation with the authorities of the receiving State and respect for and observance of its laws during humanitarian assistance operations conducted on its territory;

(c) Abstention from any activity inconsistent with the objective of these Guidelines and with the purpose of humanitarian assistance.

10. Humanitarian assistance should be treated as a non-political matter and consequently the offer of such assistance ought not to be regarded as an interference in the internal affairs of the receiving State.

11. In order to ensure the most efficient provision of assistance to those in need, to secure prompt action and to avoid duplication of effort:

(a) Humanitarian assistance operations should be coordinated at the national and international levels;

(b) The assisting State or organization and the receiving State should exchange with the Office of the United Nations Disaster Relief Co-ordinator and with any other coordination mechanism set up by the United Nations Secretary-General information concerning all facts, developments or action taken that may be relevant to the conduct of humanitarian assistance operations;

(c) The assisting State or organization and the receiving State should cooperate to exchange with each other information concerning all facts, developments or action taken that may be relevant to the conduct of humanitarian assistance operations and they should designate a single competent authority for that purpose.

12. An impartial international organization acceptable to both the assisting State or organization and the receiving State may upon their joint request agree to serve as an intermediary with respect to any needs or matters arising in connection with humanitarian assistance operations.

13. An internationally recognized distinctive sign may be used for indicative purposes to identify humanitarian assistance consignments, services and personnel. The applicable rules governing the use of the United Nations flag and emblem and of the red cross and red crescent emblems shall be respected.

14. The transit of humanitarian assistance consignments or personnel of an assisting State or organization to or from a receiving State across or over the territory of any other State should be expedited as a matter of urgent priority. In particular, permission for overflight and staging should be granted without delay and any landing fees or related charges should be waived.

PART III

Responsibilities of the Assisting State or Organization

15. The assisting State or organization shall ensure that the humanitarian assistance provided is suitable for meeting the assessed needs in every respect.

16. The assisting State or organization shall:

(a) Pack, classify and mark humanitarian assistance consignments in accordance with appropriate standards and an established system;

(b) Ensure the use of simplified commercial documentation for humanitarian assistance consignments based on an internationally recognized model;

(c) Comply with quality standards and other relevant regulations applicable to humanitarian assistance consignments.

17. The assisting State or organization shall notify the receiving State of the appropriate details including names, positions and functions of the personnel designated for service in humanitarian assistance operations.

PART IV

Rights and Responsibilities of the Receiving State

18. The receiving State may decide whether or not to request or give its consent to humanitarian assistance activities on its territory and may determine in consultation with the assisting State or organization the moment of commencement and of termination of such assistance.

19. Having requested or consented to receive humanitarian assistance the receiving State shall have responsibility, within its territory, for coordinating humanitarian assistance operations and, in particular, for:

(a) Designating a competent national authority to coordinate humanitarian assistance operations;

(b) Delegating any special tasks which are necessary in coordinating humanitarian assistance operations to the most appropriate organization or persons;

(c) Providing to the designated personnel of the assisting State or organization all information concerning any facts, developments or action taken that may be relevant to the effective implementation of humanitarian assistance operations.

20. The receiving State shall:

(a) Expedite with urgent priority the delivery of humanitarian assistance consignments to those in need;

(b) Facilitate in every way necessary the humanitarian activities of the assisting State or organization and of their designated personnel;

(c) Protect in every way necessary the humanitarian activities of the assisting State or organization and their designated personnel.

21. In order to expedite, facilitate and protect humanitarian assistance operations the receiving State shall, in particular:

(a) Waive the usual commercial documentation requirements or apply simplified procedures based on an internationally recognized model for the importation of humanitarian assistance consignments;

(b) Waive any prohibitions, restrictions or regulations which would otherwise delay the importation of humanitarian assistance consignments, to the extent compatible with reasonable health and safety standards;

- (c) Exempt humanitarian assistance consignments from customs duties and all other fees, taxes or charges of any kind;

- (d) Waive or simplify normal visa requirements for designated personnel of the assisting State or organization so as to permit entry and exit without delay;

- (e) Authorize the assisting State or organization to operate its own means of communication unless serious national security interests would be prejudiced thereby;

- (f) Authorize the assisting State or organization to operate its own means of transportation;

- (g) Render logistic support to the assisting State or organization within the limits of the resources available and without charge;

- (h) Ensure and facilitate freedom of access to and freedom of movement within the area of humanitarian assistance operations for the designated personnel of the assisting State or organization for the purpose of their mission;

- (i) Grant to the assisting State or organization and to designated personnel the necessary privileges, protection and facilities required to enable humanitarian assistance operations to be carried out effectively.

PART V

Duties of Assisting Personnel

22. At all times during humanitarian assistance operations the assisting personnel shall:

- (a) Confine their activities to the purely humanitarian tasks required by the nature of their mission;
- (b) Cooperate with the designated competent authority of the receiving State;
- (c) Prevent the occurrence of any abuse of privileges, protection or facilities granted;
- (d) Respect and observe the laws and customs of the receiving State;
- (e) Refrain from misuse of information obtained in confidence.

PART VI

Cooperation and Settlement of Claims

23. The assisting State or organization and the receiving State shall cooperate to resolve any irregularities, difficulties or disputes arising during the course or upon the termination of humanitarian assistance operations.

24. The assisting State or organization shall bear liability for risks and claims in connection with damage or injury occurring outside the territory of the receiving State, with the exception of any risks and claims for which the receiving State explicitly agrees to bear liability.

25. The receiving State shall bear liability for risks and claims occurring on its territory in the course or upon the termination of humanitarian assistance operations, with the exception of any risks and claims for which the assisting State or organization explicitly agrees to bear liability, and, in particular, shall deal with any claims brought by third parties against the assisting State or organization or designated personnel except in respect of liability of individuals having caused damage or injury deliberately and with malicious intent. Compensation shall be subject to suitable arrangements agreed between the assisting State or organization and the receiving State.

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