

*Consultative Meeting on Options to Accelerate Progress in Resolving Regulatory Problems in
International Disaster Response Operations, Barbados, 20 April 2016*

Background Paper

Legal frameworks for international relief assistance in America

Contents

I.	Introduction.....	2
A.	Progress to date.....	2
B.	Summary of recent research on regulatory issues.....	3
II.	The Draft Articles of the International Law Commission	4
III.	Regional IDRL instruments.....	4
IV.	Regional Developments in the Americas.....	6
A.	Inter-American Convention to Facilitate Disaster Assistance	6
B.	Agreement between Member States and Associate Members of the Association of Caribbean States (ACS)	7
C.	CDEMA Agreement and Model Comprehensive Disaster Management Bill.....	7
D.	CAPRADE Agreement.....	8
E.	UNASUR	9
F.	CEPREDENAC Agreement and MecReg	9
G.	The Regional Legal Compendium	10
	Conclusion	11
	Annex 1- Progress in implementing the IDRL Guidelines at the National Level in the Americas	12
	Annex 2: Key provisions of selected regional instruments in light of the IDRL Guidelines.....	16
	Annex 3- Comparative analysis of regional instruments regulating mutual cooperation in response to disasters.....	35

I. Introduction

Since 2001, the International Federation of Red Cross and Red Crescent Societies (the “IFRC”) together with National Red Cross and Red Crescent Societies, has been working with governments, the United Nations and other organizations to identify, address, and overcome legal and regulatory issues in international disaster operations. Extensive research and consultations have indicated that issues such as obtaining visas for relief personnel, customs clearance and tax exemptions for relief goods and equipment, or permissions to operate in affected areas, have often snarled operations. At the same time, oversight gaps allowed for the arrival of inappropriate or unnecessary relief items, uncoordinated and unprincipled aid activities, as well as other quality issues in some international efforts. As a result, international aid has often been slower, more expensive, less effective, and much less supportive of domestic efforts than it should have been.

After six years of global research on these issues, the *IDRL Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance* were adopted by the state parties to the Geneva Conventions in 2007 at the International Conference of the Red Cross Red Crescent and have become a globally recognized reference on legal preparedness for international disaster relief and early response. They suggest approaches that states can take in their own domestic laws and procedures to address common problem areas as listed above.

Resolutions of the International Conference in 2011 and 2015 furthermore called on states that have not yet adopted appropriate laws, policies, rules and procedures to do so at national and subnational level in order to avoid being caught unprepared in the event of a future disaster. They encourage governments to consider strengthening their national legal frameworks and developing their own institutional measures to ensure adequate discussion and planning relating to the management of international disaster assistance.

A. Progress to date

Eight years after the adoption of the IDRL Guidelines, National Societies have supported states in over 50 countries to analyse their legal and regulatory frameworks for managing international relief. Some 24 countries have proceeded to adopt new laws or procedures drawing on the IDRL Guidelines and associated materials, while over a dozen more have bills or draft rules currently pending.

Some of the countries that have adopted new rules (Burkina Faso, Cambodia, Seychelles, and Vietnam) have included extensive sections drawing on the IDRL Guidelines in their national disaster management (DM) acts. Several others (Colombia, Indonesia, Namibia, Peru, Philippines) have included much more cursory provisions in their DM acts, but with the intention of fleshing them out with implementing regulations. Others have included individual provisions in sectoral laws or regulations, such as those on immigration (Mexico, Norway), customs (Tajikistan), aviation (Ecuador) and medicines (Mozambique), while some have adopted less formal instruments, such as operating procedures or manuals (Cook Islands, New Zealand, Netherlands).

Indonesia, whose lack of procedures was a major gap during the 2004 tsunami operation, is now a global leader in terms of the comprehensiveness of its legislation, regulations and guidelines drawing on the Guidelines. A 2014 impact study by the Indonesian Red Cross found that the new rules had contributed positively in several recent disasters, through additional work was still needed to ensure their full understanding and implementation. For its part, in 2015, Colombia launched the first formal “National IDRL Technical Advisory Commission” to meet regularly and advise the government on preparations for managing future international disaster assistance. Moreover, with support from the Vanuatu Red Cross and IFRC, Vanuatu officials temporarily adopted a set of ad hoc rules drawing on the IDRL Guidelines in the immediate aftermath of Cyclone Pam, which contributed to smoother management of relief activities. Vanuatu is now considering the adoption of more permanent rules for the future.

Annex 1 sets out a more detailed description of the progress made in countries in the Americas region.

B. Summary of recent research on regulatory issues

Notwithstanding the good progress summarized above, there are still many countries that have yet to modernize their rules and procedures for managing international relief.

In March 2015, the humanitarian think-tank “HERE-Geneva” produced a study commissioned by the IFRC to update evidence on the impact of regulatory problems and the gains from legal preparedness, looking to over a dozen international disaster response operations since the publication of the desk study in 2007, whose findings brought to life the development of the IDRL Guidelines.

The study pointed to a “persistent and generalized lack of clarity around roles and responsibilities in international disaster response which often leads to confusions and duplications,” an ad hoc and inconsistent approach to the clearance of imported goods and equipment and issuance of visas to foreign personnel, and ongoing gaps in coordination, domestic oversight and quality control, attributable to the absence of a clear rules base. On the other hand, the study also noted that some countries have taken steps to increase their legal preparedness with good results and that there had been many improvements in international mechanisms for coordination.

Additionally, in 2015, the IFRC in partnership with OCHA, the Logistics Cluster, World Bank Group, WCO, World Trade Organization and World Food Programme undertook a survey to disaster management and humanitarian practitioners about their experience on regulatory and protection issues in domestic and international disaster relief operations. Covering the five world regions, it targeted individuals with backgrounds in government, domestic and international humanitarian and development agencies, the private sector and academia.

The survey confirmed that regulatory issues remain a burden for all the main stakeholders in disaster relief operations. The top one issue that emerged related to coordination – both as between governments and international responders and internally among domestic actors. Coordination

problems were identified by participants as the most frequent types of regulatory issues and also as those with the highest impacts on the efficiency and effectiveness of disaster response operations.

Setting coordination aside, respondents identified as top problems areas the procurement or disbursement of domestic funds, failures, by both domestic and international responders to adequately consult with beneficiaries, difficulty or delay in obtaining customs clearance and accessing customs procedures, as well as delays or restrictions in the entry or relief personnel.

The findings of the abovementioned consultations echo those of a similar survey of governments and humanitarian organizations undertaken by the IFRC in 2007. Stakeholders have therefore suggested that methods be explored to accelerate progress, including the possibility of further strengthening regional and global legal frameworks for international disaster cooperation.

II. The Draft Articles of the International Law Commission

In 2007, the International Law Commission (ILC), a UN body of legal experts elected by states to promote the “progressive development of international law and its codification,” began work on “Draft Articles on the Protection of Persons in the Event of Disasters.” The draft articles aim to “facilitate an adequate and effective response to disasters that meets the essential needs of the persons concerned, with full respect for their rights” (article 2). They address the various responsibilities and rights of the affected state responding to a disaster situation, as well as the duties and rights of the providers of international assistance, making a reference to non-state actors as well. They also refer to the conditions to which assistance must be provided, for example, respecting humanitarian principles and human rights obligations. Moreover, the articles prohibit the “arbitrary withholding” consent to aid when needed in addition to a duty to reduce risks.

The reports of the ILC’s special rapporteur on this topic, Dr. Eduardo Valencia-Ospina, have made reference to the IDRL Guidelines, though the text of the Draft articles themselves have entered into less technical detail. In 2014, the ILC adopted the first reading of the draft articles and called for comment from states, UN agencies and other organizations, including the IFRC and International Committee of the Red Cross. The written comments were received by January 2016. The revised version of the Articles is expected to be completed in the course of this year when it may also be proposed as a draft global treaty to States.¹

III. Regional IDRL instruments

Many regional organizations have strengthened their support to members in disaster cooperation and exchange. A 2013 study conducted by the Brookings Institution – London School of Economics

¹ Information about the draft articles, and the IFRC’s comments are available at <http://www.ifrc.org/what-we-do/disaster-law/research-tools-and-publications/the-ilc-and-disasters/>.

Project on Internal Displacement² looked at a number regional organizations in this respect. As in many other areas such as trade or investment and as in other regions of the world such as Asia, the study relates that regionalism in the Caribbean and in Latin America is expanding with regard to disaster response as the interventions of regional organizations may be considered as politically more acceptable and more reactive than the international ones.

Moreover, the study reveals that regions see value in working together to prevent and respond to disasters occurring in the region and having regional consequences – whether through warning systems for tsunamis or sharing seismic data or monitoring volcanic activity. For governments with less capacity, regional organizations may play an important role in responding to disasters, in particular in smaller-scale disasters that do not trigger major media coverage and international funding.

The study compares the range of activities or effectiveness in DRM of regional organizations, providing basic information about the role of more than 30 regional organizations involved in DRM as set out in the chart below.

In addition to these functions, a significant number of regional organizations have developed treaties agreements or guidelines concerning the regulation of international disaster relief. This currently applied to 10 of the 13 regional organizations set out in the chart below.³ Of those 10, 4 have adopted treaties specific to disaster cooperation, while the others have included language related to disaster risk management in more general treaties or have adopted policies or other instruments on the topic.

² Source: *In the Neighbourhood: The Growing Role of Regional Organizations in Disaster Risk Management*, The Brookings Institution, February 2013. Full study available at: http://www.brookings.edu/-/media/Research/Files/Reports/2013/02/regional-organizations-disasters-ferris/REGIONAL_DISASTER_MECHANISMS_2013.pdf?la=en

³ The otherwise excellent Brookings study inadvertently passed over some of these and for this reason, the chart has been redacted to avoid misinformation. More information about regional organizations which have adopted IDRL treaty/guidelines can be found in the document “Ready or not? Third progress report on the implementation of the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance”, IFRC, November 2015 at: www.ifrc.org/dl

Table 1: Results of the Brookings Institution Study for the 13 selected regional organizations (partial)

Indicator	Regional Organization ⁴⁶													TOTAL	
	AU	ECOWAS	SADC	OAS	SICA	CARICOM	CAN	LAS	SAARC	ASEAN	EU	COE	SPC		
1. Regular intergovernmental meetings on DRM	■	■	■	■	■	■	■	■	■	■	■	■	■	■	13
2. Regional DRR framework/convention	■	■	■	■	■	■	■	■	■	■	■	■	■	■	13
3. Regional DM framework/convention		■	■	■	■	■	■	■	■	■	■	■	■	■	13
4. Specific organization for DRM					■	■	■				■		■		5
5. Regional/sub-regional disaster management center					■				■	■	■				4
6. Regional disaster-relief fund	■			■							■				3
7. Regional disaster insurance scheme						■								■	2
8. Regional funding for DRR projects	■										■				2
9. Provides Humanitarian Assistance											■				1
10. Regional rapid response mechanism	■	■				■				■	■				5
11. Regional technical cooperation (warning systems)		■	■	■	■	■	■			■	■	■	■	■	10
12. Joint disaster management exercises/simulations		■				■					■				3
13. Technical training on DRM issues/capacity building		■			■	■			■		■	■	■	■	7
14. Research on DRM/CCA issues				■		■			■		■	■	■	■	6
15. Regional military protocols for disaster assistance						■				■	■				3
16. Regional web portal on DRM					■	■	■			■	■		■	■	6
17. Regional IDRL treaty/guidelines				■							■				2
TOTAL	5	7	4	7	8	12	6	3	6	8	16	6	9		

IV. Regional Developments in the Americas

More specifically for the Americas, many regional organizations have developed IDRL treaties or manuals to strengthen their regional frameworks and mechanisms for the management of international disaster response. The main developments are exposed below. Annex 2 provides a comparative analysis of how key regional instruments have integrated the recommendations of the IDRL Guidelines in the Americas.

A. Inter-American Convention to Facilitate Disaster Assistance

The Inter-American Convention was adopted in 1991 by the Organization of American States' General Assembly. It entered into force in 1996, but it has only been ratified by Colombia, Nicaragua, Panama, Peru and signed by Dominican Republic and Uruguay to date. "[The Inter-American Convention] sets out modalities for requests and offers of disaster assistance between members, commits them to designate national coordinating authorities to transmit or receive such requests or offers and to coordinate assistance within their jurisdiction, clarifies that while affected state

maintains overall control of international assistance, assisting states will retain direction over their personnel and equipment.” The Inter-American Convention has not yet been used in practice. While the treaty refers to assistance by non-state actors, it renders the facilities relevant to them a decision to be made on an ad hoc basis by the receiving state.

In addition to this, inter-governmental resolutions drawing on the IDRL Guidelines have been adopted by the OAS’s General Assembly.

B. Agreement between Member States and Associate Members of the Association of Caribbean States (ACS)

In 1991, the ACS adopted its own treaty on disaster response, hereinafter “the ACS Agreement”, with the aim of providing consultation, cooperation and concerted action among the countries of the Caribbean, focusing on natural disasters and on five main areas: (i) the preservation and conservation of the Caribbean Sea, (ii) sustainable tourism, (iii) trade and economic relations, (iv) natural disasters, (v) transport. Pursuant to this agreement, members would agree to promote “the formulation and implementation of standards and laws, policies and programmes for the management and prevention of natural disasters in a gradual and progressive manner,” including through the identification of “common guidelines and criteria” in a number of areas such as “the adoption of existing standards for the classification and management of humanitarian supplies and donations with the purpose of improved transparency and efficiency in humanitarian assistance. The agreement would also call on member states to identify “highly vulnerable areas” within their jurisdictions where cooperation from other members might be most useful. It would assign the ACS’s existing Special Committee responsible for Natural Disasters with a number of tasks to facilitate information sharing and technical assistance between members. The agreement entered into force in March 2014 with the ratification of 17 states. For the purpose of this background paper, it is important to note that this treaty does not address issues relevant to the management of international disaster assistance.

In April 2013, the Heads of States and/or Government of the ACS adopted the “Declaration of Pétion Ville” and recognized “the importance of establishing mechanisms to facilitate and expedite the dispatch, receipt and distribution of humanitarian assistance in cases of disasters according to the established legal order in each country,” and “to conduct activities that will permit the strengthening of coordinated disaster management action for the benefit of the victims affected by such disaster.”

C. CDEMA Agreement and Model Comprehensive Disaster Management Bill

In 1991, Caribbean Community (CARICOM) member states adopted the “Agreement establishing the Caribbean Disaster Emergency Response Agency (CDERA).” In 2009, CDERA became the Caribbean Disaster Emergency Management Agency (CDEMA) with the mandate to adapt “the principles and practice of Comprehensive Disaster Management.”

This agreement tasks CDEMA with building national capacities for disaster response, but also coordinating regional assistance efforts and serving as intermediary with other governmental and non-governmental actors in the provision of relief. State parties committed to taking a number of steps to ensure that their national disaster response systems are adequately prepared, both institutionally and legally, to deal with disasters within their borders and also to provide external assistance upon request by CDERA's coordinator, the chief officer of the agency.

In respect to inter-state assistance, state parties are committed to reducing legal barriers to the entry of personnel and goods, providing protection and immunity from liability and taxation to assisting states and their relief personnel, and facilitating transit, as needed, to third countries affected by disasters. Assisting states and their personnel are also committed to abiding by national law, maintaining the confidentiality of sensitive information, deploying military forces only with the express consent of the affected state, and covering their own costs when there is not an agreement to the contrary. Though it is not clearly stated in the text, it appears that these facilities and responsibilities are not meant to be extended to non-state actors. The agreement also provides for the establishment of an Emergency Assistance Fund to defray disaster assistance expenses.

In 2010, CDEMA developed a Model Disaster Management Legislation, which comprises the CDEMA Agreement as schedule. This model legislation was reviewed in 2013, and it includes a Draft Model Comprehensive Disaster Management Bill with a specific section on International Humanitarian Assistance. This draft bill recommends protocols and procedures for requesting international disaster assistance, facilitating the importation and donation of relief goods and clarifying who is responsible for the coordination of international disaster assistance (see Part V of this background paper).

CDEMA also developed the CARICOM Regional Response Mechanism, published in 2013, which details the functions of the regional response teams and arrangements for the coordination of disaster response among CDEMA Participating States (PSs), Regional and International Agencies.

D. CAPRADE Agreement

In July 2012, the Andean Council of Ministers of Foreign Affairs created the Andean Committee for the Prevention and Response to Disasters (CAPRADE) through resolution 529 and charged with coordinating and promoting cooperation in disaster prevention and response, including through promoting: "compliance with and the harmonization of international agreements on natural disasters;" "joint efforts to obtain bilateral and multilateral cooperation;" and "the implementation and harmonization of international agreements in the area of natural disasters."

Under the coordination of CAPRADE and with the support of the Pan American Health Organization (PAHO) and the IFRC, the "Operations Guide for mutual cooperation in the event of disaster in the Andean countries" was developed with the objective of "provid[ing] guidelines for the management of mutual assistance in case of disaster. The Guide was adopted in 2008, and a final version was published in 2013.

E. UNASUR

In 2014, the High-Level Working Group of the Union of South American Nations (UNASUR for its acronym in Spanish) on disaster risk reduction initiated work in the development of the UNASUR's Mutual Cooperation Instrument for Response to Disasters, which was informed by the CAPRADE Manual and the IDRL Guidelines. This Manual aims to formulate procedures to facilitate international appeals following disasters, including roles and responsibilities to formulate an appeal, coordination functions and quality standards. The Manual was approved by the UNASUR's Council of Ministers of Foreign Affairs in December 2015.

F. CEPREDENAC Agreement and MecReg

In 1993, the foreign ministers of Central American states formalized the creation of the Centre for the Prevention of Natural Disasters in Central America (CEPREDENAC) through the CEPREDENAC's establishing agreement, with the purpose of promoting regional cooperation in terms of disasters prevention and mitigation as part of the Central America Integration System (SICA). Its core functions include the promotion and coordination of international cooperation related to emergencies (through developing a Coordinated Cooperation Mechanism in Disaster Response). Among CEPREDENAC's products is the Regional Mechanism for Mutual Assistance in Disasters of 2013 (the "MecReg").

The Central American Policy for Integral Disaster Risk Management (PCGIR) of 2010 established that the MecReg "constitutes the instrument that Central American countries will utilize to effectively respond to an emergency situation that requires international humanitarian assistance."

The MecReg comprised of two parts: 1) the Manual for the Coordination of International Humanitarian Assistance and 2) the Procedures for preparedness and operational response among Central American countries. The MecReg grants responsibilities to the Ministries of Foreign Affairs of SICA member States to manage the appeal and acceptance of international assistance. This instrument also establishes the roles and responsibilities of the Centre for the Coordination of International Humanitarian Assistance (CAHA), which is also part of the Emergency Operation Centre (EOC) in each country. The CAHA is composed of representatives from key governmental institutions with a clear role in facilitating and expediting the clearance of incoming disaster assistance.

In June 2013, the Presidents of countries that are part of the SICA adopted the "Declaración de San Jose" and called for work to begin on "a regional instrument for the facilitation and regulation of the movement of international humanitarian assistance among member States, in the event of disaster" and for member states to "update national legal frameworks related to the reception, shipment and transit of regional and international assistance in disasters." The "Declaration of San Jose" represents a significant step for disaster law in the region and follows recommendations by disaster management experts from Red Cross Societies in the region, United Nations (UN) agencies and other partners.

In addition in Central America, several draft regulatory instruments are being developed under the mantle of the Central American Integration System (SICA) and Central America Economic Integration System (SIECA), including drafts of the “Central American Protocol for the Shipment, Transit and Reception of International Humanitarian Assistance” (hereafter “Central American Protocol”), “Central American Regulation for the Facilitation of Customs Clearance Procedures for Humanitarian Goods” and a “Humanitarian Module” for the “Platform for the International Transit of Goods (TIM).” All of them were “validated” at the technical level by member state experts in February 2015 at a meeting in Panama co-organized by CEPREDENAC and the IFRC. The abovementioned Central American Protocol was approved at the end of November 2015 by Civil Protection Directors in the framework of the CEPREDENAC Council of Representatives meeting. The Central American Red Cross National Societies support the dissemination of these instruments and its implementation at the national level.

G. The Regional Legal Compendium

Begun in 2007 by the government of Mexico and the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), the Regional Meeting on International Humanitarian Assistance Mechanisms (MIAH) has become an important annual forum with a rotating chairmanship designed for dialogue on problems in disaster response and developing innovative approaches for the Americas region. Since 2008, MIAH participants have recognized the importance of legal preparedness to international disaster assistance, and as a result, they have recommended the evaluation of existing legal and institutional mechanisms, as needed, to facilitate and regulate international assistance.

One key idea that has emerged from the MIAH process has been the development of a regional compendium of laws and regulations related to international disaster assistance. In 2010, a committee of governments, with assistance from the IFRC and UN OCHA, developed a comprehensive questionnaire for use by states to provide national legal information to be included in this compendium. This questionnaire draws significantly on the International Disaster Response Laws, Rules and Principles (IDRL) Guidelines and covers a full range of regulatory issues that commonly arise in international operations. This methodology was endorsed by the MIAH in 2011.

Following the adoption of the Regional Legal Compendium in 2012, a number of governments in the Americas have compiled relevant information on their respective legal systems (including Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Jamaica and Mexico).

Conclusion

The IFRC's extensive research and consultations from 2001 onwards have revealed that regulatory problems – including both excessive bureaucracy in some areas and insufficient oversight in others – were commonplace in major international response operations, largely due to the lack of clear rules, either at the national or international levels. These include issues related to visas, customs clearance, failures of control over quality, coordination and complementarity of international relief, in particular with regard to assistance by non-state actors.

Since the adoption of the IDRL Guidelines in 2007, some 24 countries have adopted laws or procedures to regulate international relief operations either through a comprehensive IDRL law, their national disaster management acts and/or implementing regulations, by including individual provisions in sectoral laws or regulations, or by adopting less formal instruments, such as operating procedures or manuals. However, overwhelming majority of countries have yet to adopt comprehensive rules to manage international relief in future operations. Research also indicates that regulatory problems continue to burden international operations at present.

In the America region, a number of regional treaties and manuals establish mechanisms for the management of international disaster response, including the Inter-American Convention by the Organization of American States's General Assembly and the CDEMA Agreement both adopted in 1991, and the Model Comprehensive Disaster Management bill. The CDEMA Agreement includes provisions to ensure that national disaster response systems are adequately prepared for the reception of international disaster assistance and that the aid is provided in a coordinated manner. At the same time, some of the issues identified in global research concerning common problems faced in international disaster operations are not regulated in the CDEMA Agreement. As examples, the agreement applies to member states only and does not detail coordination and reception mechanisms for international support coming from outside of the Caribbean and non-state actors.

As for the Model CDM bill, it addresses key aspects of the international humanitarian assistance such as initiation mechanisms, coordination, and few aspects of the importation and donation of goods, disaster relief efforts of disciplined forces, sovereignty and territorial integrity principles. On the other hand, it is silent on a number of problems areas such as the minimum legal facilities to be granted by the affected State to international relief providers and applicable minimum standards of coordination, quality, and accountability.

As the International Law Commission is discussing the adoption of the "Draft Articles on the Protection of Persons in the Event of Disasters", following the adoption of Resolution 6 at the 2015 International Conference which asked states to accelerate progress in the regulation of international disaster assistance, and in light of the existing regional instruments and national progress in regulating international relief, the countries of the Caribbean are called to assess if their legal framework is ready to manage international disaster operations and the best ways to address legislative gaps using as reference international instruments and best practices.

Annex 1- Progress in implementing the IDRL Guidelines at the National Level in the Americas

Since the adoption of the IDRL Guidelines in 2007 at the International Conference of the Red Cross Red Crescent some 24 countries have adopted specific legislation, rules and or procedures drawing on recommendations from the Guidelines, while over a dozen more have bills or draft rules currently pending.

In the Americas, a number of countries initiated the review of their legal framework to identify existing regulatory framework addressing international assistance and the strengthening of legal and policy frameworks for disaster response using the IDRL Guidelines. The following briefly summarizes the main developments and ongoing initiatives.

a. Colombia

In 2011, Colombia analyzed its legal framework and identified the most important legal issues arising in the delivery of international aid by states and humanitarian organizations during the relief and early recovery phases of disaster situations. A report on the same issue was published in 2012 . That same year, new disaster management legislation included a section on international response, and work on more detailed implementing regulations began. In 2013, Colombia adopted new procedures on international humanitarian assistance. In 2015, the Colombian government adopted a resolution establishing an “IDRL Commission” as a permanent advisory body made up of representatives of relevant ministries, the Colombian Red Cross, and other to strengthen procedures and plans for managing international relief and ensure smooth operations. The IFRC, Colombian Red Cross Society and the Colombian government also developed a cooperation agenda for the implementation of IDRL in the country and regionally. Work continued in 2015 and 2016 to develop protocols and procedures and test the country’s level of preparedness for the reception of international disaster assistance through disaster simulations.

b. Costa Rica and Panama

In 2015, Costa Rica and Panama adopted an addendum to a bilateral agreement between their countries to provide flexibility in ordinary migration requirements, expeditious transit procedures, and exemptions from otherwise applicable fees, charges and fines for emergency operations conducted by the Red Cross and fire brigades from both countries.

Moreover, work also started in Panama on technical support in the drafting of a national IDRL law in the view to operationalize the humanitarian transit hub that will open in 2017. The project law will be presented to Parliament in July 2016.

c. Dominica Republic

In May 2013, Dominican Republic initiated a legal review in the view of strengthening its legal preparedness for international disaster response based on its experience as transit and donor country following the Haiti earthquake in 2010. The IFRC and the Dominican Red Cross lent their

support to this initiative with a disaster law expert assisting the National Emergency Commission. The Dominican Red Cross and the IFRC published a report in March 2015 analyzing existing regulations on international assistance in the event of disasters in the light of the country's experience, global experience, the IDRL guidelines and other international and regional standards.

d. Guatemala

In October 2014, the Guatemalan Red Cross, with the support of the IFRC and the vice-presidency of the Republic, finalized the project law for the facilitation and regulation of international disaster assistance in Guatemala. The bill provisions are in line with the IDRL Guidelines' recommendations and regional instruments such as the Central American Customs Code (CAUCA) and its Regulation (RECAUCA), in addition to the Regional Mechanism for Mutual Assistance (MecReg); it also clarifies the function the Centre for the CCAH. The bill was officially presented to the National Congress in December 2014, and it has been under discussion since then. The bill is the result of the work of a taskforce comprised of representatives from the government's core entities with a role in disaster response.

e. Ecuador

A taskforce comprised of government representatives, the Red Cross and UN actors was established in 2013, and recommendations were provided in December 2013 on to how to strengthen the legal framework for the reception of international disaster assistance. Subsequently, work began on the drafting of an IDRL law. Following up on the recommendations of the study published in 2013, the Ecuadorian authorities added specific provisions related to disasters to the "Regulation on Operating Permissions for the Delivery of Aviation Transport Services" in 2014 to include specific provisions related to relief flights. Discussions were underway for the institutionalization of an IDRL inter-institutional working group through the adoption of an ministerial resolution similar to the one adopted in Colombia.

f. El Salvador

In collaboration with a working group comprised of governmental authorities, the Salvadorian Red Cross Society has undertaken a review of its regulatory framework pursuant to international disaster assistance. The Ministry of Foreign Affairs has revised its Manual of Chancellery based on the recommendation of the MegReg. The report is under final review and will be published in early 2016.

g. Haiti

Following the Haiti earthquake, the Red Cross produced an IDRL report highlighting the legal challenges faced during the relief phase of the 2010 earthquake response. Some of the main recommendations resulting from this project are to develop a full legislative and institutional framework for prevention, mitigation, disaster preparedness, relief and recovery and to take the

necessary measures to ensure the implementation of ratified international agreements into domestic law .

To date, four bills have been submitted to the Haitian Parliament, taking into account the recommendations of the IDRL report (one on medicine, one on communications, one on the registration of non-government organizations [NGOs], and another on the state of emergency law); additionally, an inter-ministerial working group on the clearance of humanitarian goods through customs during an emergency has been established in cooperation with the Haitian civil protection authority, the Red Cross and the World Food Programme (WFP). The draft "arrêté" of May 2014 was developed for the creation, structure and procedures of an inter-agency customs task force for the clearance of humanitarian goods during an emergency. The country has also advanced work on the ratification of the Tampere Convention, and three legal instruments are being developed, including provisions for the facilitation of international disaster assistance: the regulation on the law on medicine, which is a regulation implementing Annex 9 of the Chicago Convention (priority of landing of humanitarian planes) and the Disaster Management Act with the Directorate for Civil Protection (DPC).

h. Honduras

The Honduran Red Cross has formally started the development of an IDRL report to analyze the national legal frameworks that govern international response operations. For this purpose, a taskforce comprised of members from the CCAH has been established. The FAHUM simulation exercise that took place in 2015 also tested IDRL situations.

i. Jamaica

In January 2012, the Office of Disaster Preparedness and Emergency Management (ODPEM) and the Jamaica Red Cross collaborated on a research project aiming to develop and compile domestic frameworks for disaster prevention and response using the IDRL Guidelines as a framework. The Disaster Risk Reduction Centre of the University of West Indies and the Ministry of Local Government and Community Development also participated as members of the project steering committee. The findings and recommendations were compiled in a report, which was launched at the MIAH meeting in Jamaica in October 2013. This research project's recommendations assisted the Jamaican government with the revision of its disaster management act which was adopted on April of 2015.

j. Mexico

Mexico initiated an exhaustive review of its existing domestic legal framework pursuant to the management of international disaster assistance in 2011. In 2012, Mexico adopted new provisions in its Civil Protection Law for the facilitation and regulation of humanitarian assistance following disasters , and it is now in the process of adopting new regulation and standard operating procedures (SOPs) to complement existing regulations. Mexico also adopted a new guideline for the provision of expedited visas to international relief personnel .

k. Peru

In 2011, the Peruvian Red Cross and IFRC provided recommendations for the strengthening of legal instruments for the facilitation and regulation of international disaster assistance in accordance with the IDRL Guidelines. In February 2011, Law No. 29664 created the Disaster Risk Management System in Peru. Its regulation No. 048-2011-PCM states that the Governing Body, with the support of the National Institute of Civil Defence, shall elaborate “a regulation to facilitate humanitarian assistance operations in the country in accordance with the IDRL Guidelines initiative.” In 2014 and 2015, a law for the facilitation and regulation of international disaster assistance was drafted. The draft law is now under review by various governmental departments, and it is pending approval.

Annex 2: Key provisions of selected regional instruments in light of the IDRL Guidelines

Table 2: Key provisions of selected regional instruments in light of the IDRL Guidelines

	Subject Matter (as identified in the IDRL Guidelines)	The IDRL Guidelines	The 1991 Inter-American Convention to Facilitate Disaster Assistance	The 2008 Agreement establishing the Caribbean Disaster Emergency Management Agency (CDEMA)	Model Comprehensive Disaster Management Legislation and Regulation	The UNASUR/CMRE Resolution no. 023/2015	SICA 2012, Part 1: Manual for the Coordination of International Humanitarian Assistance	SICA 2012, Parte 2: Procedures for preparedness and operational response among Central American countries	International Law Commission Draft Articles for the Protection of Persons in the event of Disasters, as adopted by the UN General Assembly in 2014
Introduction	1. Purpose and Scope	<ol style="list-style-type: none"> 1. Non-binding; 2. Draw from international instruments including... 3. Guidance for improving domestic legal, policy and institutional frameworks on international D relief and initial recovery assistance; Principal role of domestic authorities and actors, minimum legal facilities to be provided to assisting States/humanitarian organizations; 4. Do not apply to situations of armed conflict. 	<ul style="list-style-type: none"> - Seeks to <i>facilitate assistance</i> in case of D and regulate international procedures (Preamble) - Governmental international organizations, non-governmental organizations may, with the consent of the assisted State, have recourse, <i>mutatis mutandis</i>, to the provisions of the Convention (art. 16). 	<ul style="list-style-type: none"> - The CDEMA seeks to: <ul style="list-style-type: none"> - Mobilize and <i>coordinate</i> D relief; - Mitigate and eliminate the immediate consequences of a D; - Provide immediate and coordinated response; - Secure, coordinate and provide reliable information on D; - Encourage the adoption of D loss reduction and mitigation policies and practices as well as cooperative arrangements and mechanisms - Coordinate the establishment, enhancement and maintenance of adequate emergency D response capabilities (art. 5) 	<ul style="list-style-type: none"> - Aims to develop, promote and implement a disaster risk reduction and management approach to disaster management that (i) is holistic, comprehensive, integrated and proactive in lessening the socio-economic and environmental impacts of disasters, (ii) focuses on reducing risks – i.e. risk of loss of life, economic disruption and damage to the environment and property, especially to vulnerable populations, (iii) promotes the involvement and participation of all sectors and stakeholders concerned, at all levels, especially the local community (art. 3). 	<ul style="list-style-type: none"> - Formulates proceedings that facilitate and support existing mechanisms (Objectives) 	<ul style="list-style-type: none"> - Provides general guidelines for coordinating international humanitarian assistance in the SICA through the channels of the member States Ministries of Foreign Affairs and the responsibility of the CCAH (Objective) 	<ul style="list-style-type: none"> - Specific procedures to strengthen the Central America Integration System (Introduction) 	<ul style="list-style-type: none"> - Aims at facilitating an adequate and effective response to D that meets the essential needs of the persons concerned, with full respect for their rights (art. 2); - Protection of persons in the event of D (art. 1)

	2. Definitions	<ul style="list-style-type: none"> - Disaster relief (goods and services provided to meet the immediate needs of disaster affected communities) - Initial recovery assistance (goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities) <p>⇒ The recommendations of the Guidelines generally tend to apply for both relief and recovery assistance periods.</p> <ul style="list-style-type: none"> - Affected State - Assisting State - Transit State 	<ul style="list-style-type: none"> - Assistance: the Convention does not distinguish between the disaster relief period and the recovery period which allows a certain degree of interpretation regarding the scope of application. - Assisted State - Assisting State - Transit State 	<ul style="list-style-type: none"> - Disaster relief: the Agreement does not specifically define the term nor expressly specify its scope of application regarding the period under which the facilities may be granted. - Affected participating State - Requesting State - Sending State 		<ul style="list-style-type: none"> - Response: the Manual refers to the provision of services during or directly after the occurrence of a disaster - Affected State - Assisting State 	<ul style="list-style-type: none"> - No explicit reference to the period concerned - Affected State - Assisting State - Transit State 		<ul style="list-style-type: none"> - Disaster: calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society - Affected State - Assisting State <p>⇒ No definition of the period covered by the instrument (D relief/initial recovery assistance). However, the provisions related to the definitions of the terms used in the instrument refer to the "D relief assistance or the D risk reduction".</p>
--	----------------	--	--	--	--	---	---	--	--

<p><u>Core Responsibilities</u></p>	<p>3. Responsibilities of Affected States</p>	<ol style="list-style-type: none"> 1. Primary responsible for DRR, relief and recovery assistance; key supporting role of humanitarian auxiliaries and civil society; 2. Seek international/regional assistance if D exceeds the national coping capacities; 3. Sovereign right of affected State to coordinate, regulate and monitor. 	<ul style="list-style-type: none"> - The <i>overall direction, control, coordination and supervision of the assistance shall be the responsibility of the assisted State</i> (art. 4a; see IDRL Guidelines § 3.1). 	<ul style="list-style-type: none"> - The Agreement provides a series of “commitments” that the Participating States should take to develop policy and institutional frameworks that ensure full capacity to effectively cope in case of disasters (range from the establishment of a national relief organization, emergency disaster planning groups, national policies, suitable emergency operations centre, the provision of adequate support to key disaster agencies, the maintenance of an effective emergency telecommunication system etc.) (art. 14). - The <i>overall direction, control, coordination and supervision of assistance dispatched to a requesting State shall be the responsibility within its territory of the requesting State</i> (art. 22) 	<ul style="list-style-type: none"> - The Affected State is primary responsible to respond to disasters occurring in its territory and that the external assistance and offers of assistance should only be provided at the request or consent of the State (art. 74). 	<ul style="list-style-type: none"> - <i>Affected States responsible for managing D on their territories</i>; Assisting States and other assisting actors have only a complementary role (Objectives of the Guide; Core Principles, f; see IDRL Guidelines §3.1); - <i>Sovereignty principle of the affected State</i> to which is brought the assistance (Core principles, c.; see IDRL Guidelines § 3.3) 	<ul style="list-style-type: none"> - Competence of the affected/assisting/transit States Ministry of Foreign Affairs to manage the international cooperation and coordinate the humanitarian assistance (Principles of Action, 1.) - Within the Emergency Operations Centre (COE), it is the Centre for the Coordination of International Humanitarian Assistance (CAHA) which is responsible for administering the humanitarian assistance (Principles of Action, 2.) - The Ministry of Foreign Affairs should elaborate a guide with clear procedures to be followed for the management of the humanitarian assistance (Principal Role of the Ministry of Foreign Affairs in case of D) 	<ul style="list-style-type: none"> - The manual provides that the affected State should provide information regarding the response that is needed, the climate environmental and security conditions, the D event, the focal contact point, the COE location (Procedure 1: Initiation) 	<p>Primary responsibility and sovereignty principles:</p> <ul style="list-style-type: none"> - By virtue of its sovereignty, it has the duty to ensure the protection of persons and provision of D relief and assistance on its territory (art. 12.1) - It has the primary role in the direction, control, coordination and supervision of such relief and assistance (art. 12.2) <p>Duty to seek external assistance:</p> <ul style="list-style-type: none"> - If a D exceeds its national response capacity the affected State has the duty to seek assistance from among other States, the United Nations, other competent intergovernmental organizations and relevant non-governmental organizations, as appropriate (art. 13)
-------------------------------------	---	---	---	---	--	---	--	---	---

4. Responsibilities of Assisting Actors		<ol style="list-style-type: none"> 1. Abide by Affected States laws and international law; Coordination with domestic authorities; 2. Assistance to be provided in accordance with the principles of humanity, neutrality and impartiality; 3. Assistance should: be responsive and adequate, consistent with international standards of quality, coordinated, sensitive to cultural, social and religious customs and traditions, involve vulnerable groups in design, implementation, monitoring and evaluation, provided by competent trained personnel, commensurate with organizational capacities, transparent, seek to minimize negative impacts on the local community and economy, development objectives and environment. 	<ul style="list-style-type: none"> - The Convention provides that the <i>assistance personnel shall respect the laws and regulations of the assisted State and of the transit States</i>. It also provides that they <i>shall abstain from political or other activities that are inconsistent</i> with the said laws or with the terms of the Convention (art. 10d). - The Convention provides that the assisting State shall <i>designate the person responsible for the immediate operational supervision of the personnel and equipment provided</i> and that this person shall exercise its supervision <i>in coordination with the assisted State</i> (art. 4b). - The Convention provides that “each State party” shall respect any restricted areas so designated by the assisted State (art. 8). 	<ul style="list-style-type: none"> - The sending State shall designate, in consultation with the requesting State, the person who <i>should supervise the personnel, the equipment and supplies provided</i>. This person shall exercise this supervision <i>in cooperation with the requesting State competent authorities</i> (art. 22.2) - The assisting State personnel enjoying the privileges and immunities <i>shall respect the laws and regulations</i> of the requesting State and shall not interfere in its domestic affairs (art. 27.4) ⇒ see IDRL Guidelines paragraph 4.2.c. - The Agreement provides that “Transit States” shall take all measures necessary to facilitate the transit through their territory of duly notified personnel equipment and property for the purpose of providing assistance to a requesting State (art. 28). 		<ul style="list-style-type: none"> - Humanitarian cooperation should be provided <i>in compliance with principles of humanity, neutrality and impartiality</i> (Core Principles, a.; see IDRL Guidelines § 4.2) 	<ul style="list-style-type: none"> - Assistance to be provided <i>in compliance with human rights and gender equity principles, without discrimination based on race etc.</i> (HR Principles, p. 17) 	<p>- The manual provides a series of obligations for the assisting State during the different phases of assistance:</p> <ul style="list-style-type: none"> - <i>Initiation</i>: informing the affected State of the official initiation, establishing objectives and duration of the mission, determining the port of entry, the group(s) of assistance activated, providing a list of the donated resources etc. (Procedure 1: Initiation) - <i>Mobilization</i>: Providing the documentation requested by the affected State, having three copies of the list of resources to be provided etc. (Procedure 2: Mobilization) - <i>Operation</i>: Determine the needs to effectively provide the assistance, integrate the national personnel, develop a system of telecommunication at the domestic level etc. (Procedure 3: Operation) - <i>Termination</i>: determine in coordination with the national contact point the end of the mission etc. (Procedure 4: Termination) 	<ul style="list-style-type: none"> - All assisting actors (being States, competent intergovernmental organizations and relevant non-organizations) shall respect and protect the <i>inherent dignity of the human person</i> (art. 5) - Persons affected by D are entitled to <i>respect for their human rights</i> (art. 6) - Response to D shall take <i>place in accordance with the principles of humanity, neutrality and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable</i> (art. 7)
---	--	--	--	--	--	--	---	--	---

	5. Additional Responsibilities of All States	<ol style="list-style-type: none"> 1. Funding providers should encourage other assisting actors to respect provisions of paragraph 4; 2. Encourage members of the public interested in making financial donations or donate items that are expressly requested by the affected State. 								
	6. Responsibilities concerning Diversion and the Intended Use	<ol style="list-style-type: none"> 1. Assisting actors should cooperate to prevent unlawful diversion, misappropriation or fraud concerning D relied initial recovery goods, equipment or resources; 2. Consistent use of donated funds and relief goods by Affected States. 								

<p style="text-align: center;"><u>Early Warning and Preparedness</u></p>	<p style="text-align: center;">7. Early Warning</p>	<p>1. States should have procedures in place to facilitate the expeditious sharing of information about D with other States and humanitarian organizations (including the UN Emergency Relief Coordinator).</p>	<p>- The Convention provides that upon the occurrence of a D, when the first official contacts are being established between [the National Coordinating Authority] and the Chairman of the Inter-American Emergency Aid Committee of the OAS, <i>the latter will offer his services to alert the UN D Relief Coordinator</i> (art. 3d).</p>	<p>While the IDRL Guidelines encourage States to adopt procedures to facilitate the expeditious sharing of information about disasters with other States and humanitarian organizations (paragraph 7), the Model Legislation establishes a National Multi-hazard Alert System which should consist of a National Emergency Broadcast System, siren warnings and early warning systems (art. 66). This system should enable the Government to broadcast emergency announcements of the threat of a disaster (art. 67). The [competent] Minister may declare a disaster when there is a substantial prospect that a disaster (as set out in Column 1 of the First Schedule) will happen within the applicable period (as set out in Column 2 of that Schedule), or that it happened, is happening or is likely to happen, or when it is necessary for the Agency or a person authorized under the Act to exercise disaster risk management powers, prevent or minimize loss of human life, illness or injury to human property loss or damage to the environment (art. 68).</p>				
--	---	---	---	---	--	--	--	--

8. Legal, Policy and Institutional Framework	<p>1. Adoption of comprehensive legal, policy and institutional frameworks and planning for D prevention, mitigation, preparedness, relief and recovery taking account of the auxiliary role of the national RC, civil society and communities; Devotion of adequate resources;</p> <p>2. Frameworks should:</p> <ul style="list-style-type: none"> - Address the <i>initiation, facilitation, transit and regulation</i> of international D relief and initial recovery assistance; - Allow <i>effective coordination</i> of international D relief and initial recovery assistance taking into account the role of the UN Emergency Relief Coordinator as a central focal point for UN operations; - Designate <i>competent authorities</i> in these areas; - Consider establishing a <i>focal point</i>; <p>3. Encourage other domestic actors (public/private) to take the necessary measures at their level to implement the IDRL Guidelines.</p>	<ul style="list-style-type: none"> - The Convention provides that each State party shall <i>designate a National Coordinating Authority</i> which shall <i>transmit</i> requests for assistance and <i>receive</i> offers from other States, and <i>coordinate assistance</i> (art. 3a). 			<ul style="list-style-type: none"> - The Model Legislation provides the establishment of several entities: - Inter-Ministerial Committee on D Management: comprises the Prime Minister; impulses coherent, transparent and inclusive policy on Comprehensive Disaster Management (art. 7); - National Disaster Management Technical and Advisory Council: should be inclusive bringing together Ministries, Departments, statutory bodies, District Disaster management Committees, communities, private sector entities, non-governmental organizations, international organizations, etc. to consult with each other/coordinate their actions on matters relating to disaster risk management (art. 9.1); - National Disaster Management Agency: advances a comprehensive D management system by facilitating and coordinating the development and implementation of integrated disaster risk management systems (art. 19), coordinates the implementation of the National Comprehensive Disaster Management Policy (art. 20. c), establishes and maintains effective communication links with relevant stakeholders involved in disaster management (art. 25), develops D management information system to collect and provides information on all aspects of disasters and of disasters risks (art. 26), provides guidance to assess, prevent and mitigate disaster risks. Shall establish and maintain a National Emergency Operations Centre to centralize and coordinate the disaster response (art. 28); - District D Management Committees: responsible for preparedness for, mitigation of, response to and recovery from emergencies and disasters within the district (art. 44); - National Disaster Management Fund: (i) fund projects and programmes in relation to the mitigation of, preparedness for, response to and recovery from emergencies and disasters, (ii) provide financial assistance to persons for relief and recovery from an emergency or a disaster and (iii) adopt and promote preventive measure before, during and after an emergency (art. 53). 	<ul style="list-style-type: none"> - All States should take preparation, response and recovery measures to minimize as much as possible the negative impacts of D (Core Principles, f & g; IDRL § 8.1) 			<p>Duty to coordinate the response:</p> <ul style="list-style-type: none"> - States shall, as appropriate, cooperate among themselves, and with the United Nations and other competent intergovernmental organizations, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross, and with relevant non-governmental organizations (art. 8) - Cooperation includes humanitarian assistance, coordination of international relief actions and communication, and making available relief personnel, equipment and goods, and scientific, medical and technical resources (art. 9) - Cooperation shall extend to the taking of measures intended to reduce the risk of D (art. 10) <p>Duty to reduce the risk of D:</p> <ul style="list-style-type: none"> - Each State shall reduce the risk of disasters by taking the necessary and appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for D (art. 11.1) - These measures include the conduct of risk assessments, the collection and dissemination of risk and past lost information, and the installation and operation of early warning systems (art. 11.2)
--	--	---	--	--	--	---	--	--	---

	<p>9. Regional and International Support for Domestic Capacity</p>	<p>1. The international community should support developing States, domestic civil society actors and National Red Cross Societies to build their capacities to prevent, mitigate, prepare for and respond to D;</p> <p>2. Coordinated support from the international community (including donors and other actors) should be provided to developing States, civil society and national RC societies to prevent, mitigate, prepare for and respond to D as well as to implement frameworks.</p>			<p>- Designation of an International Humanitarian Assistance Coordinator to ensure coordination and collaboration between local and international donors after the occurrence of disasters (art. 70).</p>				
--	--	---	--	--	---	--	--	--	--

<p><u>Initiation and Termination of International D Relief and Initial Recovery Assistance</u></p>	<p>10. Initiation</p>	<ol style="list-style-type: none"> 1. Affected State should give consent in a timely manner, and in principle appeal for D relief and initial recovery assistance; 2. Requests and offers for assistance should <i>be</i> as specific as possible as to the types and amounts of goods and services and expertise available/requested; 3. Affected States should provide adequate information on laws and regulations on the entry and operation of D relief/initial recovery assistance. 	<ul style="list-style-type: none"> - Consent (offer and acceptance) communicated via <i>diplomatic channels or the National Coordinating Authority</i> (art. 2a) - Assisted State shall consult the assisting State to <i>provide information on the kind of assistance considered as most appropriate</i> (art. 2b) 	<ul style="list-style-type: none"> - The competent authority and authorized contact point to make requests for and accept offers for assistance should be the <i>head of the National Disaster Management Agency</i> (art. 23.1). 	<ul style="list-style-type: none"> - The Government, i.e. the Ministry of Foreign Affairs, may directly request international assistance to other CDEMA Participating States when it is made under the CDEMA Agreement (art. 71). However, the Model Legislation does not specify that the request should be as specific as possible as to the types and amounts of goods and services and expertise available/requested (paragraph 10.2 of the IDRL Guidelines), nor that it should provide adequate information on laws and regulations on the entry and operation of D relief/initial recovery assistance (paragraph 10.3 of the IDRL Guidelines). 	<ul style="list-style-type: none"> - Humanitarian cooperation <i>should be requested</i> from the affected State (Core Principles d & i; see IDRL § 10.1); - The Initiation should start with: D emergency state declaration and request for international humanitarian cooperation; damages evaluation and analysis and specification of the needs requested (Core principles, Criteria & Request for humanitarian cooperation; IDRL § 10.1 & 10.2). - The cooperation should be requested <i>via the Chancellery or the Ministries of Foreign Affairs</i> (Identification of Responsible Actors). 	<ul style="list-style-type: none"> - <i>Request of assistance/acceptance of assistance/offer for assistance via the Ministry of Foreign Affairs/COE/CC AH</i> through a declaration of State emergency, or upon <i>decision of other competent authorities (the President)</i> (Principles of Action, 3., Core Responsibilities of the Ministry of Foreign Affairs in case of D) ; - Affected State should <i>expressly consent</i> to the assistance (Principles of Action, 4.) 	<ul style="list-style-type: none"> - The provision of external assistance requires the consent of the Affected State (art. 14.1) and consent to external assistance shall not be withheld arbitrarily (art. 14.2) - When an offer of assistance is extended in accordance with the present draft articles, the affected State shall, whenever possible, make its decision regarding the offer known (art. 14.3) [⊖] This provision differs from the other agreements which only refer to the need to consent to the external assistance. It also differs from the IDRL Guidelines which provide for the duty of the Affected State to decide on the offer in a timely manner and to promptly assess needs (paragraph 10.1). The ILC instrument provides for the duty of the Affected State to decide on the offer "whenever possible". - The Affected State may place conditions on the provision of external assistance (...) which shall take into account the identified needs of the persons affected by disasters and the quality of the assistance. When <i>formulating conditions</i>, the affected State shall <i>indicate the scope and type of assistance sought</i> (art. 15) - States, the UN and other competent intergovernmental and non-governmental organizations have the right to offer assistance to the Affected State (art. 16)
--	-----------------------	--	--	--	--	--	--	--

	11. Initiation of Military Relief	<p>1. Military relief to be deployed only at the request or with the express consent of the Affected State, after having considered comparable civilian alternatives and upon agreement on terms and conditions;</p>		<ul style="list-style-type: none"> - No member of the <i>disciplined forces</i> of a Participating State shall be dispatched to the territory of an affected Participating State <i>without the express prior consent</i> of that State (art. 21.3). - To ensure a coordinated response to a disaster [when disciplined forces are dispatched on the territory of the requesting State], the Agreement provides that the CDEMA Executive Director shall designate a <i>Special Coordinator</i> among the senior officers of the disciplined forces of [the sending State] who shall be responsible for coordinating the disaster relief efforts of the disciplined forces in the affected Participating State (art. 21). 	<ul style="list-style-type: none"> - Disciplined forces shall be under the control and authority of their commanding officer and the coordination under the responsibility of the Special Coordinator designated by the Executive Director of the CDEMA (art. 73). - Need of express consent (paragraph 11.1 of the IDRL Guidelines and art. 21 of the CDEMA Agreement) is not mentioned. 				
--	-----------------------------------	--	--	--	---	--	--	--	--

	12. Termination	1. Upon appropriate notification from the Affected State or the assisting actor.		- The requesting or the assisting State may, <i>at any time, after appropriate consultation and by notification in writing</i> , terminate the receipt or provision of assistance received or provided (art. 26.2).			- Through the <i>Ministry of Foreign Affairs/COE/CC AH</i> , or upon decision of upon decision of <i>other competent authorities (the President)</i> (Strategy, Termination; Core Responsibilities of the Ministry of Foreign Affairs)		- The Affected State and the Assisting State, and as appropriate other assisting actors, <i>shall consult</i> with respect to the termination of external assistance and the modalities of termination. The affected State, the assisting State, or other assisting actor wishing to terminate <i>shall provide appropriate notification</i> (art. 19)
Eligibility for Legal Facilities	13. Facilities for Assisting States	1. Transit and affected States should grant, at a minimum, the legal facilities for entry and operations to assisting States (recommendation)	- The affected State shall promptly notify its competent national authorities and/or National Coordinating Authority to <i>extend the necessary facilities to the assisting State</i> (art. 2c). - The assisted State shall provide, to the extent of its capabilities, <i>local facilities and services</i> for the proper and effective administration of the assistance (art. 4c).	- The requesting State <i>shall provide, to the extent of its capabilities, local facilities and services</i> for proper and efficient administration of communication assistance. In particular, it shall ensure that any ground stations (...) <i>shall be duly licensed</i> to transmit and receive information (art. 22.3).		- The affected State <i>should facilitate the work</i> of the organizations providing the assistance (Core Principles, e).			- The Affected State shall take the necessary measures, within its national law, to <i>facilitate the prompt and effective provision of external assistance</i> regarding, in particular: <i>(a) civilian and military relief personnel</i> , in fields such as privileges and immunities, visa and entry requirements, work permits, and freedom of movement; and <i>(b) equipment and goods</i> , in fields such as customs requirements and tariffs, taxation, transport, and disposal thereof (art. 17.1) - It shall ensure that its relevant legislation and regulations are readily accessible, to facilitate compliance with national law (art. 17.2)

<p>14. Facilities for Assisting Humanitarian Organizations</p>	<ol style="list-style-type: none"> 1. Originating, transit and affected States have the prerogative to determine which assisting humanitarian organizations will be eligible to receive the legal facilities; 2. They <i>should</i> establish criteria for eligibility including a showing of willingness and capacity of the humanitarian organization to comply with its responsibilities under the Guidelines; 3. Additional requirements should not unduly burden the provision of appropriate [aid]; 4. Eligibility criteria should be made known ahead of a D, or as soon as possible after its onset; Applicable procedures and mechanisms should be as simple and expeditious as possible, clear, and information about them freely available; 5. Retention of legal facilities should be conditioned to compliance with the willingness and capacity of the humanitarian organization to comply with its obligations under the Guidelines. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances. 								
<p>15. Facilities for Other Assisting Actors</p>	<ol style="list-style-type: none"> 1. Affected States <i>may</i> extend, upon request and under the same conditions, some of the legal facilities to other assisting actors, such as charitable private companies, provided that it does not negatively affect operations of assisting humanitarian organizations or assisting States. 								

<p>Legal Facilities</p>	<p>16. Personnel</p>	<p>1. Regarding D relief initial recovery personnel of assisting States and eligible humanitarian organizations, affected States should:</p> <p>a. <u>Grant visa and work permits</u> ideally without costs, renewable for their territory, for the time to carry out the activities;</p> <p>b. In D relief operations, <u>waive or significantly expedite the provision of such visas and work permits</u>;</p> <p>c. Grant <u>temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licenses and other types of licenses</u> for the time to carry out the activities;</p> <p>d. Facilitate <u>freedom of access to and of movement in and from the D-affected areas</u>.</p> <p>2. Upon request, originated and transit States should <u>waive or promptly issue, ideally without cost, exit or transit visas</u>.</p> <p>3. Assisting States and eligible humanitarian organizations should consider <u>hiring local staff</u> when objectives can be met.</p>	<p>- The personnel of the assisting State may enter, cross, and leave the territory of the assisted State or of the transit State as necessary to carry out their mission. <i>Each State party</i> [thus understood as affected, originated and transit States] <i>shall provide such personnel with the necessary immigration documents and facilities</i> (art. 7a) <i>è</i> no reference to costs exemptions.</p> <p>- The assisted State shall provide the support the assistance personnel may require, the appropriate guidance and information, and if necessary, translation and interpretation services (art. 9).</p> <p>- The Convention <i>provides specific provisions on the protection of assistance personnel</i> who shall not be subject to criminal, civil or administrative jurisdiction of the assisted State for acts connected with the provision of assistance (art 10).</p>	<p>- The assisting State personnel shall be <i>granted immunity from arrest and detention</i>, legal process in respect of words spoken or written and of all acts and omissions in rendering assistance (art. 27.2)</p> <p>- The requesting State shall <i>grant to the sending State personnel tax, duties and other charges exemptions</i> as accorded to diplomatic personnel (art. 27. 2.c).</p> <p>- The requesting State shall <i>facilitate the entry, stay and departure of the sending State personnel</i> (art. 27. 2.d). <i>è</i> not specific with regard to the kind of facilities (visa, work permits, recognition of professional qualifications etc.) that should be granted (see IDRL Guidelines §16)</p>		<p>- The Guide provides a series of general conditions to be fulfilled by the donator regarding the sending of personnel as requested by the affected State (Human Resources) <i>è</i> However, it does not include the IDRL recommendations addressed to affected States regarding the granting of visas and work permits, nor the recognition of professional qualifications of certain professionals (IDRL § 16.1).</p>		<p>- The affected State shall take the appropriate measures to <i>ensure the protection of relief personnel, equipment and goods</i> present in its territory for the purpose of providing external assistance (art. 18)</p> <p><i>è</i> Though this specific provision on relief personnel, equipment and goods does not specify the legal facilities to be provided, such facilities (for ex. the granting of visas etc.) is referred to in the general provision on facilitation of external assistance (art. 17). It should however be noted that this general provision is not exhaustive as it does not mention the operational need of recognising, temporary, the professional qualifications of foreign medical personnel, architects and engineers etc., the waiver of the costs related to the granting of visas and work permits, licenses etc. (see §16 of the IDRL Guidelines)</p>
-------------------------	----------------------	--	---	---	--	--	--	--

17. Goods and Equipment	<p>1. Regarding D relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States/ eligible humanitarian organizations, originating/transit/Affected States should:</p> <ol style="list-style-type: none"> Exempt them from <i>all customs duties, taxes, tariffs or governmental fees</i>; Exempt them from <i>all export, transit, and import restrictions</i>; Simplify and minimize <i>documentation requirements</i> for export, transit and import; Permit <i>re-exportation</i> of any equipment or unused goods which the assisting State/humanitarian organization wished to retain. <p>2. Regarding D relief goods and equipment, originating/transit States should:</p> <ol style="list-style-type: none"> Waive or reduce inspection requirements, or when not possible, do a "preclearance"; Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay. Assisting States and eligible assisting humanitarian organizations <i>should respect any routes and delivery points prescribed by the affected State</i>. <p>3. To benefit from these facilities, assisting States/humanitarian organizations should, in accordance with agreed international standards: (i) appropriately <i>pack, classify and mark</i> D relief and initial recovery goods and equipment, and <i>include detailed manifests</i> with each shipment; (ii) inspect them to <i>ensure their quality, appropriateness to the needs, and conformity with the affected States laws and international standards</i>;</p> <p>4. Assisting States/humanitarian organizations should assume <i>responsibility for removing or disposing of any unwanted and unused items</i>.</p>	<p>- <i>Transport vehicles, equipment and supplies for the assistance purposes shall be exempt from the payment of taxes, fees, and other charges</i>. Also in the aforementioned cases, the assisted state or transit state shall make its best efforts to <i>expedite or, if appropriate, dispense with customs formalities, and to facilitate the transit of</i> such transport vehicles, equipment, and supplies (art. 5).</p>	<p>- The requesting State shall <i>grant exemptions from taxes, duties, or other charges on equipment and property</i> (art. 27.3.a);</p> <p>- The ownership of equipment and material of the sending State <i>shall be unaffected and their prompt return shall be facilitated</i> (art. 22.4) ☞ see IDRL paragraph 17.1. d.</p> <p>- The requesting State shall grant immunity from seizure to the sending State equipment and ensure their return to the sending State (art. 27.3.b).</p>	<p>- The importation and donation of relief goods is subject to an authorization according to the Custom Act (art. 72.1). It also provides that the Minister "may make provision (a) respecting the initiation and termination of international humanitarian assistance, (b) with respect to privileges and immunities in relation to immigration and customs (art. 72.3).</p>	<p>- Provides series of general conditions to be fulfilled by the donator regarding the machines and equipment to be provided at the request of the affected State (Machines and Equipment);</p> <p>- Specifies that the international humanitarian cooperation should comply with <i>quality standards</i> (Core Principles, j; IDRL § 17.3);</p> <p>- Provides specific requirements: documentation relating to the humanitarian assistance goods sent to the Affected State should identify the Coordinating Authority of the D risk management national system or civil defence; and that the donation should identify the donator country, the list of the goods that are being sent, the request for those goods from the Affected State (Resources; IDRL § 17.3).</p> <p>☞ However, it does not provide for the IDRL recommendations regarding the tax exemptions, the import/export restrictions etc. (IDRL § 17.1).</p>			
-------------------------	---	--	---	--	--	--	--	--

18. Special Goods and Equipment		<p>1. <i>Vehicles imported by or on behalf of assisting States/eligible humanitarian organizations:</i> Affected States should grant <i>temporary recognition to foreign registrations and planes</i> regarding vehicles imported by or on behalf of assisting States/eligible humanitarian organizations;</p> <p>2. <i>Telecommunications and information technology equipment:</i> Affected States should:</p> <ul style="list-style-type: none"> - Waive or expedite the <i>granting of applicable licenses and reduce other barriers to the use, import or export of telecommunications and information technology equipment</i> by assisting States/ eligible humanitarian organizations; - Grant <i>priority access to bandwidth, frequencies, satellites use for telecommunications/ data transfer</i>; <p>3. <i>Medication:</i> Originating, transit and affected States should <i>reduce legal and administrative barriers</i> to the exportation, transit, importation and re-exportation of medications and medical equipment by or on behalf of assisting States/eligible humanitarian organizations. Assisting States/eligible humanitarian organizations should ensure quality, appropriateness, and safety of medication/equipment, in particular:</p> <ul style="list-style-type: none"> a. Imported medication should be approved for use in the originating and affected States; b. Used medication during operations should be transported and maintained in appropriate conditions and guarded against misappropriation and abuse; c. Donated medication should be: <ul style="list-style-type: none"> (i) at least twelve months from their expiration date upon arrival (...); (ii) transported and maintained in appropriate conditions; and (iii) appropriately labelled in a language understood in the Affected State with the International Non-proprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity, storage conditions and expiry date. <p>4. <i>Food:</i> Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States/eligible humanitarian organizations can be modified or reduced.</p>				<ul style="list-style-type: none"> - The Guide provides a series of general conditions to be fulfilled by the donator for the provision of food (B. Resources and Modalities, Food) e However, it does not specify that the originating, transit and affected States should consider modify or reduce the normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports as recommended in IDRL § 18. 4. - It also provides for a series of general conditions to be fulfilled by the donator for the provision of medication (D. Medication) - The Guide does also include specific provisions regarding the provision of water, blood, vaccinations, shelter, clothes, shoes, hospitals..) 			
---------------------------------	--	---	--	--	--	---	--	--	--

	19. Transport	<p>1. Originating, transit and affected States should:</p> <ul style="list-style-type: none"> - Grant <i>permission for the speedy passage of land, marine and air vehicles</i> operated by an assisting State/eligible humanitarian organization or on its behalf, <i>for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees</i>; <p>2. Permission should be granted for overflight, landing and departure of aircraft that should also be authorized to operate within the territory of the affected State as required for the delivery of assistance;</p> <p>3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.</p>	<ul style="list-style-type: none"> - <i>Transport vehicles, equipment, and supplies fully identified and sent by states parties for assistance purposes may enter, move about in, and leave the territory of the assisted state. They may also move across the territory of other states parties en route to where the assistance is to be provided (art. 5);</i> - The assisted and transit States shall have the <i>right to designate the access routes and final destination of the transport vehicles, equipment, and supplies</i> (art. 6) <i>è see §17 (2) (b) of the IDRL Guidelines on Goods and Equipment.</i> 						
--	---------------	--	--	--	--	--	--	--	--

	20. Temporary Domestic Legal Status	<p>1. Affected states should grant relevant entities of assisting States/eligible humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory;</p> <p>2. Assisting States/eligible humanitarian organizations should also be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates;</p> <p>3. Affected States should allow assisting States/eligible humanitarian organizations to legally hire and terminate the contracts of local personnel.</p>							
	21. Taxation	<p>1. Affected States should provide exemptions to assisting States/eligible humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.</p>							
	22. Security	<p>1. Affected States should take appropriate measures to address the <i>safety and security</i> of assisting States/eligible humanitarian organizations <i>personnel, premises, facilities, means of transport, equipment and goods</i> used in connection with their disaster relief or initial recovery assistance; Assisting States/eligible humanitarian organizations should take appropriate steps in their own planning and operations to mitigate security risks.</p>	<ul style="list-style-type: none"> - The Assisted State shall make its best efforts to protect <i>personnel, equipment and materials</i> brought in its territory by or on behalf of the assisting State (art. 4c); - The Assisting State shall make every possible effort to do skilfully and to <i>prevent negligence</i> (art. 10). 	<ul style="list-style-type: none"> - The requesting State shall <i>ensure the protection of personnel, equipment and materials</i> brought into its territory (art. 22.5) 					

	23. Extended hours	1. Affected States should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.							
	24. Costs	<p>1. Costs of providing international disaster relief or initial recovery assistance should normally be borne by the assisting State/humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.</p> <p>2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States/eligible humanitarian organizations.</p>	- The costs related to the assistance <i>shall be borne by the assisting State</i> (except costs related to translations services provided by the assisted State and for costs related to legal claims and compensations) (art. 14).	- <i>Assistance expenses shall be borne by the sending State</i> (art. 25).			- Humanitarian assistance expenses provided are not refundable (Principles of Action, 5).		

<u>Observations</u>			<p>Relation with other existing agreements:</p> <p>In case of discrepancy between the Convention and other international agreements, provisions that afford the greatest degree of assistance in the event of a D/favors support and protection to personnel providing assistance shall prevail (art. 15).</p>		<p>The Model Legislation aims to adopt a quite comprehensive institutional framework to deal, in a coordinated manner, with disaster mitigation, preparedness, response and recovery.</p> <p>Though it addresses some of the aspects of the international humanitarian assistance (international humanitarian assistance coordinator, initiation of international assistance, few aspects of the importation and donation of goods, disaster relief efforts of disciplined forces, sovereignty and territorial integrity principles), it does not provide for the minimum legal facilities to be granted by the affected State (and when appropriate by the transit and originating States) during disaster relief and initial recovery assistance to CDEMA [sending] States and to assisting humanitarian organizations willing and able to comply with minimum standards of coordination, quality, and accountability. Indeed, the Model Legislation does not grant specific legal facilities for the entry and operation of CDEMA [sending] States and eligible assisting humanitarian organizations. It remains silent on important practical issues such as: the granting of visas/work permits for the assisting personnel, the recognition of the professional qualifications of medical, architects and engineers etc., the exemptions of goods and equipment from customs duties, taxes, export/import restrictions, the temporary recognition to foreign registration of special goods and equipment of the CDEMA sending State/eligible humanitarian assistance organization, the permission for the speedy passage of land, marines and air vehicles operated by a CDEMA sending State/eligible humanitarian assistance organization, the granting of temporary authorization to legally operate on the affected territory etc. as recommended in the IDRL Guidelines (Parts IV and V).</p>				<p>Art. 20 and 21 respectively specify that the draft articles are 1) without prejudice to special or other rules of international law applicable in the event of disasters, and 2) do not apply to situations to which the rules of international humanitarian law are applicable.</p> <p>Generally, the ILC draft articles implement the core principles of the IDRL Guidelines (duties of the Affected/Assisting States, the need to have adequate policy frameworks in place, the initiation and termination of the assistance, the need to grant legal facilities to assisting actor).</p> <p>However, it should be noted that with regard to the specific facilities that the Affected States should grant concerning the personnel, the equipment and goods of an assisting actor, the ILC provisions are not specific to the kind of facilities to be granted.</p>
---------------------	--	--	--	--	---	--	--	--	--

Annex 3- Comparative analysis of regional instruments regulating mutual cooperation in response to disasters

1. Analysis of the key regional instruments.

All regional instruments recognise the principle of subsidiarity under which the Affected State is primary responsible for disaster response, the Assisting States and the humanitarian assistance organizations playing a complementary key supporting role. As a consequence, they also recognise the sovereign right of the Affected State to coordinate, regulate and monitor the disaster response within its territory (Inter-American Convention, CDEMA, UNASUR).

Their intended purpose is often to facilitate assistance in case of disaster (Inter-American Convention, UNASUR) and to ensure that this assistance is provided in a coordinated manner (CDEMA, SICA).

The instruments generally expressly provide for the obligation for Assisting States and humanitarian assistance organizations to comply with the laws and regulations of the Affected State (the Inter-American Convention, CDEMA) as well as with the principles of humanity, neutrality and impartiality (UNASUR, SICA).

With regard to the initiation, the instruments recognise the principle under which the humanitarian assistance from an Assisting State should be conditioned to the express consent of the Affected State, through appeal or acceptance for assistance. They generally tend to specify the competent authority through which such consent should be given (for example, the Chancellery or the Ministry of Foreign Affairs under UNASUR and SICA).

With regard to the legal facilities to be granted to ensure effective assistance and which constitute the core of the IDRL Guidelines, the instruments (Inter-American Convention, CDEMA, UNASUR) expressly provide that protection and the necessary local facilities and services should be granted to the assistance personnel of the Assisting States (little reference is made to humanitarian organizations). However, and with the exception of the CDEMA which provides that the Requesting State shall grant to the sending State personnel tax, duties and other charges exemptions and facilitate the entry, stay and departure of the sending State personnel, little provisions can be found regarding the granting of visas and work permits to the assistance personnel, the recognition of its professional qualifications or the exemption of tax and other duties. The same comment applies concerning goods and equipment. On the other hand, some instruments detail the obligation of Assisting States to ensure that the assistance is provided in compliance with the international quality standards (e.g. UNASUR).

Finally, the instruments recall that the costs associated to the assistance provided shall be borne by the Assisting State (Inter-American Convention, CDEMA, SICA).

2. Analysis of the key provisions of the Model Comprehensive Disaster Management Legislation and Regulation in light of the IDRL Guidelines

In line with IDRL Guidelines which promote the adoption of comprehensive legal, policy and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery taking full account of the auxiliary role of the national Red Cross Societies, civil society and communities (paragraph 8), the Model Legislation aims to develop, promote and implement a disaster risk reduction and management approach to disaster management that (i) is holistic, comprehensive, integrated and proactive in lessening the socio-economic and environmental impacts of disasters, (ii) focuses on reducing risks – i.e. risk of loss of life, economic disruption and damage to the environment and property, especially to vulnerable populations, (iii) promotes the involvement and participation of all sectors and stakeholders concerned, at all levels, especially the local community (art. 3).

At the institutional level, the Model Legislation provides for the establishment of several entities:

- Inter-Ministerial Committee on Disaster Management, which should notably be comprised of the Prime Minister and which role is impulse a coherent, transparent and inclusive policy on Comprehensive Disaster Management (art. 7);
- National Disaster Management Technical and Advisory Council, which should be inclusive bringing together Ministries, Departments, statutory bodies, District Disaster Management Committees, communities, private sector entities, non-governmental organizations, international organizations, etc. to consult with each other and coordinate their actions on matters relating to disaster risk management (art. 9.1);
- National Disaster Management Agency, which purpose is to advance a comprehensive disaster management system by facilitating and coordinating the development and implementation of integrated disaster risk management systems (art. 19) and which should, inter alia, coordinate the implementation of the National Comprehensive Disaster Management Policy (art. 20. c), establish and maintain effective communication links with relevant stakeholders involved in disaster management (art. 25), develop a disaster management information system to collect and provide information on all aspects of disasters and of disasters risks (art. 26), provide guidance to assess, prevent and mitigate disaster risks. The Agency shall establish and maintain a National Emergency Operations Centre to centralize and coordinate the disaster response (art. 28);
- District Disaster Management Committees, responsible for the preparedness for, mitigation of, response to and recovery from emergencies and disasters within the district (art. 44);
- National Disaster Management Fund, to (i) fund projects and programmes in relation to the mitigation of, preparedness for, response to and recovery from emergencies and disasters, (ii) provide financial assistance to persons for relief and recovery from an emergency or a disaster and (iii) adopt and promote preventive measure before, during and after an emergency (art. 53).

While the IDRL Guidelines encourage States to adopt procedures to facilitate the expeditious sharing of information about disasters with other States and humanitarian organizations (paragraph 7), the Model Legislation establishes a National Multi-Hazard Alert System which should consist of a National Emergency Broadcast System, siren warnings and early warning systems (art. 66). This system should enable the Government to broadcast emergency announcements of the threat of a disaster (art. 67). The [competent] Minister may declare a disaster when there is a substantial prospect that a disaster (as set out in Column 1 of the First Schedule) will happen within the applicable period (as set out in Column 2 of that Schedule), or that it happened, is happening or is likely to happen, or when it is necessary for the Agency or a person authorized under the Act to exercise disaster risk management powers, prevent or minimize loss of human life, illness or injury to human property loss or damage to the environment (art. 68).

As recommended by the IDRL Guidelines (paragraph 8.2), the Model Legislation provides for the designation of an International Humanitarian Assistance Coordinator to ensure coordination and collaboration between local and international donors after the occurrence of disasters (art. 70).

With regard to the initiation and the request for international assistance, the Model Legislation provides that the Government, i.e. the Ministry of Foreign Affairs, may directly request international assistance to other CDEMA Participating States when it is made under the CDEMA Agreement (art. 71). However, the Model Legislation does not specify that the request should be as specific as possible as to the types and amounts of goods and services and expertise available/requested (paragraph 10.2 of the IDRL Guidelines), nor that it should provide adequate information on laws and regulations on the entry and operation of D relief/initial recovery assistance (paragraph 10.3 of the IDRL Guidelines).

Concerning the importation and donation of relief goods, the Model Legislation provides that it is subject to an authorization according to the Custom Act (art. 72.1). It also provides that the Minister “may make provision (a) respecting the initiation and termination of international humanitarian assistance, (b) with respect to privileges and immunities in relation to immigration and customs (art. 72.3). [unclear]

With respect to disaster relief efforts of a CDEMA member State disciplined forces, the Model Legislation provides that they shall be under the control and authority of their commanding officer and that the coordination is under the responsibility of the Special Coordinator designated by the Executive Director of the CDEMA (art. 73). The need of express consent (paragraph 11.1 of the IDRL Guidelines and art. 21 of the CDEMA Agreement) is not mentioned.

As provided in the IDRL Guidelines (paragraph 3), the Model Legislation specifies that the [affected State] is primary responsible to respond to disasters occurring in its territory and that the external assistance and offers of assistance should only be provided at the request or consent of the State (art. 74).

2.1 Observations on the CDEMA Model Legislation

The Model Legislation aims to adopt a quite comprehensive institutional framework to deal, in a coordinated manner, with disaster mitigation, preparedness, response and recovery.

Though it addresses some of the aspects of the international humanitarian assistance (international humanitarian assistance coordinator, initiation of international assistance, few aspects of the importation and donation of goods, disaster relief efforts of disciplined forces, sovereignty and territorial integrity principles), it does not provide for the minimum legal facilities to be granted by the affected State (and when appropriate by the transit and originating States) during disaster relief and initial recovery assistance to CDEMA [sending] States and to assisting humanitarian organizations willing and able to comply with minimum standards of coordination, quality, and accountability.

Indeed, the Model Legislation does not grant specific legal facilities for the entry and operation of CDEMA [sending] States and eligible assisting humanitarian organizations. It remains silent on important practical issues such as: the granting of visas/work permits for the assisting personnel, the recognition of the professional qualifications of medical, architects and engineers etc., the exemptions of goods and equipment from customs duties, taxes, export/import restrictions, the temporary recognition to foreign registration of special goods and equipment of the CDEMA sending State/eligible humanitarian assistance organization, the permission for the speedy passage of land, marines and air vehicles operated by a CDEMA sending State/eligible humanitarian assistance organization, the granting of temporary authorization to legally operate on the affected territory etc. as recommended in the IDRL Guidelines (Parts IV and V).