



International Disaster Response Law (IDRL) in Samoa

Strengthening Samoa's Legal Preparedness for the Facilitation and Regulation of Foreign Disaster Response

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About this report

This report was commissioned by the International Federation of Red Cross and Red Crescent Societies (IFRC) and the Samoa Red Cross Society (SRCS), and prepared by Mr. Leafa Donald Kerlake, legal researcher. It analyses Samoa's current legal and policy frameworks for addressing the issues related to receiving international disaster assistance.

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E-mail: disasterlaw@ifrc.org

Website: <http://www.ifrc.org/dl>

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P.O. Box 372
CH-1211 Geneva 19
Switzerland
Telephone: +41 22 730 4222
Telefax: +41 22 733 0395

E-mail: secretariat@ifrc.org
Web site: <http://www.ifrc.org>

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Acronyms and Abbreviations

ADRA	Adventist Development Response Agency
APEC	Asia-Pacific Economic Cooperation
CIMs	Coordinated Management Systems
COC	Chamber of Commerce
DAC	Disaster Advisory Council
DEMA	Disaster Emergency Management Act 2007
DMO	Disaster Management Office
EPC	Electric Power Corporation
FAO	Food and Agriculture Organisation
HFA	Hyogo Framework for Action 2005 – 2015
IBRD	International Bank for Reconstruction and Development
ICAO	International Civil Aviation Organisation
IDP	Internal Displaced People
IDRL	International Disaster Response Laws, Rules and Principles
IFRC	International Federation of Red Cross and Red Crescent Societies
ILO	International Labour Organisation
IMF	International Monetary Fund
IMO	International Maritime Organisation
INCB	International Narcotics Control Board
ITU	International Telecommunications Union
LERA	Labour and Employment Relations Act 2013
LTA	Land Transport Authority
MAF	Ministry of Agriculture and Fisheries
MCE	Maximum Credible Event
MCIL	Ministry of Commerce, Industry and Labour
MCIT	Ministry of Communications and Information Technology
MESC	Ministry of Education, Sports and Culture
MNRE	Ministry of Natural Resources and Environment
MOF	Ministry of Finance
MOH	Ministry of Health
MOU	Memorandum of Understanding
MWCSD	Ministry of Women, Community and Social Development
MWTI	Ministry of Works, Transport and Infrastructure
NDC	National Disaster Council

Acronyms and Abbreviations

NDMP	National Disaster Management Plan 2011 – 2014
NEOC	National Emergency Operations Centre
NHS	National Health Services
OTR	Office of the Regulator
PCRAFI	Pacific Catastrophe Risk Assessment and Financing Initiative
PHT	Pacific Humanitarian Team
PIFS	Pacific Islands Forum Secretariat
PLG	Polynesian Leaders Group
PTWC	Pacific Tsunami Warning Centre
RNDRF	Regional Natural Disaster Relief Fund
ROP	Regional Office for the Pacific
SAA	Samoa Airport Authority
SBS	Samoa Bureau of Statistics
SHA	Samoa Housing Authority
SOP	Standard Operating Procedures / Plans
SPA	Samoa Ports Authority
SPC	Secretariat of the Pacific Community
SPREP	Secretariat of the Pacific Regional Environment Program
SRCS	Samoa Red Cross Society
SSC	Samoa Shipping Corporation
STA	Samoa Tourism Authority
SUNGO	Samoa Umbrella of Non-Government Organisations
SWA	Samoa Water Authority
UN	United Nations
UNDAC	United Nations Disaster Assessment and Coordination
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	United Nations Population Fund
UNICEF	United Nations Children’s Fund
UNIDO	United Nations Industrial Development Organisation
UNOCHA	United Nations Office for Coordination of Humanitarian Affairs
VAGST	Value Added Goods and Services Tax
WASH	Water, Sanitation and Health
WHO	World Health Organisation
WB	World Bank
WIPO	World Intellectual Property Organisation
WMO	World Meteorological Organisation
WTO	World Trade Organisation

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Executive Summary

This report was prepared to assist Samoa in its commitment to review its legal and policy framework and assess the level of preparedness to facilitate and regulate foreign disaster assistance during situations of disasters and emergencies. This report looks at existing laws in Samoa relevant to international disaster response and assistance. The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (“IDRL Guidelines”), which were adopted by the State Parties to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent in 2007 and the Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (“Model Act”) were used as tools to measure Samoa’s legal preparedness in managing foreign disaster assistance.

Key Findings

The pathway providing for the legal mandate for disaster response and management in Samoa originates with the Constitution of the Independent State of Samoa 1962 and extends to the Disaster Emergency Management Act (DEMA) 2007. The National Disaster Management Plan 2011-2014 (NDMP) complements DEMA 2007 with its detailed plan of structures, roles and responsibilities for each and every relevant agency. Elaborate processes ensure not only a chain of command but a structure for cohesion, order and coordination.

Most government agencies have complied with the requirement to develop internal disaster management plans, service continuity and emergency response plans and standard operating procedures (SOPs) as required by the NDMP to deal with emergencies and disasters which are specific to the services which they are required to carry out. Those government agencies who have yet to finalise their plans and SOPs should do so as soon as possible and lodge with National Disaster Management Office (NDMO) for their review and record.

In relation to international foreign entities who provide relief assistance such as members of the Pacific Humanitarian Team (PHT) Cluster groups, the NDMP does not explain in full detail the expected roles and responsibilities which PHT cluster groups are to perform when in country.

It is noted that the NDMP is currently under review. The revised edition of the NDMP should take into account recommendations and outstanding matters which are raised in this report.

Declaration of emergency and requests for international assistance

It is only upon the directive of the National Disaster Council (NDC) on the advice of Disaster Advisory Council (DAC) that a request for international assistance is submitted to aid agencies and development partners during a period of disaster or emergency.

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This will be issued once it is clear that the situation at hand is beyond the capabilities of the existing national resources. There is currently no specific criteria to determine when such a situation exists.

Specific requests by government ministries or sub-committees for international assistance will be submitted through the National Emergency Operations Centre (NEOC), through a prescribed form signed by the head of the requesting agency. The requests will then be passed onto the Aid Coordination Committee who facilitates the requests and offers through informal meetings with international partners and donors or formally through written requests.

Understanding the process to request international assistance during times of disasters is still ad hoc at best and needs to be outlined clearly in the NDMP to ensure clarity amongst the partners involved.

Legal facilities for international actors

Legal facilities are available in Samoa for different categories of international actors. States and approved international organisations with diplomatic status enjoy the privileges and immunities under the Diplomatic Privileges and Immunities Act 1978. Non-Governmental Organisations (NGO's) and Civil Society Organisations (CSO) and some international relief agencies are able to register through the Ministry of Commerce, Industry and Labour (MCIL). International relief agencies with no legal presence in Samoa are granted temporary approval to operate in Samoa provided they register and seek approval with NDMO. There are currently no regulations or specific policies in place which govern the process of registering international relief agencies who require legal status on a temporary basis.

Customs, tax, quarantine arrangements for entry of international relief goods and supplies

There are provisions in relevant legislation which allows concessions and exemptions from taxes, duties, charges and fees for the importation of disaster relief goods. Most of these provisions are conditional on the approval of certain government officials. At present any approved international organisation can import disaster relief goods free of import and excise duty. Value Added Goods and Services Tax (VAGST) may still apply unless specifically exempted in an international agreement between Samoa and the international organisation. However, it has been the practise of the Ministry of Finance (MOF) to cover the VAGST component of any foreign disaster relief material.

There is no provision in the relevant legislation which specifically requires expeditious procedures to clear disaster relief goods during times of emergency and disasters. In the past, there have been complaints in relation to delays in releasing disaster relief goods during emergencies and disasters as well as the tedious process involved.

The Quarantine (Biosecurity Act) 2005 governs the inspection of consignments and other packages arriving at any of the ports and/or airports of entry. The substance of the Quarantine (Biosecurity Act) 2005 deals with preventative measures against pests and animals which may cause biosecurity threats. There are no specific provisions which deal with the expeditious facilitation of relief goods or equipment through quarantine or the waiver of any fees. However in practice the Quarantine Division adheres to any instruction provided by the NDC.

International relief personnel

If you are not a citizen of Samoa, you will be required to apply for an entry permit prior to commencing travel to Samoa. Despite this, the DEMA 2007 allows the Chairman of the NDC to waive any entry or other requirement for emergency personnel entering Samoa at the request of the Government. However, the waiver granted only operates during and for the period of emergency and the process followed by the Chairman to exercise this authority is unclear.

Registration of some professional foreign aid specialists is required in order to practise in Samoa during times of emergencies and disasters. There are no expedited processes for registration during emergencies and disasters.

International humanitarian transport arrangements

The Civil Aviation Act 1998 sets out the general power and procedures which apply to matters of civil aviation in Samoa. Although there are no specific provisions which deal with facilitation of international disaster relief air transportation, the Civil Aviation Regulations 2000 enables the application of the New Zealand Civil Aviation Rules. Moreover, section 36 of the Civil Aviation Act 1998 provides the Director of Civil Aviation, CEO of the Ministry of Works, Transport and Infrastructure (MWTI) with the power to exempt any person or aircraft from any specified requirement in any of the rules made pursuant to sections 27-29. In practice, disaster relief vessels and personnel are cleared without unnecessary delays. Most fees are waived upon instructions from the NDC although the mandate to do so is not clear.

The Samoa Ports Authority (SPA) Act 1998 does not have specific provisions to govern the facilitation of international assistance in times of disasters or hazards. One of the response functions of the SPA in accordance with the NDMP is to assist in maritime search and rescue by providing, managing and maintaining adequate and efficient port services, facilities and security at the port. There is also a general power available to the SPA to exempt any vessel or goods or classes of vessels or goods from the payment of dues and reduce, refund or waive any dues or rates required to be paid to SPA.

Accountability and transparency

All funds during a disaster or emergency are controlled by the Ministry of Finance. Upon the proclamation of an emergency, the emergency fund account is established as per the provisions of the Public Finance Management Act 2001. A separate bank account is created for donor funds, pledges and other financial assistance received from States, Organisations or private individuals which assists the emergency fund account in covering expenditure accrued during disasters or hazards. Fast track processes and procedures are followed in remitting payments with the Ministry of Finance working closely with the DMO or the NEOC in authorising and clearing payments. All financial reports in relation to the Government budget including money used for emergency relief are audited by the Chief Auditor and the Audit Office.¹ Audited financial accounts are then passed to Parliament where the reports are scrutinised by the Select Committee of Parliament responsible for Finance and Expenditure before being tabled in Parliament for its consideration and approval.²

¹ Constitution of Samoa, article 99; PFMA 2001, s107.

² Parliament of Samoa Standing Orders 170.

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The NGOs that contribute to or receive funding for disaster relief manages its own finances and funds independently. Financial management and reporting on the use of international donor funds is carried out in accordance with a prior agreed arrangement between the donors and the NGO which other parties may not be privy to. There is no standardised financial management and reporting model which NGOs are required to adhere to. NGOs who are legally registered as a legal entity with the Registry within the Ministry of Commerce, Industry and Labour or Trade as an incorporated society or other legal entity reports to the Registry in accordance with its governing legislation. It is required to file its audited statement of income and expenditures on an annual basis.

Summary of Core Recommendations

- Response agencies within the National Disaster Management structure should ensure that internal DM Plans, Service Continuity and Emergency Response Plans and SOPs for disasters and emergencies are finalised and standardised.
- The NDMP under review should take into consideration the recommendations contained in this report.
- The NDMP under review should elaborate more on the role of the Pacific Humanitarian Team (PHT) when requested by Samoa to assist;
- The NDMP under review should address issues in relation to baseline data recording and specify the central management information system database for disaster relief materials to be accessible to all;
- Increased efforts should continue to educate and inform key stakeholders and partners on National Disaster Management legislation and policies;
- Specific criteria should be included in the NDMP identifying when a disaster has exceeded national capacities and therefore warrant a request for international assistance;
- The procedure and process for requesting international assistance should be elaborated in the NDMP;
- Request and acceptance forms for international assistance should be standardised as agreed between all parties involved;
- The Government of Samoa should consider adopting an Order to specifically extend the privileges and immunities in the Diplomatic Privileges and Immunities Act 1978 to cover officials and personnel of States and approved International Organisations who are authorised to enter into Samoa as disaster relief personnel during periods of disasters and emergencies;
- A registry to be established in the Ministry of Commerce, Industry and Labour for registering all international organisations, NGOs and other foreign entities (i.e. Diaspora groups) who intend to carry out disaster relief work in Samoa during a disaster and emergency;
- Minimum registration requirements should be stipulated to afford legal status to these foreign entities when operating in Samoa;
- The Samoan Government should review its policy consideration in relation to VAGST and whether it should be charged on imported foreign aid materials;

Executive Summary

- The Samoa Government to consider amending S10A in the DEMA 2007 to extend the waiver authority of the Chairman of the NDC to taxes, duties, dues, charges and other fees which he determines necessary;
- The DMO with assistance from the MOH and MAF should consider incorporating policies for preferred or non-perishable food baskets and food items which may be suitable for relief aid packages during times of disaster and emergencies so that international partners may be aware of this when offering international aid assistance;
- All agencies involved with border control should review existing SOP to provide priority and expeditious clearance of relief materials during a period of disaster or emergency and reduce documents required for release;
- The waiver in section 10A of DEMA 2007 should be revisited to determine whether the authority of the Chairman of NDC be extended to declarations of disasters and for regulations or policies to be established prescribing the form and/or manner in which the Chairman of the NDC may exercise this authority;
- Regulations or Policies should also be formally established or centralised to outline the current practise followed by DAC agencies when considering and allowing international relief personnel entry into Samoa;
- Professions such as the Medical Council and Council of Nursing and Midwifery should clearly set out their simplified registration process and basic requirements of compliance applicable to international relief personnel before temporary licenses are approved and issued during times of disasters;
- Regulations and policies to applicable transport laws in Samoa be amended to cater for the arrival and treatment of disaster relief vessels and vehicles used temporarily for disasters and emergencies;
- Border agencies to expeditiously prioritise the landing and clearance of disaster relief vessels arriving in Samoa;
- MOF and the Audit Office to review its current procedures with a view of expediting process of payments for goods and services procured locally;
- Consider whether registered agencies who receive disaster funds should adhere to the same accountability and transparency standards as Government and require that audited accounts relating to foreign assistance during times of disasters be published.

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Chapter 1

Introduction

1.1 Background

With the evolution of technology in this modern age, accessing information is as simple as a mere swipe of a finger. Such accessibility enables us to bear witness to many different events occurring throughout the globe. The most eye-catching images are those of the devastation and destruction caused by disasters in countries across continents around the world. Natural disasters such as earthquakes, tsunamis, cyclones and tornados are becoming more frequent than ever before. In fact, natural disasters are now amongst the largest threats to human security and development worldwide, affecting a large number of the earth's human population and costing hundreds of billions in damages.³

Present during most of these disasters are countries and humanitarian organisations willing to assist and lend a helping hand. The International Federation of Red Cross and Red Crescent Societies (IFRC), the world's oldest and largest humanitarian organisation is one of the organisations consistently at the forefront of international humanitarian assistance. In 2002 the IFRC commissioned a study to look into the common regulatory barriers for international actors during disaster response. The study found that the work of international actors can be greatly hindered by the general lack of domestic legal preparedness for international assistance rendering relief operations slower, less effective and more expensive. Barriers and procedural gaps created by domestic regulations and coordination hamper the ability of the domestic authorities from effectively executing the outside aid. Given the findings of this body of research, the IFRC identified the need for a set of guiding principles to be developed to assist countries in shaping and strengthening their domestic legal framework to ensure that timely, adequate and efficient international disaster response was not inhibited. This led to the development of the IDRL Guidelines by the IFRC as adopted in 2007.

The IFRC has over the years engaged in partnership with countries throughout the globe, using the IDRL Guidelines to assist them in strengthening their legal and policy framework for international disaster response.

In June 2012, the Hon. Tuilaepa, Prime Minister of Samoa attended the Palm 6 meeting in Okinawa, Japan and made statements on the need to strengthen legal frameworks for disaster response. As a result in August 2012 the IFRC working in coalition with the Samoa Red Cross Society approached the Government of the Independent State of Samoa (Government) offering to finance a legal researcher to conduct a study examining Samoa's legal preparedness for the facilitation and regulation of foreign disaster assistance. This was accepted by the Government and in 2014, the Attorney General and his Office was selected to represent the Government in a joint supervision of the study.

The main objective of the study was to identify gaps and areas of good practice in Samoa's legal framework in relation to its preparedness for facilitation and regulation of foreign disaster assistance. Parts of the study seeks to identify and recommend areas of improvement which may assist in minimising legal barriers to encourage effective national and international responses to disasters that will affect Samoa using the IDRL Guidelines and the Model Act as best practice tools.

³ Discussion paper "Disaster Laws", 31st International Conference of the Red Cross Red Crescent Geneva 28 November – 1 December.

1.2 Methodology

The study officially commenced in June 2014 but with Samoa already committed to hosting the Small Islands Developing States Conference in September 2014, the parties agreed to postpone the study until the start of October 2014.

- Collecting and reviewing all relevant legal instruments, i.e. laws, regulations, policies, plans and procedures, relating to international disaster response and disaster risk management in Samoa;
- Identifying possible disaster scenarios that might involve international assistance and identifying the relevant stakeholders in each scenario;
- Consulting with stakeholders as to how their own legal frameworks and normal practices take international response into consideration. Consultations were carried out in the form of personal interviews, meetings, emails, as well as workshops for stakeholder consultation. A number of small stakeholder consultation workshops were conducted in addition to a national workshop on 28 to 29 July 2015 where the draft report was tabled for further discussion and comments.

A significant achievement in addition to this report is the development of a **draft action plan** which was produced during the national workshop to guide the relevant stakeholders towards the path of implementing the recommendations in the report. The action plan outlines each recommendation contained in this report and assigns a responsible line ministry as well as identify whether it is a short, medium or long-term priority.

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Chapter 2

Disaster risk profile for Samoa

Samoa is a small country with a population of approximately 200,000, most living in the two main volcanic islands of Upolu and Savaii. The total land area of Samoa is approximately 2,935km² and it lies in the southwest Pacific within an exclusive economic zone of 120,000 km². Samoa has a developing economy that has generally performed well in recent years. Remittances from Samoans working abroad are an important part of the economy, as is foreign development assistance in the form of loans, grants and direct aid. Samoa is reliant on imports and has a large trade deficit. Its indigenous exports consist mainly of fish and agricultural products, but their proportion of GDP has declined steadily in recent decades. A large proportion of the population is employed informally and works in subsistence agriculture or low level commercial values. Poverty and hardship are a fact of life for many Samoans. Almost 27 per cent of the population live below the basic needs poverty line and struggle to meet the weekly costs of living.

Samoa as a small island nation in the wide Pacific Ocean is frequently exposed to natural disasters, including tropical cyclones, flood, droughts, earthquakes, tsunamis and volcanic eruptions. However these are not the only hazards which impact Samoa. Disasters resulting from technology are an ever present threat, including epidemics, diseases and industrial hazards. According to the World Bank, Samoa is ranked 30th of countries most exposed to three or more hazards. Samoa was ranked 51st out of 179 countries in the Global Climate Risk Index 2012 report on who suffers most from extreme weather events.⁴

21 Risk and hazards

A preliminary risk analysis has already been carried out determining Samoa's vulnerability to disasters and her ability to effectively manage such risks.⁵ The risk analysis involved identifying disasters which would most likely require some degree of government coordination to manage. These disasters or hazards were rated by identifying its Maximum Credible Event (MCE).⁶ MCE's are credible events in terms of the magnitude of the consequence and likelihood of occurrence.⁷ The likelihood of occurrence is measured in terms of a significant disaster being caused by the hazard and the consequences of the hazard. Each MCE is assigned a likelihood and consequence rating to assist in identifying whether the risk of the hazard is extreme, high, medium or low.⁸

The analysis summarises the level of risk associated with certain hazards that has the potential to cause a disaster in Samoa and may require national response as illustrated in the table below.

Hazard	Level of Risk	Extreme	High	Moderate	Low
Cyclone		x			
Volcanic Eruption		x			
Tsunami		x			
Urban Fire (Apia)		x			

⁴ S.Harmeling, "Global Climate Risk Index 2012: Who Suffers Most from Extreme Weather Events? Weather Related Loss Events in 2010 and 1991 to 2010," briefing paper, German Watch, Bonn, 2011.

⁵ Samoa National Disaster Plan 2009-2014 p16.

⁶ Appendix 3, Samoa National Disaster Plan 2009-2014 p72

⁷ Ibid, p72.

⁸ Appendix 3, Samoa National Disaster Plan 2009-2014 p76

Disaster risk profile for Samoa

Hazard	Level of Risk	Extreme	High	Moderate	Low
Public Health Crisis		x			
Environmental Crisis – invasive species		x			
Flood			x		
Earthquake			x		
Landslide			x		
Forest Fires			x		
Aircraft emergency (airport)			x		
Hazchem incident – marine			x		
Lifeline Utility Failure – water				x	
Agricultural crisis – animal/plant disease				x	
Civil emergency – external				x	
Lifeline utility failure – telecommunications					x
Lifeline utility failure – electricity					x
Single asset infrastructure failure- building collapse					x
Single asset infrastructure failure – dam					x
Drought					x
Aircraft emergency (other location)					x
Maritime vessel emergency					x
Hazchem incident – land					x
Terrorism					x
Civil emergency – internal					x

Source: Samoa National Disaster Plan 2009-2014 p18.

In essence, Samoa has identified that the extreme and high level risks are those hazards which should be the focus of management programmes, including hazard information and monitoring, risk reduction initiatives, public awareness and contingency planning.⁹ A more in-depth analysis of the above table describing the process undertaken is found in Appendix 3 of Samoa's National Disaster Management Plan 2009-2014 (NDMP) which is attached to this report as Annex 1 for ease of reference.¹⁰

2.2 Natural hazards affecting Samoa

According to the risk hazard table above, the three main natural hazards which Samoa is highly exposed to are tropical cyclones, volcanoes and earthquakes. Recent analysis suggests that Samoa is expected to incur on average over the long term, about SAT23 million per year in losses due to earthquakes and tropical cyclones.¹¹

⁹ Appendix 3, Samoa National Disaster Plan 2009-2014 p72.

¹⁰ Appendix 3.

¹¹ International Bank for Reconstruction and Development, "Samoa: Disaster Risk Financing and Insurance", February 2015

2.2.1 Tropical cyclones

Tropical cyclones are the main hazards facing Samoa. They are associated with damaging winds, rainfall, flooding, swells, storm surges and even tornadoes. Samoa has already been affected by cyclones multiple times in the last few decades. Samoa's NDMP describes Samoa's tropical cyclone risk as "extreme".

In 2012, Tropical Cyclone Evan offered a distressing reminder of Samoa's exposure to natural hazards. Evan came only three years after the earthquake and tsunami of 2009 which caused devastating damage and loss of life to Samoa.

The worst cyclone to have impacted Samoa in recent times are Cyclone Ofa in 1990 and Cyclone Val in 1991; combined these two events caused 21 fatalities and widespread destruction, with total economic losses between USD300 million and USD500 million,¹² equivalent to about four times the country's gross domestic product.¹³

2.2.2 Volcanic eruption

Samoa's two main islands are volcanic islands. The topography is rugged and mountainous. The highest peak is Mt Silisili on the larger island of Savaii. The last recorded volcano to erupt in Samoa was on Mt Matavanu also in Savaii which erupted continuously between 1905-1911. This caused some of the affected villages to relocate to the main island of Upolu where they have remained. Although the last volcanic eruption was over 100 years ago, the likelihood of further eruptions still remains a possibility.

2.2.3 Tsunami

Samoa lies in a relatively less active seismic area; however it is surrounded by the Pacific "ring of fire". Around the boundaries of the tectonic plates are extremely seismically active areas and earthquakes are not unusual. In some cases, earthquakes have resulted in tsunamis that have affected Samoa.

In September 2009, a devastating tsunami caused 143 reported deaths in Samoa. About 2.5 per cent of the country's population was affected which destroyed many villages along the southern coast of the island of Upolu.¹⁴ The tsunami was generated by a powerful earthquake of 8.0 magnitude some 200km south, in the Tonga trench. The tsunami took less than 20 minutes to impact Samoa. According to reports, it is estimated that Samoa has a 40 per cent chance in the next 50 years of experiencing at least once, moderate to very strong levels of shaking.¹⁵

¹² PCRAFI (Pacific Catastrophe Risk Assessment and Financing Initiative), "Country Risk Profile: Samoa", September 2011.

¹³ GFDRR (Global Facility for Disaster Reduction and Recovery), "Samoa – 2009- PDNA Assessed Total Earthquake and Tsunami Impact at 22% of GDP", <<https://www.gfdr.org>>.

¹⁴ Government of Samoa, "Post Disaster Needs Assessment Cyclone Evan 2012", March 2013.

¹⁵ PCRAFI, "Country Risk Profile: Samoa", September 2011.

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Chapter 3

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3.1 International instruments

3.1.1 IDRL guidelines

The pathway leading to the IDRL Guidelines was laid in 2001 when the IFRC commenced investigations into how legal frameworks could contribute to improving the delivery of disaster relief.¹⁶ Consultations were held and information gathered on existing international and national disaster laws from several countries to gauge their experiences of legal issues during disaster operations.¹⁷ It was during the 28th International Conference of the IFRC in 2003 where state parties called upon the IFRC to develop guidelines for practical use in international disaster response activities. As a result, the IDRL Guidelines were developed and at the 30th International Conference of the IFRC in November 2007, member states and Red Cross and Red Crescent actors unanimously adopted the Guidelines.¹⁸

The IDRL Guidelines assist countries who do not have specific laws for the facilitation and regulation of international relief. They are recommendations to states on preparing their legal, administrative and institutional frameworks for international disaster assistance so as to avoid the most common pitfalls of over- and under-regulation.¹⁹ The IDRL Guidelines not only assist in governing poor quality and coordination by international relief organisations but also assists in removing unnecessary red tape imposed by domestic laws and processes.

The core features of the IDRL Guidelines are summarised as follows:

- a. **Domestic actors have the primary role:** It is the responsibility of the Government of the affected state to address the humanitarian needs caused by a disaster within its borders. International relief organisations play a supporting role and any international disaster assistance offered should be designed to complement domestic efforts rather than displace them;²⁰
- b. **International relief providers have responsibilities:** International relief providers must ensure that their standard of coordination and quality in relief assistance complies with minimum requirements as stipulated in codes of humanitarian standards which are recognised internationally. For example, principles of neutrality and impartiality must be adhered to in relation to distribution of relief assistance;²¹
- c. **International actors need legal facilities:** There is a responsibility on governments to ensure that certain legal accommodations are provided to international relief providers to enable them to undertake their response activities effectively. This also includes reducing legal barriers which may inhibit or delay effective relief assistance. For example, visa and permit

¹⁶ International Federation of Red Cross and Red Crescent Society, 'Introduction to the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance' (IFRC, 2011) 7 <www.ifrc.org>; the investigation was carried out by the International Disaster Response Laws, Rules and Principles (IDRL) Programme.

¹⁷ *ibid*, 7.

¹⁸ *ibid*, 7.

¹⁹ 31st International Conference of the Red Cross and Red Crescent, 'Progress in the implementation of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance' (Geneva, 28 November 2011) 4 Doc. EN 31 IC/11/5.5.1.

²⁰ *ibid*, 9.

²¹ *ibid*, 9.

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processing, custom clearance and facilitation of logistics of relief personnel and goods must be expedited. Exemptions from taxes must also be accommodated;²² and

- d. **Some legal facilities should be conditional:** To lend some weight to the responsibilities of assisting humanitarian organisations, governments are encouraged to condition the granting of legal facilities to these organisations on their commitment to, and on-going compliance with, minimum standards referred to above. For example, providing a registration procedure and monitoring the performance and on-going compliance with required standards. It is also encouraged for similar minimum humanitarian standards to be applied to private companies providing charitable relief in a disaster setting.²³

3.1.2 Chicago Convention on International Civil Aviation (ICAO Convention) 1944²⁴

The Chicago Convention on International Civil Aviation 1944, better known as the ICAO convention created a set of principles to govern and facilitate international civil aviation in a way that it would develop into a safe and orderly manner and where international air transport services would be established on the basis of equality of opportunity and operated soundly and economical. Over the years, amendments were made to the ICAO convention including a number of Annexes. Relevant to this chapter is Annex 9 Chapter 8 which deals with the facilitation of Relief Flights following natural and man-made disasters. It states that contracting states such as Samoa “shall facilitate the entry into, departure from and transit through their territories of aircraft engaged in relief flights performed by or on behalf of international organisations recognized by the U.N or by or on behalf of the States themselves and shall take all possible measures to ensure their safe operations.”²⁵ Moreover, contracting states “shall ensure that personnel and articles arriving on relief flights referred to in 8.8 are cleared without delay.”²⁶

The incorporation of these principles is perhaps a recognition that delays may be caused at the border and that countries such as Samoa are under obligations to take all possible measures to ensure that such delays are limited.

3.1.3 Geneva Conventions 1949

Samoa is a signatory to the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field,²⁷ the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea²⁸, the Geneva Convention relative to the Treatment of Prisoners

²² *ibid* 9.

²³ *ibid* 9.

²⁴ International Civil Aviation Organization (ICAO), Convention on Civil Aviation (“Chicago Convention”), 7 December 1944, (1994) 15 U.N.T.S. 295

²⁵ Annex 9, Chicago Convention, Chapter 8, paragraph 8.8.

²⁶ *Ibid*, paragraph 8.8.

²⁷ International Committee of the Red Cross (ICRC), Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 12 August 1949, 75 UNTS 31, available at: <<http://www.refworld.org/docid/3ae6b3694.html>>

²⁸ International Committee of the Red Cross (ICRC), Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), 12 August 1949, 75 UNTS 85, available at: <<http://www.refworld.org/docid/3ae6b37927.html>>

of War,²⁹ and the Geneva Convention relative to the Protection of Civilian Persons in Time of War³⁰ (“the Geneva Conventions of 1949”). All these conventions were adopted on 12 August 1949. The Geneva Conventions of 1949 deal with the treatment of civilians and other personnel during times of war. Although uncommon to Samoa in more recent times, warfare in itself is a disaster with the likelihood of many innocent parties affected. Two of the Geneva Conventions of 1949 make specific reference to the need for the detaining powers to provide facilities for relief and other organisations assisting prisoners of war.³¹ Such facilities may have an international character and may include facilities for visiting prisoners or distributing relief supplies and materials. Any conditions which such relief organisations may be made subject to should not hinder the effective operation of adequate relief to prisoners of war. The IFRC as an international relief organisation is also given a special position which should be recognised and respected at all times by state parties. The Geneva Conventions Act 2015 passed in 2015 domesticates Geneva Conventions of 1949 and its additional protocols.

3.1.4 Sendai framework for Disaster Risk Reduction 2015 – 2030

The Sendai Framework for Disaster Risk Reduction 2015 – 2030 (Sendai Framework) is the product of the third World Conference on Disaster Reduction held in Sendai City, Miyagi Prefecture, Japan in March 2015.³² The Sendai Framework was adopted by UN Member States on 18 March 2015. It is a 15-year, voluntary, non-binding agreement which recognizes that the State has the primary role to reduce disaster risk but that responsibility should also be shared with other stakeholders including local government, the private sector and other stakeholders. It aims for the following objective:

*The substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries.*³³

The Sendai Framework is the first major agreement of the post-2015 development agenda, with seven targets and four priorities for action:

- i. Understanding disaster risk
- ii. Strengthening disaster risk governance to manage disaster risk
- iii. Investing in disaster reduction for resilience, and
- iv. Enhancing disaster preparedness for effective response, and to “Build Back Better” in recovery, rehabilitation and reconstruction³⁴

The Sendai Framework is the successor instrument to the Hyogo Framework for Action (HFA) 2005-2015: Building the Resilience of Nations and Communities to Disasters.³⁵

Strengthening legal preparedness is captured under both the previous HFA and the current Sendai Framework particularly around priority action IV on enhancing disaster preparedness for effective response.

³² UNISDR <<http://www.unisdr.org/we/coordinate/sendai-framework>>

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

3.2 Regional instruments and coordination mechanisms

3.2.1 Pacific Islands Forum (PIFS)

The Pacific Islands Forum is a political grouping of 16 independent and self-governing states. It was originally founded in 1971 as the South Pacific Forum³⁶ however its name was changed in 2000 to the Pacific Islands Forum (the Forum) to reflect the diversity of the 16 independent and self-governing states in the North and South Pacific.³⁷ Leaders of the Forum and international partners meet annually to discuss issues of regional concern which can include disaster response and disaster risk reduction and issue their regional priorities and commitments in an annual Leaders Communiqué.

The Pacific Islands Forum Secretariat is based in Suva, Fiji. The Secretariat's mandate is delivered through the annual Leader's Communiqués and high level ministerial meeting decisions.³⁸ The Forum Secretariat is also mandated to coordinate the implementation of the Framework for Pacific Regionalism.³⁹ It is an international organisation established by treaty, enjoying legal personality in each of its sixteen member countries.⁴⁰

As part of its strategy on good governance, an initiative was established requiring member States to 'where appropriate, ratify and implement international and regional human rights conventions, covenants and agreements'.⁴¹

PIFS administers the Regional Natural Disaster Relief Fund (RNDRF) which provides member countries with a readily available source of financial relief in the wake of natural disasters. The RNDRF was formalised in December 1975 due to the continuing problem of recurring hurricanes and other natural disasters common to island member states.⁴²

3.2.2 Secretariat of the Pacific Community⁴³

The Secretariat of the Pacific Community (SPC) Geoscience Division supports 22 Pacific Island countries and territories address the risks posed by climate vulnerability and natural disasters.⁴⁴ SPC Geoscience Division organises its work around three technical program areas: oceans and islands; water and sanitation; and disaster reduction. Pacific Island Countries receive basic geological knowledge in support of disaster response preparedness from SPC. It also facilitates the use of regional response networks such as the Pacific NDMO network and the Pacific Islands Emergency Management Alliance.

³⁶ Pacific Islands Forum <<http://www.forumsec.org/pages.cfm/about-us>>

³⁷ *ibid.*

³⁸ *Ibid*

³⁹ *Ibid*

⁴⁰ *Ibid.*

⁴¹ *ibid* Attachment A initiative 12.5.

⁴² Pacific Islands Forum Secretariat <www.forumsec.org> accessed by 10 February 2015

⁴³ Secretariat of the Pacific Community, <www.spc.int>, accessed 10 February 2015

⁴⁴ "Disaster Response in Asia and the Pacific: A Guide to International Tools and Services," UN Office of Humanitarian Affairs, p18

3.2.3 Pacific Platform for Disaster Risk Management (DRM)

SPC is the co-convenor of the Pacific Platform for DRM with the United Nations Office for Disaster Risk Reduction (UNISDR). The platform was established in 2008 to harmonize existing regional mechanisms for disaster risk management in the Pacific.⁴⁵

The regional platform has been central to the development and/or implementation of regional policies and frameworks for action on disaster risk management in the Pacific. At the 2013 joint meeting with the Pacific Climate Change Roundtable, the development of a Strategy for Climate and Disaster Risk Development was endorsed to succeed the Pacific Disaster Risk Reduction and Disaster Management Framework for Action 2005 – 2015 and the Pacific Islands Framework for Action on Climate Change 2006-2015.⁴⁶

The Pacific Platform is politically and strategically central to the development of the Post-2015 framework and its implementation.

3.2.4 Strategy for Climate and Disaster Resilient Development in The Pacific (SRDP)

The SRDP was developed after agreement during the 2011 Pacific Disaster Risk Management and Climate Change meeting to integrate efforts for DRM and Climate Change. The new strategy will succeed the Pacific Disaster Risk Reduction and Disaster Management Framework for Action 2005 – 2015 and the Pacific Islands Framework for Action on Climate Change 2006 – 2015.⁴⁷

At the 2014 UN Small Island Developing States (SIDS) conference in Samoa, the Pacific became the first region in the world to fully integrate climate change and disaster risk management in a single regional strategy focused on resilient development.

3.2.5 Polynesian Leaders Group (PLG)

The PLG is an international government cooperation group bringing together eight independent or self-governing states or territories in Polynesia. In 2011 a memorandum of understanding formalising the group was signed by the eight member states and territories.⁴⁸ The objectives of the PLG are to work together and collaborate in the areas of education, culture and language, transport, environmental conservation and climate change mitigation and adaptation, health, agriculture and fisheries, tourism, trade and investment. Samoa is one of the founders and the current chair of the PLG. The PLG members may collectively be in a position to promote IDRL within its membership.

3.2.6 UNDAC in the Pacific⁴⁹

The United Nations Disaster Assessment and Coordination (UNDAC) is part of the international emergency response for sudden onset emergencies.⁵⁰ They are provided free of charge to the disaster-affected country, and deployed upon the request of the United Nations Resident or Humanitarian Coordinator and/or the affected Government.

⁴⁵ UNISDR website: <www.unisdr.org>, accessed 10 February 2015

⁴⁶ Pacific Disaster Net, <www.pacificdisaster.net>, accessed 10 February 2015

⁴⁷ SIDS website, <www.sids2014.org>, accessed 10 February 2015

⁴⁸ Savali Newspaper Website: <<http://www.savalinews.com/2011/11/21/%e2%80%98historic-al%e2%80%99-polynesian-group-launched/>>

⁴⁹ Pacific Disaster Net website, <www.pacificdisaster.net>, accessed 10 February 2015

⁵⁰ UNOCHA Website, <www.unocha.org/rop/>, accessed 10 February 2015

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In 1999, the UN Office for Coordination of Humanitarian Affairs (UNOCHA) established a Regional Office for the Pacific (ROP) to mobilize and coordinate effective and principled humanitarian action in partnership with national and international actors.

To improve the timeliness, effectiveness and predictability of humanitarian response in the region, OCHA ROP established the Pacific Humanitarian Team (PHT) in 2008. The PHT brings together humanitarian actors in the region to support Pacific Island governments in the coordination of humanitarian action using a regional cluster approach.

As of 2015, UNDAC in the Pacific has made almost 20 responses since 1988.

3.2.7 Pacific Humanitarian Team (PHT)

The Pacific Humanitarian Team was established in 2008 to ensure that regional responders work together to deliver timely and appropriate humanitarian assistance to disaster affected people in the Pacific. The PHT members agree to respond to emergencies in Pacific Island Countries through a regional Cluster Approach. The Cluster Approach organizes humanitarian actors into response sectors or 'clusters' which define roles and responsibilities to clarify the division of labour during international emergency response.

Seven priority clusters and an Early Recovery network have been designated in the Pacific region, with lead agencies assigned to coordinate roles, responsibilities, and accountabilities in each cluster area. Samoa's structure of sub committees in the disaster management structure is similarly organised around the PHT cluster approach.

3.2.8 Asia-Pacific Economic Cooperation (APEC)

APEC is a forum of 21 Pacific Rim economies that seeks to promote free trade and economic cooperation.⁵¹ APEC comprises an Emergency Preparedness Working Group (EPWG) mandated to coordinate and facilitate emergency and disaster preparedness within APEC. EPWG has developed a Strategy for Disaster Risk Reduction and Emergency Preparedness and Response in the Asia Pacific region 2009-2015 which guides its activities in the area.⁵²

3.3 Conventions relevant to Risk Reduction of Disasters

The following conventions are relevant to risk reduction which Samoa has either signed or ratified.

Table 2: Conventions relevant to risk reduction which Samoa is a party to

Conventions	Acceptance Date	Signature Date	Ratification Date	Accession Date
Vienna Convention for the Protection of the Ozone Layer 1985				21 December 1992
Montreal Protocol on Substances that Deplete the Ozone Layer 1987				21 December 1992

⁵¹ "Disaster Response in Asia and the Pacific: A Guide to International Tools and Services," p20

⁵² Ibid

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Conventions	Acceptance Date	Signature Date	Ratification Date	Accession Date
United Nations Framework Convention on Climate Change (UNFCCC), 1992		12 June 1992	29 November 1994	
Kyoto Protocol to the UN Framework Convention on Climate Change 2005.		16 March 1998	27 November 2000	
Convention on Biological Diversity 1992		12 June 1992	9 February 1994	
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade 1998				30 May 2002 accession
Basel Convention on the Control of Trans boundary Movements of Hazardous Chemicals and their Disposal 1989	22 March 2002			
Stockholm Convention on Persistent Organic Pollutants 2001		23 May 2001	4 February 2002	
Cartagena protocol on Biosafety to the Convention of Biological Diversity 2003		24 May 2000	30 May 2002	
Strategic Approach to International Chemicals Management 2007				
UN Convention on the Law of the Sea 1982		28 September 1984	14 August 1995	
UN Convention to Combat Desertification (UNCCD) 1994.				21 August 1998

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Chapter 4

Legal framework for disaster response and management

Samoa's Disaster Response and Management regime is primarily governed by the Constitution of Samoa, the Disaster and Emergency Management Act 2007 and the National Disaster Management Plan 2011 – 2014.

4.1 Constitution of Samoa

The Constitution of Samoa although passed in 1960 only became effective on Independence Day on 1st January 1962. The Constitution sets out the framework of government tailored on the Westminster model which distinguishes the powers between the three pillars of government i.e. the executive, parliament and the judiciary. Rights of her citizens are also enshrined as fundamental provisions under part II of the Constitution.⁵³ Parliament is the authorised body to make laws.⁵⁴ However as the supreme law of the nation, any subsidiary laws, rules or policies created by legislature or any other regulatory making body are subject to the provisions of the Constitution.

Important to this review is Part X of the Constitution which makes provision for the proclamation of emergencies and the consequences of such proclamations. Article 105 allows the Head of State to declare a state of emergency arising from war, external aggression, internal disturbance or natural catastrophe. The Head of State acts on the advice of Cabinet when exercising his discretion. During the period of an emergency, the Head of State may make such orders as are necessary to secure public safety, defend Samoa, maintain public order; and or maintain supplies and services essential to life.⁵⁵ Emergency Orders may empower authorities, person or classes of persons to make regulations, rules or by-laws.⁵⁶ No Order shall be invalid because it deals with a matter already prescribed by law or because it is inconsistent with any law.⁵⁷

Proclamations of emergency remain in force for 30 days, if not sooner revoked.⁵⁸ The Proclamation must be laid before the Parliament if it is in session.⁵⁹ If Parliament is not in session, the Head of State must call on Parliament to sit at an appropriate time. At least one-half of the members may require Parliament to be called not later than 7 days from the date of their request.⁶⁰

4.2 Disaster and Emergency Management Act 2007 (DEMA 2007)

DEMA 2007 was assented to by the Head of State and commenced on 16 February 2007. The purpose of DEMA 2007 is to “provide for the management of disasters and emergencies in Samoa by effective planning and risk reduction, response and recovery procedures and the promotion of coordination amongst the response agencies, and for related purposes”.⁶¹ Its provisions are summarized more proficiently in the description of the objectives of DEMA 2007. These include:

- a. Establishing an efficient structure for the management of disasters and emergencies by promoting cooperation amongst agencies with a role in

⁵³ Constitution of the Independent State of Samoa (The Constitution), Part II.

⁵⁴ Ibid article 43.

⁵⁵ Ibid, article 106(1).

⁵⁶ Ibid, article 106(2).

⁵⁷ Ibid, article 106(4).

⁵⁸ Ibid, article 105(2).

⁵⁹ Ibid article 105(3).

⁶⁰ Ibid, article 105(4)

⁶¹ Disaster and Emergency Management Act (DEMA) 2007, preamble.

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- disaster management and enhancing their capacities to maintain the provision of essential services during periods of disaster and emergency;
- b. Preparing and implementing a national disaster management plan consisting of the response agency plans prepared by the response agencies and other groups and institutions in accordance with the requirements of this Act;
 - c. Vested authority in persons and agencies to act during times of disaster and emergency in accordance with the plans approved under this Act and to require the observance and implementation of directives given and initiatives taken by persons authorised under this Act;
 - d. Otherwise enhancing the capacity of the government, relevant agencies and the community to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimise threats to life, health and the environment from natural disasters and other emergencies;
 - e. Implementing mechanisms to reduce risks and hazards that may cause, contribute to or exacerbate disaster or emergency situations in Samoa; and;
 - f. Facilitating procedures aimed at implementing recovery activities in an aftermath of disasters and emergencies.⁶²

4.3 National Disaster Management Plan 2011-2014

The National Disaster Management Plan 2011-2014 (NDMP) was created pursuant to section 9 of DEMA 2007. The purpose of the NDMP was and is to detail disaster risk management arrangements to ensure the sustainable mitigation of, preparedness for, response to and recovery from the impact of hazards.⁶³ The NDMP is intended to co-ordinate and work in conjunction with programmes, policies, plans and operational response arrangements made by response and other agencies involved in disaster management which include overseas authorities and organisations who render assistance to Samoa during times of disasters.⁶⁴ The NDMP introduces roles, responsibilities and powers that are required of response agencies and associate member agencies in addition to any roles, responsibilities and powers they have under other plans, mandates or legislation.⁶⁵ The NDMP aims to achieve the following main objectives:

- a. reduce the impact of hazards to Samoa;
- b. ensure all communities and response agencies are ready to respond to any disaster;
- c. put in place mechanisms to enable prompt and effective response to disasters in Samoa;
- d. ensure processes and systems are in place for long term recovery; and rebuilding after disasters in Samoa;

⁶² *ibid*, section 4.

⁶³ National Disaster Management Plan 2011 – 2014 (NDMP), para 1.1, p3.

⁶⁴ *ibid*, para 1.3.1, p4.

⁶⁵ *Ibid*, para 1.3.2, p4.

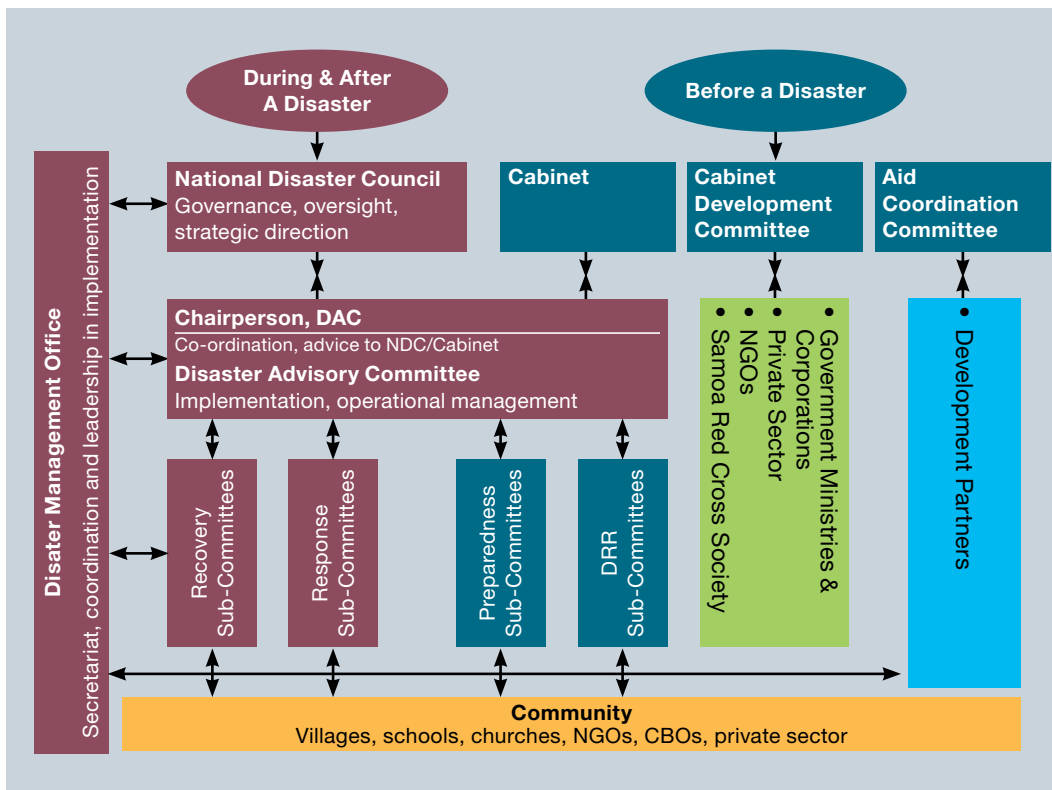
- e. strengthen disaster resilience of communities that are exposed to hazards so they are able to reach and maintain an acceptable level of functioning and structure.⁶⁶

The provisions of the NDMP are still applicable and relevant until replaced by its next edition.

4.3.1 Disaster management structure

Part II of DEMA 2007 sets up the Disaster Management Structure which consists of the National Disaster Council, the Disaster Advisory Committee and the Disaster Management Office (DMO). Other subsidiary committees including the community support these three main entities. Table 3 below outlines the organisational structure for disaster management in Samoa during times of emergencies and disasters. The diagram illustrates the hierarchy and relationship between the different entities which form part of the structure.

Table 3: Disaster Management Structure



Source: Samoa National Disaster Management Plan, p10

A full description of the roles and functions of each of the entities is specifically described in the NDMP. For the purposes of this review, a brief description of the roles and functions of the entities is provided.

⁶⁶ Ibid, para 2, p8.

4.3.2 National Disaster Council (NDC)

Section 5 of the DEMA 2007 establishes the National Disaster Council. The Prime Minister sits as the chairperson of the NDC whilst the Minister of Natural Resources and Environment (MNRE) acts as the deputy chair. The rest of the membership is made of the Ministers of Cabinet as appointed by the Prime Minister. In past NDC sittings, all Ministers of Cabinet are appointed to the NDC. A permanent list of the NDC membership is found in appendix 2 to the NDMP which is attached as Annex 2 to this report for ease of reference.

During a disaster response the role of the NDC is to set strategic direction for the DAC, to undertake high level strategic decision making including inter-governmental and international relationships and where necessary to advise the Head of State on the need for a proclamation of emergency.⁶⁷ It reviews, approves and endorses any recommendation given by the Disaster Advisory Committee, and provides directions to Government Ministries and agencies in ensuring that its decisions are carried out immediately.⁶⁸ The NDC is also responsible for reviewing, approving, monitoring and evaluating plans, policies and programmes relating to response and relief/recovery operations.

4.3.3 Disaster Advisory Committee (DAC)

The DAC is made up of the relevant heads of government ministries, non-government organisations and private companies as determined by the Minister of MNRE.⁶⁹ The Chief Executive Officer of the MNRE sits as the chairperson of the DAC.⁷⁰ If the chairperson is absent, the members of DAC can appoint a deputy chairperson to discharge the responsibilities of the chairperson.⁷¹ An appointed member of the DAC may nominate a representative if unavailable.⁷² A current list of members of DAC is also found in appendix 2 to the NDMP attached as Annex 2.

The DAC is responsible for assessing approaching disasters or emergencies to expedite provision of advice to the NDC for the implementation of the NDMP.⁷³ The DAC will also implement any decision of the NDC to give proper effect to DEMO 2007 and the NDMP.⁷⁴ Amongst other roles, the DAC identifies, implements, maintains, monitors and evaluates disaster risk management programmes and activities.⁷⁵ This also includes ensuring DAC members regularly undertake risk reduction activities, preparedness activities, awareness and simulation training.⁷⁶ The committee also coordinates recovery activities and ensures that a coordinated inter-agency approach is followed in relation to all disaster and emergency planning, risk reduction, preparedness and response and recovery activities.⁷⁷

⁶⁷ DEMA 2007, section 5(2); NDMP, 3.3.2, p12.

⁶⁸ DEMA 2007, section 5(2)(a).

⁶⁹ DEMA 2007, section 6(1).

⁷⁰ DEMA 2007, section 6(3).

⁷¹ DEMA 2007, section 6(4).

⁷² DEMA 2007, section 6(2).

⁷³ DEMA 2007, section 6(6)(a).

⁷⁴ DEMA 2007, section 6(6)(l).

⁷⁵ NDMP, 3.4.2, p12.

⁷⁶ DEMA 2007, section 6(6)

⁷⁷ *ibid.*

4.3.4 Disaster Management Office (DMO)

The DMO is established within the MNRE.⁷⁸ Pursuant to DEMA 2007, the DMO is headed by the Chief Executive Officer. This role can and has been delegated to the Assistant Chief Executive Officer directly responsible for the DMO.⁷⁹ The DMO is the central office which serves as secretariat to the NDC and DAC. In its role as secretariat, it is responsible for all administration and management services. It is also responsible for the coordination, development and implementation of disaster risk management programmes and activities in Samoa.⁸⁰ The duties and functions of the DMO include but are not limited to:

- a. Leadership for and relationship building across the disaster risk management sector;
- b. Supporting development and implementation of plans and policies for mitigation, preparedness, response and recovery including the NDMP and ensure that gender and human rights issues are addressed;
- c. Support to DAC agencies in their development of their own plans and procedures;
- d. Liaise and assist DAC member agencies in the performance of their roles and responsibilities in accordance with resolutions and or directives of the NDC/Cabinet and the DAC as advised before and during a disaster;
- e. Set-up, maintenance (including training for staff), and operational coordination of the National Emergency Operations Centre (NEOC);
- f. Planning and co-ordination of simulations and sector training. Monitoring and evaluation of implementation of disaster risk management programmes contained in the NDMP and NAP.⁸¹

The responsibilities of the NEOC run parallel to the functions of DMO but it is only activated in times of a declaration of disaster or proclamation of emergency. For this reason, the structure of the NEOC will be discussed in more detail in the next Chapter.

4.3.5 Community

The community also plays an important role in disaster preparedness and response activities. Coordination of response and recovery efforts are carried out in collaboration with village councils of affected villages. The contact ministry within the Government which deals with village councils is the Ministry of Women, Community and Social Development (MWGSD). Church groups within the villages may also be involved. The women's committee in the villages may also be approached to support the response and recovery phase. The importance of the community is to ensure they are knowledgeable of disaster mitigation, preparedness and response activities for the effective implementation of the NDMP. Activities which the community may be involved with include:

- a. Initiating community response
- b. Information dissemination

⁷⁸ DEMA 2007, section 7(1).

⁷⁹ Which is possible under DEMA 2007, section 7(3).

⁸⁰ NDMP, 3.5, p13.

⁸¹ NDMP 3.5, p13.

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- c. Shelter management
- d. Damage assessment
- e. Relief co-ordination
- f. Developing community preparedness and evacuation plans
- g. Implementation of community vulnerability reduction measures

4.3.6 Committee system

Sub-committees have been established by the NDMP to assist in logistical and contingency planning to ensure the effective and efficient facilitation of response during the different facets of a disaster. Although separate, the functions of some of these sub-committees overlap which requires joint contingency planning to ensure awareness of the roles each play in times of disaster.

The organisation of the sub-committees in Samoa is aligned to the PHT Cluster Approach with some slight variance based on the context. A brief description of the sub-committees follows:

4.3.6.1 First response and initial assessment sub-committee

the importance of this sub-committee is to provide first response assistance to disasters. This includes hazard monitoring and early warning, evacuation, search and rescue, first aid and medical treatment, transport, movement and management of deceased victims. Agencies are also responsible for providing an initial assessment and report on areas which have been affected including assessing the nature of damages caused by a disaster. Reports and advice from this sub-committee determines whether there is a need for a Proclamation of Emergency or a Declaration of Disaster. The chair and secretariat of this sub-committee is the MNRE. The Vice Chair includes the Fire and Emergency Services Authority (FESA). Other first responders which form part of this sub-committee include the Ministry of Police (MOP), Samoa Red Cross Society (SRCS), National Health Services (NHS) and others. Any agency in this sub-committee may act on their own initiative when a disaster strikes without having to await the formal activation of the sub-committee.

During international response, the PHT Cluster which works to this sub-committee is the Protection, Health & Nutrition, WASH and Shelter Cluster.

4.3.6.2 Welfare and internally displaced people (IDP) sub-committees

This sub-committee is responsible for the coordination and registration of evacuees, set up and management of evacuation areas/shelters, and coordination of the provision of food, water, clothing and temporary shelter. The same sub-committee will coordinate protection and psycho-social aspects of response common during a disaster.

⁸² Other members not mentioned above include the Ministry of Women, Community & Social Development (MWCSD), Ministry of Communication and Information Technology (MCIT), Ministry of Health (MOH), Ministry of Justice & Courts Administration (MJCA), Samoa Tourism Authority (STA), Land Transport Authority (LTA), Ministry of Works, Transport & Infrastructure (MWTI), Electric Power Corporation (EPC).

Membership include MWCSD (Chair), MOH (Vice – Chair), NHS, SRCS, SUNGO, MWTI, MNRE, SWA, EPC and SWA.⁸³

The PHT clusters which work in collaboration with this sub – committee include Protection, Health & Nutrition, Shelter, Education, Food Security & Agriculture and WASH.

4.3.6.3 Utilities and social services sub-committee

This sub-committee is responsible for the coordination of sectoral and in-depth assessments, immediate restoration of critical utilities and social service infrastructure, and reporting during the response stage of disaster. It also has a role to play during the recovery stage which includes:

- Ensuring basic rehabilitation and reconstruction of primary social services, such as health care facilities, schools, community centres, water and sanitation networks;
- Building the capacity of people and communities to access health care and education, and to contribute to maintaining these services. This includes reducing cost of service and increasing availability;
- Introducing social and community-based safety nets for vulnerable people and those with special needs including psychosocial and post-trauma counselling;
- Promoting basic education as a means to contribute to psycho-social responses and peace-building;
- Ensuring mechanisms for community based schools to be registered into the national system and promote teacher training;
- Ensuring recognition of certificates received during displacement, and reintegration into national systems upon return or local integration.
- Providing access to potable water while promoting sustainable and community-based water systems and maintenance.
- Conducting food and nutrition surveys, and stabilize nutrition ensuring food security and promote food safety at household and community levels.
- Providing access to comprehensive, integrated reproductive health services, including contraceptives, for all persons of reproductive age.
- Raising awareness and build capacities of communities and authorities in the prevention of gender-based violence, particularly sexual violence, and the provision of appropriate support to victims.⁸⁴

Membership includes MWTI as chair and secretariat, MCIL, LTA, SSC, SPA, SAA, Office of the Regulator(OTR), Bluesky, Digicel, MESC, NHS, SWA, STA, and SBS. The relevant PHT clusters to work under this sub-committee are Logistics, WASH & Protect, Health & Nutrition, Education in Emergencies and Early Recovery.

⁸³

⁸⁴ NDMP, p 37 & 59

4.3.6.4 Livelihoods sub-committee

The responsibility of this sub-committee is to assess and coordinate response to the immediate restoration of sources of livelihoods such as agriculture and fishing. They are also responsible for providing options to ensure that the sources of livelihoods for the affected community are considered and alternative sources are immediately available. MCIL is the chair and secretariat of this sub-committee whilst MAF acts as Vice-chair. Other members include MNRE, MOF, STA, SHA, COC, SUNGO and Samoa Bankers Association. The role of this sub-committee is crucial during both the response and recovery stage of a disaster.

During the recovery stage the sub-committee will undertake impact, needs and capacity assessments focused on local economic resources and livelihood opportunities including labour market surveys and analysis may be required. Other livelihood recovery interventions may include:

- Identifying detrimental coping mechanisms such as child labour or survival sex, and develop appropriate preventive and responsive measures in collaboration with communities, authorities and other relevant actors;
- Promoting transfer of skills, using returnee skills learned during and before displacement;
- Promoting micro and small enterprise recovery through short-cycle business-management training, cash grants, access to microfinance schemes;
- Restoring and reinstating remittance facilities;
- Providing and repairing fishing boats and fishing equipment;
- Restoring damaged crops and distribute seeds, seed vouchers, fertilizers, hand tools, provide credit to traders, and promote improved land management techniques, to prevent soil erosion and exhaustion as well as promoting diversification of food crops to improve nutrition, and cash crops to increase biodiversity and incomes;
- Repairing of flood control and irrigation schemes;
- Protecting and rehabilitating productive assets (fodder production, animal health, management of natural resources);
- Providing support to horticulture, home or school gardens, or re-establishment of orchards; and
- Assessing the use of natural resources as coping mechanisms in post-crisis situations to supplement normal forms of income, and recommend measures for sustainable management of resources, for reduced reliance on natural resources for income and for rehabilitating impacted areas.⁸⁵

The relevant PHT cluster to work under this sub-committee is the Early Recovery cluster.

⁸⁵ NDMP, p37 & 60.

4.3.6.5 Recovery preparedness and planning sub-committee

Proper planning for recovery preparedness is crucial for any recovery process. This sub-committee is responsible for ensuring recovery strategies and plans are in place to guide the process to recovery, strengthen the policy framework to support recovery measures across affected sectors, predict potential recovery needs and prepare a generic framework to monitor and evaluate the recovery process. Membership includes MOF as chair, MNRE as Vice-Chair, MWCSD, MWTI, EPC, SWA, LTA, SRCS, SUNGO, Chamber of Commerce, DMO as secretariat and advisor.⁸⁶

4.3.6.6 Early recovery/ recovery needs assessment sub-committee

The purpose of early recovery and recovery needs assessment is to provide information for developing a strategic plan that will guide the recovery process, as well as a portfolio of integrated projects to be implemented. The needs assessment will also highlight any policy gaps that need to be addressed to ensure a successful implementation of any recovery framework. Further detailed assessments are conducted to identify the medium to long-term reconstruction needs. Socio-economic impact assessments will be undertaken to evaluate the overall cost (damage and loss) of a disaster, as well as the financial requirements for the reconstruction process.⁸⁷

Membership for this Committee include MOF, MNRE, MOP, MWTI, MESC, SRCS, NHS, MOH, SWA, EPC, STA, LTA, MAF, MCIT, MCIL, MWTI, DMO.⁸⁸

The relevant PHT Cluster under this sub-committee is the early recovery and protection cluster.

4.3.6.7 Housing reconstruction and settlement sub-committee

Basically, this sub-committee is responsible for assessing shelter damage, capacity and needs which involves:

- Identifying alternative and affordable building technologies for repair and reconstruction that will improve building and planning standards and provide access to affordable and environmentally sustainable building materials;
- Identifying networks of implementing partners; and assess capacities of local building material producers and markets;
- Identifying national building regulations in recovery shelter, and review building codes and enforcement; support the development of housing policy that integrates risk reduction and takes into account gender, vulnerability and non-discrimination issues;
- Undertaking demonstrative projects that show risk resilient construction types; train local artisans in hurricane, earthquake and flood resistant building techniques; and
- Promotion and building capacity of communities for building shelter and provide community-based shelter support to people with special needs.⁸⁹

⁸⁶ Ibid, p57.

⁸⁷ Ibid, p57-58.

⁸⁸ Ibid, p58

⁸⁹ Ibid

Legal framework for disaster response and management

Members include MWTI as chair and secretariat, MWGSD, MOH, SRCS, SUNGO, MNRE, LTA, SWA, EPC. For the PHT Cluster System, the following clusters will be working in collaboration with this DAC Sub-committee through the provision of resources including surge capacity as needed. These Clusters include Protection, Health & Nutrition, Welfare & Camp Management, and WASH.⁹⁰

4.4 Achievements and challenges

The legal mandate and structure for disaster management in Samoa has made huge strides since DMO was first established and DEMA 2007 and the various NDMPs became operational. The NDMP compliments DEMA 2007 with its detailed plan of structures, roles and responsibilities for each and every relevant agency. Elaborate processes ensure not only a chain of command but a structure for cohesion and order.

Initially, despite early consultations and workshops only those directly involved or working closely with disaster management and risk reduction were familiar with the roles, responsibility and processes within the NDMP. Perceptions and awareness levels changed soon after the tsunami of 2009, where it was quickly realised that awareness of roles and duties led to better cohesion and coordination. Increased training and workshops followed the aftermath of the tsunami, so by the time Cyclone Evan struck in 2012, the agencies involved in the Disaster Management structure were better prepared and coordinated. The experiences of the 2009 Tsunami and Cyclone Evan in 2012 combined with regular trainings and workshops, has led to enhanced awareness amongst the relevant agencies regarding their duties and functions and improvement in inter-agency coordination. Also the physical relocation of DMO and NEOC headquarters to higher ground in Tuanaimato next to the Faleata Fire Station means that all central operations are in a permanent strategic location to run its operations. SRSC's headquarters are also located right across the above headquarters which has strengthened coordination between the two organisations. Other improvements include early warning systems being established in strategic areas prone to certain disasters, and there is now the availability of emergency radio equipment and frequency as used by first responders.

Relevant agencies are now more proactive in attending trainings and sub-committee meetings to ensure that they understand the processes and procedures in place. Some government agencies have complied with the requirement to develop internal disaster management plans and standard operating procedures (SOPs) as required by the NDMP to deal with emergencies and disasters which are specific to the services they are required to carry out. Other government agencies that have not finalised their plans and SOPs should do so in a timely manner and lodge with DMO for their review and record. DMO should compile and secure all agency disaster management plans and SOPs in a centralised database of disaster management materials which can be readily available and accessed by all. SOPs should be standardised by DMO at a national or sector level where possible.

One of the concerns raised by relevant stakeholders is the availability of records and accurate baseline data. There have been recurring problems in the past where information gathered by various agencies on similar issues differ because of the different methodologies and baseline data used to collect information. A standardised approach

⁹⁰ Ibid, p58-59

to data collection and recording relating to disaster relief of those affected must be encouraged. The central database within DMO must also be the integrated source for all data used during emergency or disaster operations and must be updated on a regular basis.

Capacity of the staff to carry out the work within DMO may also be challenging. The continuation of regular training of all members and staff who will most likely be involved in the NEOC is encouraged to ensure clarification and understanding of their roles if called upon. Coordination between agencies during times of disaster can be improved through regular training. Awareness programs and emergency drills for the general public has remained consistent and should continue as well.

As to request for international assistance, it appears that the NDC, DAC and DMO are clear on the involvement of the PHT Cluster groups if called upon to assist. The intention is that the PHT Clusters will provide support where required. Although this arrangement is understood, the revised NDMP should elaborate more on the expected roles and responsibilities which PHT are to perform if requested. This ensures clarity and certainty of roles.

It is noted that the NDMP is currently under review. The revised NDMP should take into account the matters raised in this Chapter as well as some of the recommendations which are provided in the other sections of this report.

4.5 Recommendations

It is recommended that:

- √ Response agencies within the National Disaster Management structure should ensure that internal DM Plans, Service continuity and emergency response plans and SOPs for disasters and emergencies are finalised and in place. Where appropriate DM, Response Plans and SOPs across sectors should be standardised to ensure consistency.
- √ The NDMP under review should take into consideration the recommendations contained in this report.
- √ The NDMP under review should elaborate more on the role of the PHT when requested by Samoa to assist.
- √ The NDMP under review should also address issues in relation to baseline data and the methodology used as well as specify the central management information system and information required.
- √ Increased efforts should continue to educate and inform key stakeholders and partners on the DEMA 2007 and NDMP especially in relation to guidelines and processes.

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Chapter 5

Early warning leading to request for international assistance

5.1 Early warning systems

Procedures for initiating warning systems for hazards are outlined in the NDMP. Official sources have been selected and appointed to issue warnings of developing or impending disaster or hazards.⁹¹ These official sources may rely on external or local agencies to supply information which will be used as the basis for their decisions. The format and delivery of warnings may differ depending on the nature of the disaster or hazard.

The official sources of warning for different hazards as provided in the NDMP is outlined in Table 3 of the NDMP which has been annexed as Annex 3 for ease of reference. For natural disasters, the official source of warning is the Meteorology Division of MNRE. MOH is responsible for issuing the official warning relating to public health disasters such as diseases, pandemic and/or epidemic. For terrorism and security hazards, the MOP or the Transnational Crime Unit is responsible for initiating the appropriate warning protocol.

The DMO assists by translating technical warning information into instructions for the public.⁹² The DAC Sub-committee on emergency telecommunication and early warning systems plays an important role in the dissemination of warning and advisories to the public in a timely manner.

For example, information in relation to a tsunami threat is normally issued to Samoa out of the Pacific Tsunami Warning Centre in Hawaii (PTWC). Bulletins from the PTWC are issued to Samoa via the Meteorology Division. The DMO office is also advised and assists the Samoa Meteorology Division in monitoring the threat. The Meteorology Division informs the public through radio stations and via text messaging issued by the two local telecommunication mobile companies (Digicel and Bluesky). Local television stations may also be instructed to screen warnings if time permits.

Different stages of monitoring and advice for a Tsunami include the following operative phases; "Tsunami Watch in Effect", "Tsunami Warning in Effect", "Tsunami Warning Cancelled".⁹³

5.1.1 Three stage process

The above example illustrates the three stage process used by the DMO to determine the type of response to a disaster. The process guides the different response agencies in their decision making as to whether they are required to implement their own agency response plans.⁹⁴

The first stage is to "Stand By". This is activated once it is known that an eminent disaster or hazard threatens Samoa. DMO is tasked with notifying all DAC members of the hazard and places them on standby to ensure they are ready to commence operations if required. It is the responsibility of DAC members to ensure their own agency is ready to respond to the disaster.⁹⁵

⁹¹ NDMP 6.3, p27.

⁹² NDMP, 6.3, p27

⁹³ MNRE, "Early Warning System" <<http://www.mnre.gov.ws/index.php/disaster-preparedness/early-warning-system>>.

⁹⁴ NDMP, 7.7.1, p48.

⁹⁵ Ibid, p49.

Early warning leading to request for international assistance

The second stage is “Action”. This comes into effect when the hazard is imminent or has occurred. The National Emergency Operations Centre (NEOC) is activated, the NDC is notified accordingly and DAC members respond in accordance with their obligations and responsibility to the DAC or the various sub-committees.⁹⁶

The third and last stage is “Stand Down”. This is when the operations of the NEOC cease to continue and emergency responses move into the recovery phase. This stage is triggered by the NDC upon advice and consultation with DAC.⁹⁷

5.2 National Emergency Operations Centre (NEOC)

The National Emergency Operations Centre (NEOC) is located at the Faleata Fire station at Tuanaimato. The NEOC is staffed by the DMO and other personnel from within MNRE and other key agencies with technical experience necessary during times of disasters. The make-up of the NEOC may change depending on the type of technical expertise required to deal with the disaster experienced. The operations of the NEOC follow the Coordinated Management Systems (CIMS) methodology. Command rests with the National Controller who is the Chair of DAC (Chief Executive Officer MNRE). The NEOC manager and response coordinator makes up the NEOC management Unit which supports the National Controller and supervises the different units. The units include, public information and community alerting, operations, intelligence and planning, logistics and support. The responsibilities of each unit are self-explanatory by reference to its title.⁹⁸

The NEOC acts as the coordinating mechanism during disasters or hazards such as receiving and distributing relief supplies. It co-ordinates operational actions which includes tasking organisations and individuals in accordance with standard operating plans. It is the main centre of communication to monitor and manage the disaster. It hosts meetings of the DAC and gathers information on activities being undertaken by DAC agencies and organisations to disseminate accordingly through reports and recommendations.⁹⁹

5.3 Proclamation of Emergency

The authority and process for declaring a state of emergency by proclamation has already been explained in the preceding chapter.¹⁰⁰ The Head of State will only issue a proclamation of emergency upon the advice of Cabinet. Normally Cabinet makes the decision when they are already sitting as the NDC. Therefore, the NDC or Cabinet is highly dependent on DAC or the NEOC to provide them with sufficient information and intelligence in order to determine whether a declaration of emergency is required. If such advice is given by Cabinet to the Head of State, then the proclamation of emergency will be issued and will remain in force for 30 days.¹⁰¹

⁹⁶ Ibid, p49

⁹⁷ Ibid.

⁹⁸ Ibid, p50-51.

⁹⁹ Ibid, p48

¹⁰⁰ Constitution of Samoa, article 105 and 106

¹⁰¹ Ibid, article 105(2).

5.4 Declaration of Disaster

Section 19 of DEMA 2007 grants this authority to the Chair of the NDC to issue a declaration of disaster where it may not be possible to make a proclamation of emergency due to the unavailability or absence of the Head of State¹⁰²; or the circumstances do not warrant a formal proclamation of emergency due to the limited extent or impact of a disaster¹⁰³; or if the matter required to be implemented can be performed within 48 hours.¹⁰⁴

A declaration of disaster issued by the Chairperson of the NDC would immediately activate the disaster response provisions in the NDMP.¹⁰⁵ A declaration of disaster remains valid for a period of 48 hours or until a proclamation of emergency is issued within that 48 hours timespan.¹⁰⁶ A declaration of disaster can however be extended for another 48 hour period if the disaster has not ceased and circumstances beyond the control of any person prevent the making of a Proclamation.¹⁰⁷ The declaration may apply to the whole or part of Samoa.¹⁰⁸

5.5 Request for International Assistance

International assistance provided by the international community during times of disasters is offered through different ways. They may either participate directly in response operations through technical assistance and expertise or through the provisions of urgent relief supplies and materials. Long term assistance programmes may also be offered through disaster specific aid programmes. Existing aid programmes may also be reformed to cater for any urgent-medium-long term relief required as a result of a disaster.

Once a declaration of disaster or a state of emergency has been issued then an initial assessment is carried out by the NEOC through its committees. DAC is then advised as to what is needed by way of international assistance for submission to the NDC. It is only upon the directive of the NDC that requests for international assistance can be submitted to aid agencies and development partners. This will be issued once it is clear that the situation at hand is beyond the capabilities of the existing national resources. There is currently no specific criteria to determine when such a situation exists.

Specific requests by government ministries or sub-committee for international assistance will be submitted through the NEOC, through a prescribed form signed by the CEO or head of the requesting agency. The requests will then be passed onto the Aid Coordination Committee. The committee will facilitate an aid coordination meeting with development partners and donors seeking specific assistance. International partners with presence in Samoa would have already carried out their own independent scoping and assessments which assist with the process as they would be able to offer specific assistance. Formal requests based on offers made are followed up by a simple Exchange of Letters for the purposes of record keeping.

¹⁰² DEMA 2007, s19(2)a

¹⁰³ DEMA 2007, s19(2)b

¹⁰⁴ DEMA 2007, s19(2)c

¹⁰⁵ DEMA 2007, s19(1)

¹⁰⁶ Ibid s19(4)

¹⁰⁷ Ibid, s19(5)

¹⁰⁸ Ibid, s19(6)

Understanding the process to request international assistance during times of disasters is still ad hoc at best and it needs to be outlined clearly in the NDMP to ensure clarity amongst the partners involved.

5.6 Recommendations

In addition to the recommendations contained in Chapter Four, it is recommended that:

- ✓ Specific criteria based on past assessment reports provided by responsible agencies should be included in the NDMP identifying when a disaster has exceeded national capacities and therefore warrant a request for international assistance;
- ✓ The procedure and process for requesting international assistance as explained in this chapter should be elaborated in the NDMP;
- ✓ Request and acceptance forms for international assistance should be standardised as agreed between all parties involved.

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Chapter 6

International actors
need legal facilities

6.1 International Organisations with Diplomatic Immunities

The Diplomatic Privileges and Immunities Act 1978 of Samoa grants diplomatic immunity and privileges to Foreign States.¹⁰⁹ The Act also grants diplomatic immunity to International Organisations provided that the Head of State acting on the advice of Cabinet has declared through an Order for such privileges and immunities to apply.¹¹⁰

The types of privileges and immunities which are afforded to States and international organisations include those set out in articles 1, 22 to 24 and 27 to 40 of the Vienna Convention on Diplomatic Relations of 1961 which have been adopted as law of Samoa by section 5 of the Diplomatic Privileges and Immunities Act 1978.¹¹¹ Such privileges include inviolability of their premises, dues and taxes, immunity from criminal, civil and administrative jurisdiction.¹¹²

Section 9 (2) (b) of the Diplomatic Privileges and Immunities Act 1978 extends immunity to any persons who are representatives (whether Government or not) on any organ or committee of the organisation or at any conference convened by the organisation.¹¹³ Privileges and immunities as set out in the third schedule of the Diplomatic Privileges and Immunities Act 1978 may also extend to such persons employed on missions (diplomatic missions),¹¹⁴ on behalf of the organisations as specified in the Order.¹¹⁵ Privileges and immunities under schedule 3 include the immunity from suit and the legal process, the inviolability of residence and exemption from taxes and rates as similarly accorded to diplomatic agents.¹¹⁶

Although certain privileges and immunities are granted to States they are only granted to diplomatic missions. As to International Organisations, privileges and immunities are only granted to the extent provided in the Order issued by the Head of State. For States, the current practice between Samoa and its normal trading partners is to utilise existing letters of exchange; enter into new letters of exchange; or letters of understanding (or other ad-hoc agreements) which govern the conditions of entry and scope of activities of personnel and treatment of relief goods during disasters. These ad-hoc agreements will normally specify applicable exemptions and immunities.¹¹⁷

For International Organisations, whether immunities and privileges apply depends on the extent of the Order issued by the Head of State and whether foreign relief workers of such organisations qualify as part of missions due to the nature of the work which they carry out. For example, part of the UN mission to Samoa is to provide aid and assistance during times of disasters and have personnel on stand-by to afford such assistance. In such cases, the privileges and immunity clauses would apply to relief work they undertake during a disaster. The Diplomatic Privileges and Immunities (Declared International Organisations) Order 1998 also extends such privileges and immunities to all other officials of the organisations who do not qualify in the other provisions.¹¹⁸ It can be argued that this is broad enough to encompass those officials belonging to the organisations who enter into Samoa to carry out disaster relief work during times of

¹⁰⁹ Diplomatic Privileges and Immunities Act 1978, s5

¹¹⁰ *Ibid*, s9.

¹¹¹ *Ibid*, s5.

¹¹² *Ibid*, schedule 1, article 31. However there are exceptions to this rule.

¹¹³ *Ibid*, s9(2)(b)(i)

¹¹⁴ The term “missions” in the Diplomatic Privileges Act 1978 s4 is defined as “diplomatic missions”

¹¹⁵ *Ibid*, s9(2)(b)(iii)

¹¹⁶ *Ibid*, Schedule 3.

¹¹⁷ Interview with representative of Ministry of Foreign Affairs and Trade.

¹¹⁸ Diplomatic Privileges and Immunities (Declared International Organisations) Order 1998, s616

hazards and disasters. To erase any doubt, it is proposed that privileges and immunities be specified to cover those officials and personnel for State and approved international organisations that are authorised to enter Samoa as disaster relief personnel during disasters and emergencies.

The good news is that the backbone of the law to grant privileges and immunity is already in place and can be done by a simple Order from the Head of State. This means that if required, a specific Order can be made by the Head of State upon the advice of Cabinet to grant certain privileges and immunities to foreign relief workers of both States and International Organisations to ensure adequate protection from certain liability whilst they assist during disasters or hazards.

In the meantime, the following organisations have been granted privileges and immunity:

- Asian Development Bank (ADB)¹¹⁹
- Food and Agriculture Organisation (FAO)
- International Bank for Reconstruction and Development (IBRD/World Bank)
- International Civil Aviation Organisation (ICAO)
- International Labour Organisation (ILO);
- International Maritime Organisation (IMO)
- International Monetary Fund (IMF)
- International Telecommunications Union (ITU)
- Pacific Islands Forum¹²⁰
- SPREP¹²¹
- The United Nations (UN)
- United Nations Development Program (UNDP)
- United Nations Environment Programme (UNEP)
- United Nations Population Fund (UNFPA)
- United Nations Educational, Scientific and Cultural Organisation (UNESCO)
- United Nations Children's Fund (UNICEF)
- United Nations Industrial Development Organisation (UNIDO)
- World Health Organisation (WHO)
- World Meteorological Organisation (WMO)
- World Trade Organisation (WTO)
- World Intellectual Property Organisation (WIPO)¹²²

¹¹⁹ Diplomatic Privileges and Immunities (Declared International Organisations) Amendment Order 2016, Schedule 1

¹²⁰ Diplomatic Privileges and Immunities (Declared International Organisations) Order 2006, s3

¹²¹ The author is aware that SPREP was most recently included on the list in schedule 1.

¹²² Diplomatic Privileges and Immunities (Declared International Organisations) Order 1998, Schedule 1

6.2 Samoa Red Cross Society

The Western Samoa Red Cross Society (Inc.) was established in 1952 as a branch of the New Zealand Red Cross when Western Samoa, as it was then known, was a United Nations Protectorate under the administration of New Zealand. The change of name to Samoa Red Cross Society (Inc.) was a consequential result of the change of the country's name from Western Samoa to Samoa in 1995.¹²³ It has been incorporated as a legally constituted society pursuant to the Incorporated Societies Ordinance of 1952 and has its current headquarters based up at Tuanaimato opposite the Faleata Fire Station where the DMO and NEOC headquarters are also housed.¹²⁴

Officially recognised by the Government of Samoa, the functions and responsibilities of the Samoa Red Cross Society were evident through the signing of the Memorandum of Understanding (MoU) on the 3rd of November 1983 (later renewed on the 7th of May 2010).¹²⁵ In the MoU both parties recognised the importance of the following:

- a. General Convention for the Amelioration of the Condition of the Wounded and Sick of August 12, 1949.¹²⁶
- b. That the Samoa Red Cross Society (Inc.) would be an autonomous voluntary Aid Society, auxiliary to the public authorities, and acting for the benefit of the civilian population.¹²⁷
- c. That SRCS shall adhere to the statutes of the International Red Cross and shall honour the fundamental principles of the Red Cross as defined by the International Red Cross Conferences (humanity, impartiality, neutrality, independence, voluntary service, unity, universality).¹²⁸

Also in 1993, the Samoa Red Cross Act was passed with the sole purpose of affording statutory protection against the use within Samoa of the name Red Cross and the distinctive emblem of the Red Cross by any person or body not authorised by the Red Cross Society.¹²⁹

It is important to note at this junction that Samoa has passed into law the Geneva Convention Act 2015 which formally recognises the four (4) Geneva Conventions which deal with humanitarian aid. The Geneva Conventions Act 2015¹³⁰ also amends the Samoa Red Cross Act 1993 to formally/statutorily recognise the SRCS as the recognised Red Cross in Samoa. The Geneva Convention Act came into force on 9 July 2015.

6.3 Non Governmental Organisations (NGOs)

As is the case in other Pacific countries, Non-Government Organisations (NGOs) play an important role in providing assistance and relief during times of disasters. Two categories of NGOs are present in Samoa (i) International NGOs; and (ii) NGOs with local

¹²³ Samoa Red Cross Society, Constitution (adopted by Special General Meeting on 8th May 2013) Apia, article 2.

¹²⁴ Ibid, article 2.

¹²⁵ Memorandum of Understanding between Government of the Independent State of Samoa and the Samoa Red Cross Society (Inc) clause 1.1.

¹²⁶ Ibid, clause 1.2.

¹²⁷ Ibid, clause 1.4.

¹²⁸ Ibid, clause 1.9-1.10.

¹²⁹ Samoa Red Cross Act 1993

¹³⁰ Geneva Convention Act 2015, section 14.

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presence. NGOs with local presence may be formally registered however some have not undertaken this process. Some of the organisations are registered as charitable organisations and others as incorporated societies with the Ministry of Commerce, Industry and Labour (MCIL).

Organisations registered as incorporated societies are required to have a minimum of 15 members, a legal constitution, annual renewal fees and summary of accounts. They are governed by their respective constitutions according to the Incorporated Societies Ordinance 1952 and the Incorporated Societies Amendment Act 2012. Charitable organisations must comply with the provisions of the Charitable Trust Act 1965. To be registered as a charitable trust, the organisation will need to provide evidence of property, declarations of trust and board of trustees. All registered NGOs are required to register for a business licence. Local NGOs and CSOs are made up mainly of community organisations, village based groups, sporting bodies and church groups.

Many of the NGOs and CSOs in Samoa are members of the Samoa Umbrella for Non-Government Organisations (SUNGO). To become members of SUNGO, organisations are required to abide by the following principles of: responsibility to the wider community, sharing ideas, fostering a spirit of partnership, recognising the importance of sustainability and accountability in terms of the impact of their activities on the social, economic, political and natural environment.

International NGOs normally have local presence through registered agents. For example, ADRA is a not for profit organisation which was set up as one of the many organisations to quickly respond to those who are affected by natural disasters and in need of immediate assistance. It is governed by an executive board and is part of ADRA International and ADRA New Zealand. ADRA has been a member of SUNGO since 1997. Other humanitarian international NGOs with local agents in Samoa include Caritas and Habitat for Humanity.

The international and national NGOs including well established diaspora groups who wish to provide relief during times of disaster are required to register with the Disaster Management Office (DMO). Legally, organisations with no presence in Samoa but who wish to carry out any business activity in Samoa are required to apply for a Foreign Investment certificate and local business license. However, international NGOs which are not registered locally and are in Samoa for a limited time for disaster relief purposes are still allowed to operate although their scope of operations may be limited. During times of disaster, DMO provides a list of all international NGOs with temporary presences which have been approved to carry voluntary services in the country to the registry of companies.

Besides this list, there are no formal policies or processes to govern the registration of international organisations that will be in Samoa during times of disaster temporarily or to monitor their operations. There is also no legal framework to govern how these international NGOs can provide immediate disaster response. An ad-hoc arrangement is in place and there is an understanding between Government through the DMO and the international NGOs of the limitations of their operations and assistance. The DMO also relies heavily on the Samoa Red Cross Society (Inc.) to monitor international and national NGOs, as they have been approved by NDC to provide overall supervision and coordination to all NGOs during times of disaster.

6.4 Recommendations

It is recommended that:

- √ The Government of Samoa should consider adopting an Order to specifically extend the privileges and immunities in the Diplomatic Privileges and Immunities Act 1978 to cover officials and personnel of States and approved International Organisations who are authorised to enter into Samoa as disaster relief personnel during periods of disasters and emergencies.
- √ A registry to be established in the Ministry of Commerce, Industry and Labour for registering all international organisations, NGOs and other foreign entities (i.e. Diaspora groups) who intend to carry out disaster relief work in Samoa during a disaster and emergency.
- √ Minimum registration requirements should be stipulated to afford legal status to these foreign entities when operating in Samoa. The same procedures should also provide classification as to extent and type of disaster relief work which they can carry out in Samoa in accordance with their expertise.

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Chapter 7

Customs, tax, quarantine
arrangements for entry of
relief goods and supplies

Customs, tax, quarantine arrangements for entry of relief goods and supplies

Disasters and hazards normally occur with little or no notice at all. Whether countries such as Samoa have enough resources and aid relief goods and equipment on hand depend on factors which are sometimes beyond the control of governments. Private commercial business and organisations have to ensure financial stability and regular cash flow by importing and ordering strategically which means stock piling on certain relief goods is not a priority. Stock piling of goods with the intention of creating reserves for times of disasters comes with its own problems especially if such goods carry expiration dates. This means that in times of disasters, there is sometimes a need for the urgent importation of relief goods and equipment if local supplies are minimal or depleted. Procedures including costs at the border may delay imported goods and equipment from reaching priority disaster affected areas in a timely manner. On the contrast, if relief goods and equipment are allowed to bypass normal procedures without proper monitoring, there is potential for the importation of illegal items under the guise of humanitarian aid.

The IDRL Guidelines call upon governments to assist states and humanitarian organisations by expediting customs clearance of relief goods and services. It also calls upon governments to exempt relief activities from taxes, duties and fees. The guidelines encourage governments to reduce legal barriers and red tape procedures to ensure disaster relief goods and equipment reach their destination without delay. This can be carried out by minimizing document and inspection requirements.

7.1 Customs, import and tax exemptions

Samoa laws provide for exemptions in customs, import and tax applicable to States and International organisations which may provide disaster relief to Samoa.

The Customs Act 2014 allows the Minister of Revenue upon the advice of the Comptroller of Customs to exempt specified goods or goods of a specified class from the requirements of section 60 of the Customs Act 2014.¹³¹ Section 60 governs the entry of imported goods into Samoa.¹³² The Minister of Revenue may act on the advice of the Comptroller and suspend or create exemptions from duty or excise duty in respect of goods or classes of goods imported into Samoa supplied for the sole use of organisations established in Samoa by agreement between Governments or with the United Nations.¹³³ The Second Schedule to the Customs Tariff Act 1975 provides concessions to organisations or committees as approved by Cabinet which provide approved material for disaster relief. Both import and excise duties are free, although VAGST of 15% still applies.¹³⁴ Approval by the Comptroller of Customs is still required before the concession is used. There is also available a general power for the Minister of Revenue to refund, remit or waive any fee, charge or expense in whole or in part by issuing an Order acting on the advice of the Comptroller.¹³⁵

In relation to VAGST, the supply of goods and services shall be exempt from tax if donated goods and services are supplied by a non-profit body,¹³⁶ or through an overseas funded aid project for the benefit of Government or a public authority if so specified

¹³¹ Customs Act 2014, s63 (c)

¹³² Ibid, 60.

¹³³ Ibid, s 103; see also Customs Tariff Act 1975, s3 (2).

¹³⁴ Customs Tariff Act 1975, Second Schedule , Code 117.

¹³⁵ Customs Act 2014, s337 (4)(a).

¹³⁶ Value Added Goods and Services Tax Act 2015, Schedule 2 (1)(b)

in the agreement or Memorandum of Understanding governing the exchange.¹³⁷ In addition, although the second schedule to the Customs Tariff does not provide VAGST concessions for approved disaster relief materials, the current practise by Government (Ministry of Finance) is that where an organisation is approved by DMO or NEOC as being an approved organisation which provides disaster relief material, it will cover the VAGST component applicable to the relief material.

7.1.1 Other tax fees

income may also be exempt if derived by non-profit organisations,¹³⁸ or derived by international organisations in accordance with an international agreement,¹³⁹ or for income of an individual who holds office in Samoa as an official of a foreign government or international organisation to the extent provided in the Diplomatic Privileges and Immunities Act 1978.¹⁴⁰ Furthermore, income may be exempt if derived from an institution, society or trust established for a charitable purpose.¹⁴¹

7.1.2 Port charges

one of the concerns raised by stakeholders especially shipping agents and brokers are the port fees. In past disasters, there have been issues surrounding port fees and the lack of any waiver or exemption to disaster relief vessels docking at the main ports. A representative of SPA advised that SPA has always complied with any cabinet directive to waive port charges relating to disaster relief. However, what is perhaps mistaken by the public is that SPA cannot waive port charges for vessels that are already scheduled to arrive at port and which not only carry disaster relief material but also carry commercial goods.

It is noted that section 45 of the Ports Authority Act 1998 clearly gives the Ports Authority power to exempt any vessel, goods, classes of vessels or goods from payment of dues¹⁴² and reduce, refund or waive any dues or rates¹⁴³. Samoa Ports Authority should review its SOPs and criteria to determine whether it is appropriate to exercise power in cases of disaster in order to comply with its international obligations. It should also clarify situations as to what waiver will be provided where a vessel carries both disaster relief material as well as normal commercial goods.

7.1.3 Medications

The import of medical equipment and medication outside periods of emergency and disaster currently attracts duty and VAGST.¹⁴⁴ During times of emergency and disaster, code 117 of the Second Schedule to the Customs Tariff Act 1975 applies to medical equipment and medication imported as part of international relief and assistance if certification and approval is received from DMO or NEOC. The VAGST component is covered by Government through the Ministry of Finance.

¹³⁷ Value Added Goods and Services Tax Act 2015 Schedule 2 (1) (g)

¹³⁸ Income Tax Act 2012, S17 and Schedule 2, Part A (1)(h)

¹³⁹ Ibid, Schedule 2, Part A (1)(n)

¹⁴⁰ Ibid, Schedule 2, Part A (1)(q)

¹⁴¹ Ibid, Schedule 2, Part A (2)(a)

¹⁴² Ports Authority Act, S45(a)

¹⁴³ Ibid, S45(b)

¹⁴⁴ Customs Tariff. Import Duty is 8% whereas VAGST is 15%. There is no excise duty.

Customs, tax, quarantine arrangements for entry of relief goods and supplies

To qualify, a proposed list of medical equipment and medication must be submitted to the Chief Executive Officer of the Ministry of Health or his delegate for clearance and approval before distribution to Samoa. This is especially crucial to determine the type of medication being imported or carried into Samoa by international relief personnel with medical expertise. There is a restriction on certain narcotics being imported in Samoa without a proper license.¹⁴⁵ In some cases, importation of certain narcotics is governed by the International Narcotics Control Board (INCB). For example, only a specified volume of certain narcotics such as methadone and morphine are allowed in the country. Prior notice and permission to import or export such substances is required from the INCB which issues a certificate authorising the import or export of the specified volume. Regular update reports must be provided to the INCB as to the use or remaining stock in storage. This requirement still needs to be complied with during times of emergency and disaster.

Provision of a list of medical equipment and medication for prior clearance also prevents the dumping of unwanted and unnecessary medical supplies and medications into Samoa. It also prevents the importation of medication with expiration dates long past its due date; prevents the expense and trouble of having to re-export medical equipment which cannot be used in our country (wrong power supply); or which is non-compliant with certain health or environment standards.

7.1.4 Food

The import of relief foodstuff during times of emergency and disaster also attracts concession in code 117 of the Second Schedule to the Customs Tariff Act 1975 if certification and approval is received from DMO or NEOC. If approval is granted for the import of relief food items, the VAGST component will also be covered by the Government through the Ministry of Finance. In earlier disasters, food items which were sent over by international organisations, private NGOs and individuals were accepted by DMO. However, this created a number of problems for DMO and NEOC. Some goods were expired and therefore needed to be disposed. Other food items were not suitable for disaster relief operations. In more recent disasters, food items being offered required prior approval from DMO or NEOC before shipment to reduce the earlier problems experienced.

7.1.5 Special equipment and vehicles

Section 130 of the Customs Act 2014 deals with duties to be paid on goods temporarily imported into Samoa. The provision allows a refund of the duty paid, if the goods imported are exported within the prescribed period of 12 months.¹⁴⁶ Besides this provision, there are no specific clauses that deal with the importation of special equipment and other modes of transport by international humanitarian organisations specifically during times of disasters and emergency. In any event, the concession in code 117 of the Second Schedule to the Customs Tariff Act 1975 is general enough to also include special equipment and vehicles. As the approval of the Comptroller is still required, specific terms and conditions can be imposed to allow special equipment and vehicles in the country for the period of the emergency or disaster.

¹⁴⁵ Narcotics Act 1967, s 10 and s11.

¹⁴⁶ Customs Act 2014, s130..

7.1.6 Expedited process

There is no provision in the relevant customs legislation which specifically includes expeditious procedures to clear disaster relief goods during times of emergency and disasters. In the past, there have been complaints in relation to delays in releasing disaster relief goods during emergencies and disasters as well as the tedious process involved. However this process is necessary so that the Ministry of Revenue can undertake proper checks to prevent the importation of illegal goods under the pretence of disaster relief aid. There is an SOP in place with the Ministry of Revenue, which govern customs pre-release and pre-arrival procedures.¹⁴⁷ This procedure would be the most likely process used to facilitate the speedy clearance of disaster relief goods imported during times of emergencies and disasters. Minimal documents are required for the release of goods which include a letter stating the reasons for the pre-release / pre-arrival clearance of goods. Normally, a letter or email advice from DMO or NEOC would be proof that suffice goods imported are indeed disaster relief related. Much of the responsibility to comply with these conditions is placed on the broker or shipping agent.¹⁴⁸ A review of this SOP is maybe warranted to determine whether any other delays in processes can be reduced.

7.1.7 Quarantine measures

the Quarantine (Biosecurity Act) 2005 governs the inspections of consignments and other packages which arrive at any of the ports and or airports of entry. The substance of the Quarantine (Biosecurity Act) 2005 deals with preventative measures against pests and animals which may cause biosecurity threats. There are no specific provisions which deal with the facilitation expeditiously of relief goods or equipment through quarantine or the waiver of any fees. However in practice the Quarantine Division adheres to any instruction provided by the NDC.

7.1.8 General waiver

Section 10A of DEMA 2007 provides a general waiver to expedite overseas relief personnel when entering Samoa. This general waiver provision should also be extended to taxes, duties, charges and any other fees applicable to the importation of disaster relief materials. The time period in the waiver provision should not be restricted only during emergencies and disasters. It should consider the medium and long term disaster relief materials that will be entering Samoa as part of the recovery phase.

7.2 Recommendations

It is recommended that:

- √ The Samoan Government should review its policy consideration in relation to VAGST and whether it should be charged on imported foreign aid materials given that in practise, approved international entities do not pay this tax.
- √ The Samoa Government to consider amending S10A in the DEMA 2007 to extend the waiver authority of the Chairman of the NDC to taxes, duties, dues, charges and other fees which he determines necessary. Regulations or policies may be established

¹⁴⁷ Ministry of Revenue, Standard Operating Procedure – Cargo Clearance Pre-Release, revised 8/10/2014.

¹⁴⁸ Ibid.

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to set out a criteria of factors where it will be appropriate to exercise this power and to also specify all the different taxes, duties, dues, charges and fees imposed by the different agencies which may be affected accordingly.

- √ The DMO with assistance from the MOH and MAF should consider incorporating policies for preferred or non-perishable food baskets and food items which may be suitable for relief aid packages during times of disaster and emergencies so that international partners may be aware of this when offering international aid assistance.
- √ All agencies involved with border control should review existing SOP to provide priority and expeditious clearance of relief materials during a period of disaster or emergency and reduce documents required for release.

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Chapter 8

International relief personnel

International relief personnel

The IDRL guidelines require that affected States waive or expedite the granting of visas and any necessary work permits for international relief personnel provided by assisting states and eligible humanitarian organisations. The IDRL guidelines also require expedited procedures for temporary recognition of professional qualifications of foreign specialists and professionals that have been certified as genuine by assisting States and who may be required to carry out disaster relief or initial recovery activities.¹⁴⁹

8.1 Entry permits and visa

Unless a citizen of Samoa, you cannot enter the country without an entry permit. Any application for an entry permit must be made prior to commencing travel to Samoa.¹⁵⁰ An entry permit may take the form of a visitors permit, temporary resident permit, permanent resident permit and ministerial entry permit.¹⁵¹ Despite this provision, most passport holders from Commonwealth and other countries do not need to apply for a visitor's visa prior to arrival in Samoa as long as there is a proof of a return or onwards ticket. Those travelling on a visitor's visa may stay in Samoa for up to 60 days.

The Minister of Immigration¹⁵² may also grant a Ministerial entry permit which allows a person to enter into Samoa once or more during the currency of the permit.¹⁵³ A Ministerial entry permit may be granted to a person or class of people who are accredited to the Government of another country or to an international or regional organisation and their families. A Ministerial entry permit may also be granted to members of a police service or a military force or a security service of a country declared by Cabinet to be friendly to Samoa.¹⁵⁴

There are no specific exemptions stipulated in the Immigration Act 2004 as to occasions where an entry permit may be waived. There is a general exemption where the Minister may exempt a person from entering and departing Samoa through a regulated port or airport.¹⁵⁵ Section 18 of the Diplomatic, Privileges and Immunities Act 1978 is also applicable as it gives power to the Minister responsible for Foreign Affairs to exempt diplomats from having to pay any fees, duties and other applicable charges. As to the granting of employment permits, the Minister responsible for Labour and Employment Relations may grant an employment permit to a person who is a non-citizen where the Minister considers it appropriate to do so in the circumstances.¹⁵⁶ Although there are certain specific criteria which needs to be satisfied before an employment permit can be issued.¹⁵⁷ It is important to note that the provisions of the Labour and Employment Relations Act (LERA) 2013 do not apply to those diplomats of States and International and Regional Organisations who are subject to the Diplomatic, Privileges and Immunities Act 1978.¹⁵⁸ Also, although not specified, the LERA can also be interpreted as not applying to those who are not undertaking employment in Samoa such as volunteers.

¹⁴⁹ IDRL Guidelines, Part IV, s16

¹⁵⁰ Immigration Act 2004, s1 and s2.

¹⁵¹ Ibid, s11.

¹⁵² The Prime Minister holds this portfolio.

¹⁵³ Ibid, s15(1).

¹⁵⁴ Ibid, s15(2)(d)

¹⁵⁵ Ibid s4(2)

¹⁵⁶ Labour and Employment Relations Act (LERA) 2013, s60(1).

¹⁵⁷ Ibid, s160(2).

¹⁵⁸ Ibid, s2 see definition of employment.

It is in DEMA 2007 where you will find authority for the Chairman of the NDC to waive any entry or other requirement for emergency personnel entering Samoa at the request of the Government. However, the waiver granted only operates during and for the period of emergency.¹⁵⁹

In practice, during a proclamation of emergency, international disaster relief personnel do not require employment permits as they are operating in Samoa as authorised volunteers.¹⁶⁰ As for entry by international relief personnel into Samoa, the NEOC works closely with MFAT through the Aid Coordination Committee to determine those international relief personnel needed as per requests from DAC agencies or as offered and recommended by international partners. Forms are filled in by DAC agencies as to specialised personnel which they may require. Alternatively, selection is made through a list offered by Samoa's international partners as to disaster relief personnel who are ready to travel to Samoa if required. From these forms and lists, a formal list is compiled and MFAT makes a formal request (or informal if time is of essence) to the international partners. Once the list has been approved by NEOC and agreed by the international partners, the list of approved personnel is relayed to the border agencies which include Immigration, Customs, SAA, MOH, MAF (Quarantine), MOP and others for their information. Any entry visas are waived in accordance with the authority of the Chairman of the NDC as set out in Section 10A DEMA 2007. All that is sufficient for entry into Samoa for the prescribed period is a valid passport or a photo badge documentation identifying which state or international organisation s/he represents.

What is perhaps evident from the above is that despite the general waiver and practice, there is an absence of any specific regulation or policy which prescribes how and when the chairman of the NDC is to exercise the waiver in DEMA 2007. Moreover, it would assist if the above practise is recorded in either regulations, the NDMP or in one central SOP. This will no doubt provide certainty as to the roles and functions of all DAC agencies involved. It perhaps may be beneficial to determine whether the waiver by the Chairman of the NDC should also extend to declarations of disaster as the current authority can only be exercised during a proclamation of emergency.

8.2 Recognition of professional qualifications and licences

One of the concerns during any emergency or disaster is the qualification of international relief personnel who offer assistance. There is a concern that some professionals' especially medical practitioners travelling to Samoa volunteering their services during times of disasters may not have suitable or sufficient experience. Others may arrive with their own intentions and agendas on how they wish to contribute, which may hinder and disrupt operations already in place. Although there is an obligation to expedite temporary recognition of these professionals, assisting States must also play their part. There is a requirement that assisting States and International Organisations vet their

¹⁵⁹ DEMA 2007, s10A.

¹⁶⁰ Interview with Assistant Chief Executive Officer, Ministry of Prime Minister.

International relief personnel

professionals to ensure that they meet or exceed the minimum qualifications required in order to practise in Samoa. Some of Samoa's international partners are aware of the minimum requirements set by the different professions and have available at all times a list of pre-approved specialists and professionals who are ready to travel to Samoa to undertake international disaster relief work. Having a pre-approved list of professionals and specialist available will no doubt assist in fast tracking the necessary approvals required by law for certain professionals to practise in Samoa during times of emergencies and disasters.

As to disaster relief personnel who are medical practitioners or related specialty, approval is still required by the Medical Council or the Council of Nursing and Midwifery before a person is allowed to practise in Samoa even during times of emergency and disasters. It is an offence to practise as a medical specialist in Samoa without a license.¹⁶¹ A temporary practise license can be issued by the Medical Council which allows a person to practise in Samoa for a period not more than 3 months or on other conditions which may be imposed. According to the Acting Registrar of the Health Care Professionals, during times of disaster, the normal process of registration as outlined in sections 10–13 of the Medical Practitioners Act 2007 is simplified and approval can be obtained within a day. One of the main requirements is for the applicant to provide a current and valid medical practicing license. Any fees are also waived. Conditions which may be imposed include restricting professionals to certain activities.

8.3 Recommendations

In addition to the recommendations in the preceding chapter, it is recommended that:

- ✓ The waiver in section 10A of DEMA 2007 should be revisited to determine whether the authority of the Chairman of NDC be extended to declarations of disasters and for regulations or policies to be established prescribing the form and/or manner in which the Chairman of the NDC may exercise this authority.
- ✓ Regulations or Policies should also be formally established or centralised to outline the current practise followed by DAC agencies when considering and allowing international relief personnel entry into Samoa.
- ✓ Professions such as the Medical Council and Council of Nursing and Midwifery should clearly set out by way of regulation or standard operation procedures to their governing legislation the simplified registration process and basic requirements of compliance applicable to international relief personnel before temporary licenses are approved and issued during times of disasters.

¹⁶¹ Medical Practitioners Act 2007, s19.

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Chapter 9

International humanitarian transport

International humanitarian transport

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

9.1 Airport

Samoa has four operational airports. Samoa's main international airport at Faleolo is relatively good given the size and volume of air traffic.¹⁶² It is operated and managed by state-owned Samoa Airports Authority (SAA). The other two airports owned and managed by SAA are the Asau airport and Maota airport in Savai'i which was upgraded to meet international standards for regional trips.¹⁶³ The fourth airport is located at Fagalii and is operated and managed by Polynesian Airlines. It mainly operates international flights between Samoa and American Samoa. The Fagalii, Asau and Maota airports cater for small aircrafts such as the Twin Otto series and other smaller planes.

During times of disaster, if the SAA is unable to operate the international airport at Faleolo, it is declared closed. The management of the airspace over Samoa is then handed over to Auckland Airport in New Zealand. Upon reopening of airports, priority is afforded to emergency aircrafts bringing in relief food and equipment or personnel. As a signatory to the Chicago Convention, SAA recognise their duty to facilitate the entry into, departure from and transit of relief flights performed by or on behalf of international organisations recognized by the UN or on behalf of the States themselves and have in place emergency operational procedures to deal with such situations. Relief vessels and personnel are cleared without unnecessary delays. Most fees are waived upon instructions from the NDC although the mandate to do so is not clear.

The Civil Aviation Act 1998 sets out the general power and procedures which apply to matters of civil aviation in Samoa. Although there are no specific provisions which deal with facilitation of international disaster relief air transportation, the Civil Aviation Regulations 2000 allow for the adoption of the New Zealand Civil Aviation Rules. Guidance is also received by following Annex 9 and 14 of ICAO which applies in Samoa.¹⁶⁴

Moreover section 36 of the Civil Aviation Act 1998, provides the Director of Civil Aviation with the power to exempt any person or aircraft from any specified requirement in any rules made under Sections 27–29. International assistance in the form of relief helicopters are approved entry by the Director of Civil Aviation (CEO MWTI) in collaboration with SAA. Landing zones for helicopters are identified and approved by the SAA after consulting the Director of Civil Aviation (CEO MWTI) as well as the DMO or DEOC. Permission and clearance is also required from landowners or village mayors if landing zones are identified in villages close to disaster affected areas.

¹⁶² Government of Samoa, Samoa Post Development Needs Assessment Report , Following the Earthquake and Tsunami in 2009, December 2009, p59

¹⁶³ Ibid.

¹⁶⁴ MWTI, "Air Transport Facilitation Program" Vol 4 in "National Civil Aviation Security Programme, 2014 as per comments from representative of MWTI; Refer also to Chicago Convention n24 and n25.

9.2 Roads

The road network in Samoa provides for the daily wellbeing of its citizens by increasing their access to economic and social activities. On Upolu and Savaii, there are about 2340km of roads, 332km (14 per cent) of which are paved, and 52 bridges.¹⁶⁵

Special vehicles have already been covered in Chapter 7. The same principle will also apply to donor relief vehicles which may enter Samoa for a specified limited period. Any donor relief vehicles or boats which may enter the country during times of disaster may be exempted from fees, duties or licences, if approved by the Comptroller of Customs. Vehicles owned by foreign diplomatic missions in Samoa will attract privileges and immunities under the Diplomatic Privileges and Immunities Act 1978.

Section 36(2)(d) of the Land Transport Authority (LTA) Act 2007 also allows the Head of State on the advice of Cabinet to prescribe regulations exempting certain vehicles from the requirement to be registered in certain circumstances. No regulations have been prescribed to specifically exempt donor relief vehicles temporarily in country from fees, duties and licences.

There are no provisions exempting foreign aid workers from driving without a driver's licence. Foreign aid workers are still required to have on them a valid driver's licence from their home country, and can easily obtain a temporary licence in Samoa.

9.3 Ports

Samoa's port infrastructure consists of five primary ports, including three on Upolu (Aleipata, Apia, and Mulifanua) and two on Savai'i (Asau and Salelologa). All of the ports can service both passengers and cargo, and the Ports of Mulifanua and Salelologa offer important inter-island passenger services. The Port of Apia is the most important economically and has been assessed as one of the best-performing ports in the Pacific region.¹⁶⁶ In 2011, an average of 11 container ships stopped at Apia Port, about half of which were multipurpose and half cargo, making it one of the largest ports in the Pacific as measured by container ship visits. Overall, nearly 225 ships, including containers, fuel tankers, cruise liners, and smaller regional vessels made calls at the country's ports in 2011.¹⁶⁷

The maritime ports are governed by the Samoa Ports Authority (SPA) Act 1998. The SPA Act 1998 does not have specific provisions to govern the facilitation of international assistance in times of disasters or hazards. The General Manager (Chief Executive Officer) may direct the execution of any work necessary for the operation of port services or the safety of persons on vessels for emergencies and disasters.¹⁶⁸ Moreover, one of the response functions of SPA in accordance with the NDMP is to assist in maritime search and rescue by providing, managing and maintaining adequate and efficient port services, facilities and security at the port.¹⁶⁹ Exemption of port fees and charges are covered in Chapter 7.

¹⁶⁵ Government of Samoa, "Post Disaster Needs Assessment: Cyclone Evan", March 2013

¹⁶⁶ Ibid

¹⁶⁷ Government of Samoa, Samoa Post Development Needs Assessment Report, Cyclone Evan 2012, March 2013, p87

¹⁶⁹ Ports Authority Act 1998, s20.

¹⁶⁹ Government of Samoa, NDMP, Item 10, p40

9.4 Recommendations

It is recommended that:

- √ Regulations and policies to applicable transport laws in Samoa be amended to cater for the arrival and treatment of disaster relief vessels and vehicles used temporarily for disasters and emergencies.
- √ For border agencies to expeditiously prioritise the landing and clearance of disaster relief vessels arriving in Samoa.
- √ Airport fees and charges be waived in accordance with earlier recommendations relating to waiver of fees and charges.

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Chapter 10

Accountability and transparency

Accountability and transparency

The IDRL Guidelines recommend that assisting actors and their personnel abide by the laws of the affected State and coordinate with domestic authorities. It also calls upon assisting actors and their personnel to abide by international laws and respect the dignity of disaster-affected persons at all times. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality, and impartiality and that aid priorities are calculated on the basis of need alone. Aid must be provided in a transparent manner, sharing appropriate information on activities and funding.¹⁷⁰

It is also recommended that States actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.¹⁷¹ States and assisting humanitarian organizations are required to cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate. Affected States are requested to use funds and relief goods donated to them and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.¹⁷²

In essence, there is a responsibility on both the assisting actor and the receiving state to comply with certain principles as outlined above. Assisting actors must give impartially and prioritise aid which is requested. Receiving States must be accountable and transparent in the manner in which such assistance is used.

10.1 Government Expenditures

The Constitution of Samoa allows for an unforeseen expenditure of 3% of the total Appropriation Bill which is included in the annual estimates laid before the Legislative Assembly. The Cabinet or Minister of Finance acting on the authorisation of Cabinet may transfer such an amount as necessary from the unforeseen expenditure as long as such a sum is available.¹⁷³ The Public Finance Management Act 2001 (PFMA 2001) also requires that such a sum does not exceed the total amount in the unforeseen expenditure account.¹⁷⁴ It is also a requirement that all transfers or transactions from the unforeseen expenditure account be disclosed under the same heading in the financial statements for the financial year in which the transfer was made.¹⁷⁵

The PFMA 2001 also allows for the emergency expenditure of public money where there is a state of national emergency or state of civil defence emergency declared under Article 105 of the Constitution by Proclamation of Emergency.¹⁷⁶ In such a situation the Minister of Finance may approve expenditures from the Treasury Fund to meet an emergency whether or not there is an appropriation by the Legislative Assembly available for this purpose.¹⁷⁷ Where public money is expended under the emergency provisions of the PFMA 2001, a notice to this effect must be published in the Savali Newspaper and other local newspapers circulating widely in Samoa as soon

¹⁷⁰ IDRL Guidelines, Part 1 para 4

¹⁷¹ Ibid, part 1 para 5

¹⁷² Ibid, part 1 para 6

¹⁷³ Constitution of Samoa, article 96.

¹⁷⁴ Public Finance Management Act (PFMA) 2001, s29(3) and (4).

¹⁷⁵ Ibid, s29(6).

¹⁷⁶ Ibid, s30(1).

¹⁷⁷ Ibid.

as practicable.¹⁷⁸ Moreover, a statement of expenditure from the treasury fund used for an emergency must be laid before the Legislative Assembly at the earliest opportunity and included in the annual financial statements and the Appropriation Bill for the same or the succeeding financial year.¹⁷⁹

All funds during a disaster or emergency are controlled by the Ministry of Finance. Upon the proclamation of an emergency, the emergency funds account is established as per the provisions of the PFMA 2001 above. The initial funds to operate the emergency funds account can come out of the unforeseen expenditure although more recently; an amount has been appropriated in the Government Budget.¹⁸⁰ In addition to this, a separate bank account is created for donor funds, pledges and other financial assistance received from States, Organisations or private individuals which assists the emergency funds account in covering expenditure accrued during disasters or hazards.

Upon the declaration of disaster or proclamation of emergency, authorisation of all procurement and payment of essential goods, equipment or services is handled through DAC (DMO) or through the NEOC. Fast track processes and procedures are followed in remitting payments with the Ministry of Finance working closely with the DMO or the NEOC in authorising and clearing payments. In urgent situations, a more simplified procedure is followed and the use of a cheque book by the Ministry of Finance is mandated. The advantage of all money being handled by the Ministry of Finance is the ability to keep proper records of all payments for the correct preparation of financial reports.

All financial reports in relation to the Government budget including money used for emergency relief are audited by the Chief Auditor and the Audit Office.¹⁸¹ Audited financial accounts are then passed to Parliament where the reports are scrutinised by the Select Committee of Parliament responsible for Finance and Expenditure before being tabled in Parliament for its consideration and approval.¹⁸² The Government through the MOF has in the past produced and published on the MOF website reports on the allocation and utilisation of disaster related funds and assistance. This is noted as good practice in terms of accountability and transparency to all stakeholders.

One of the main concerns by private sector businesses who are approached during times of disaster for the procurement of goods, equipment or services is the delay in payment. Although there is a common understanding and acceptance that payment will be received once things are back to normal, there is a common complaint of delays in payments and worries that such delays will have an effect on their own cash flow operations especially if an enterprise is small.

10.2 Non-Government Organisations

The NGOs that contributes or receives funding for disaster relief manages its own finances and funds independently. Financial management and reporting on the use of international donor funds is carried out in accordance with a prior agreed arrangement between the donors and the NGO which other parties may not be privy to. There is no standardised financial management and reporting model which NGOs are required to

¹⁷⁸ Ibid, s30(2).

¹⁷⁹ Ibid, s30(3).

¹⁸⁰ For example, it was stated by Ministry of Finance Officials that 5 million had already been allocated for the emergency fund which was used during Cyclone Evan.

¹⁸¹ Constitution of Samoa, article 99; PFMA 2001, s107.

¹⁸² Parliament of Samoa Standing Orders 170.

Accountability and transparency

adhere to. NGOs who are legally registered as a legal entity with the Registry within the Ministry of Commerce, Industry and Labour as an incorporated society or other legal entity reports to the Registry in accordance with its governing legislation.¹⁸³ It is required to file its audited statement of income and expenditures on an annual basis.¹⁸⁴

There are international NGOs and other donors who prefer to give direct financial assistance to the SRCS instead of the State. Given that the SRCS is also registered as an incorporated society, it will also need to comply with the requirements stated above. Internally, the SRCS has its own finance committee which acts as an advisory committee to the Governing Board on all financial matters, especially in relation to budgets, annual accounts and reports prepared by the Treasurer of the SRCS.¹⁸⁵ Financial reports are required to be prepared at the end of the financial year and audited by an external company of chartered accountants.¹⁸⁶ There is no requirement for audited financial reports to be published for dissemination to the public. In relation to funds received from the IFRC, a letter of agreement entered into between SRCS and IFRC govern the remittance of any funds.¹⁸⁷ Financial management provisions are included which require the SRCS to keep uniform, consolidated and transparent accounts and provide financial reports to the IFRC on the use of the funds. Such instances are required to submit financial reports on a monthly basis especially in relation to matters concerning purchasing, transport, and warehousing and distribution activities which should be carried out in accordance with IFRC standards and principles. External auditing of the accounts and timeframe is also mutually agreed between SRCS and IFRC.

10.3 Recommendations

It is recommended that:

- MCIL should continue to monitor registered disaster relief agencies and renewal of registration annually be conditional on satisfactorily complying with the imposed requirements.
- That MOF and the Audit Office review its current procedures with a view to expediting the process for payments of goods and services procured locally.
- Consider whether registered agencies who receive disaster funds should adhere to the same accountability and transparency standards as Government and require that audited accounts relating to foreign assistance during times of disasters be published.

¹⁸³ Incorporated Societies Ordinance 1952, s22 requires every incorporated society to deliver annually to the Registrar an audited statement containing the income and expenditures of the society during the society's last financial year.

¹⁸⁴ Ibid, s22.

¹⁸⁵ SRCS Constitution 2013, article 24

¹⁸⁶ Ibid, article 35

¹⁸⁷ For example, Letters of Agreement for Implementation of Samoa Earthquake and Tsunami Emergency Appeal between SRCS and IFRC, 2009-2010.

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Chapter 11

Summary of recommendations

Summary of recommendations

11.1 Chapter Four: Legal Framework for Disaster Response & Management

It is recommended that:

- Response agencies within the National Disaster Management structure should ensure that internal DM Plans, Service continuity and emergency response plans and SOPs for disasters and emergencies are finalised and in place. Where appropriate DM, Response Plans and SOPs across sectors should be standardised to ensure consistency.
- The NDMP under review should take into consideration the recommendations contained in this report.
- The NDMP under review should elaborate more on the role of the PHT when requested by Samoa to assist.
- The NDMP under review should also address issues in relation to baseline data and the methodology used as well as specify the central management information system and information required.
- Increased efforts should continue to educate and inform key stakeholders and partners on the DEMA 2007 and NDMP especially in relation to guidelines and processes.

11.2 Chapter Five: Early Warning Leading to Request for International Assistance

In addition to the recommendations contained in Chapter Four, it is recommended that:

- Specific criteria based on past assessment reports provided by responsible agencies should be included in the NDMP identifying when a disaster has exceeded national capacities and therefore warrant a request for international assistance;
- The procedure and process for requesting international assistance as explained in this chapter should be elaborated in the NDMP;
- Request and acceptance forms for international assistance should be standardised as agreed between all parties involved.

11.3 Chapter Six: International Actors need Legal Facilities

It is recommended that:

- The Government of Samoa should consider adopting an Order to specifically extend the privileges and immunities in the Diplomatic Privileges and Immunities Act 1978 to cover officials and personnel of States and approved International Organisations who are authorised to enter into Samoa as disaster relief personnel during periods of disasters and emergencies.
- A registry to be established in the Ministry of Commerce, Industry and Labour for registering all international organisations, NGOs and other foreign entities (i.e. Diaspora groups) who intend to carry out disaster relief work in Samoa during a disaster and emergency.

- Minimum registration requirements should be stipulated to afford legal status to these foreign entities when operating in Samoa. The same procedures should also provide classification as to extent and type of disaster relief work which they can carry out in Samoa in accordance with their expertise.

11.4 Chapter Seven: Customs, Tax, Quarantine Arrangements

It is recommended that:

- The Samoan Government should review its policy consideration in relation to VAGST and whether it should be charged on imported foreign aid materials given that in practise, approved international entities do not pay this tax.
- The Samoa Government to consider amending S10A in the DEMA 2007 to extend the waiver authority of the Chairman of the NDC to taxes, duties, dues, charges and other fees which he determines necessary. Regulations or policies may be established to set out a criteria of factors where it will be appropriate to exercise this power and to also specify all the different taxes, duties, dues, charges and fees imposed by the different agencies which may be affected accordingly.
- The DMO with assistance from the MOH and MAF should consider incorporating policies for preferred or non-perishable food baskets and food items which may be suitable for relief aid packages during times of disaster and emergencies so that international partners may be aware of this when offering international aid assistance.
- All agencies involved with border control should review existing SOP to provide priority and expeditious clearance of relief materials during a period of disaster or emergency and reduce documents required for release.

11.5 Chapter Eight: International Relief Personnel

In addition to the recommendations in the preceding chapter, it is recommended that:

- The waiver in section 10A of DEMA 2007 should be revisited to determine whether the authority of the Chairman of NDC be extended to declarations of disasters and for regulations or policies to be established prescribing the form and/or manner in which the Chairman of the NDC may exercise this authority.
- Regulations or Policies should also be formally established or centralised to outline the current practise followed by DAC agencies when considering and allowing international relief personnel entry into Samoa.
- Professions such as the Medical Council and Council of Nursing and Midwifery should clearly set out by way of regulation or standard operation procedures to their governing legislation the simplified registration process and basic requirements of compliance applicable to international relief personnel before temporary licenses are approved and issued during times of disasters.

Summary of recommendations

11.6 Chapter Nine: International Humanitarian Transport

It is recommended that:

- Regulations and policies to applicable transport laws in Samoa be amended to cater for the arrival and treatment of disaster relief vessels and vehicles used temporarily for disasters and emergencies.
- For border agencies to expeditiously prioritise the landing and clearance of disaster relief vessels arriving in Samoa.
- Airport fees and charges be waived in accordance with earlier recommendations relating to waiver of fees and charges.

11.7 Chapter Ten: Accountability and Transparency

It is recommended that:

- MCIL should continue to monitor registered disaster relief agencies and renewal of registration annually be conditional on satisfactorily complying with the imposed requirements.
- That MOF and the Audit Office review its current procedures with a view of expediting process of payments for goods and services procured locally.
- Consider whether registered agencies who receive disaster funds should adhere to the same accountability and transparency standards as Government and require that audited accounts relating to foreign assistance during times of disasters be published.

Annex 1: Risk Hazards

Samoa is exposed to a number of hazards, some of which are seasonal, such as tropical cyclones, floods and droughts, whilst other present an ever present threat, such as earthquakes, volcanic eruption, tsunamis, epidemics, industrial hazards, and exotic plant diseases.

Whilst it may be appropriate to list all possible hazards, the emphasis of the disaster management arrangements contained with this Plan is those hazards that have the potential to create a significant emergency in Samoa, and would most likely require some degree of government coordination to manage.

A risk analysis process was undertaken whereby for each hazard, a Maximum Credible Event (MCE) has been identified. These are events which are credible in terms of the magnitude of the consequences and likelihood of occurrence. They are useful to help provide context and understanding of the sorts of events that must be managed, and are also useful for risk assessment purposes.

A qualitative risk assessment approach based on the Australian New Zealand Risk Management Standard 4360 (AS/NZS 4360:1999) has been used as the basis of a preliminary risk assessment.

Each MCE has been assigned a likelihood and consequence rating. Together, the likelihood and consequence rating translate to a certain level of risk (Extreme, High, Medium or Low).

The Extreme and High level risks are those that should be the focus of emergency management programmes, including hazard information and monitoring, risk reduction initiatives public awareness and contingency planning.

The level of information upon which this assessment was based varied considerably from hazard to hazard.

Hazard	Likelihood	Consequence	Level of Risk	Maximum Credible Event (MCE)
Cyclone ¹⁸⁸	A	4/5	E	Category 5 Tropical Cyclone with winds gusting to more than 100mph. Destructive storm surge and high surf increasing to 24 feet affects the western and northern coastal areas of Savai'i and northern coastal area of Upolu. Very destructive storm surges of 15 to 20 feet will affect most of the northern coastal areas of Upolu and southwest coast areas of Savaii and Upolu. Subsistence crops destroyed, severe property damage and unprotected coastal infrastructure destroyed. Many injuries and some loss of life. Power and telecommunications disrupted for several days possibly weeks. Potential for further deaths due to disease. Estimated damage over US\$130 million.

¹⁸⁸ Includes stormsurge causing coastal inundation; high winds and rain induced landslips

Annex 1: Risk Hazards

Hazard	Likelihood	Consequence	Level of Risk	Maximum Credible Event (MCE)
Volcanic Eruption	C	4	E	Explosive eruption on the east-west or north rift zones on Savai'i within the next 50–100 years. It is more likely that areas on the northern half of Savai'i will be more vulnerable to the consequent effects. Damage will be greatest on adjacent flora and fauna, infrastructure and lifelines, tourism, subsistence agriculture and fisheries, and general property damage. The airport will be closed for prolonged periods (due to ash). No loss of life anticipated. Some villages may have to be permanently relocated.
Tsunami	C	4	E	A tsunami with a mean run-up of between 7 and 9 metres has a return period of between 50 and 100 years based on a probability analysis of historical records. Significant damage to unprotected coastal areas will occur. Subsistence crop loss and damage to coastal infrastructure. Fishing industry affected. Significant property damage. Loss of life would be expected for both tsunami generated some distance away (e.g. Chile-Peru region) despite warning of approximately 13 hours, and more significantly for tsunami generated in the region (e.g. Tonga-Kermadec trench) as warning periods will be much shorter.
Urban Fires	C	4	E	Large fire in Apia town area, particularly near the markets. The buildings are all attached/close together with no fire protection, or water supply. Fast moving fire would destroy properties quickly and would be difficult to get under control. Many potential fire sources are present in this area (cooking oils etc). Major economic impact with many injuries and potentially also loss of lives.
Public health crisis	C/D	5	E	Outbreak of Avian Influenza with 2 confirmed cases quickly spreading to affect half of the population, with possibly one third of the population (approx. 55,000) dead within 3 weeks (estimated life of virus). Significant economic impact (reduced workforce), and loss of tourism for a long period. Cost of treatment, funerals, life insurance and NPF payouts crippling for the economy. Destruction of all poultry will be required. Similar effects to 1918 flu epidemic.
Environmental crisis – invasive species	A	4	E	Red Imported Fire Ants are discovered. The ant has a painful bite and makes outdoor living difficult. This impacts on tourism and affects Samoa's outdoor lifestyle. Small animals are also affected and susceptible infrastructure is at risk. Eradication is difficult and very expensive, as they are usually found after becoming established. An eradication campaign in Queensland (Australia) has cost AUS\$75M over 7 years.
Flood ¹⁸⁹	B/C	3	H	Prolonged heavy rainfall in and around Apia, affects roads, blocks drains, flash flooding in locations with the potential to cause a small number of deaths, crops affected. Most effects short lived.

¹⁸⁹ Inland flooding due to heavy rain

Annex 1: Risk Hazards

Hazard	Likelihood	Consequence	Level of Risk	Maximum Credible Event (MCE)
Earthquake	C	3/4	H	A Richter magnitude 8.5+ earthquake with an epicentre some 200km southwest of Samoa. This event is likely to generate peak ground accelerations of 0.1 to 0.2g and correspond with a local felt intensity of Modified Mercalli (MM) VII to VIII. An event this size is likely to cause landsliding and damage to unreinforced buildings. A small localised tsunami may be generated (as it was for the 1917 event of similar size and epicentre). No major infrastructure damage or loss of life is anticipated. Crops not affected (cf. tsunami or cyclone).
Landslides	B	2	H	Landslides in Samoa are usually caused by heavy rainfall. Earthquakes can also trigger landslides. Landslide hazard zones have been mapped for the whole of Samoa. Instability of soil has also been mapped for the whole of Samoa. If landslides occur, it is highly likely that major damages to infrastructure such as roads, water pipes, electricity, and communication can occur. They are unlikely to cause fatalities as most unstable areas are away from human settlements. There is a lot of quarrying activities which may cause soil instability in the future.
Forest Fires	C	3	H	Large scrub fire threatening one or more villages. Unlikely to cause fatalities as it won't be that fast moving due to fuels being normally fairly moist. Loss of crops likely. Few structures affected. Fire service resources used to protect villages but no capability to fight fire in rural areas. Potential for it to get out of control, particularly on Savai'i.
Aircraft emergency (airport)	D	4	H	A full 747 aircraft (approx. 400 passengers) crashes on approach to the airport. Many injuries and deaths of both locals and tourists on board. Airport is closed for 1 week. Major impact on the economy due to airport being out of action and tourism is affected.
Hazchem incident – marine	C	3/4	H	Incident involving underwater fuel pipe offshore, either an explosion or discharge of fuel by tanker trying to unload product. Large volumes of fuel could be potentially discharged (4000 metric tonnes) causing major environmental problems and affecting the fishing industry.
Lifeline Utility Failure – water	D	3/4	M	Water supply in the city out for more than two days due to a burst main at the start of the system. Most government and private corporations cannot function without water and would have to shut down as there is limited water storage. Many industries (construction, bottling plant) also cannot operate without water. Public health consequences (sanitation); economic consequences for businesses and government. There are many spring that could be utilised as alternate water sources.
Agricultural crisis – animal or plant disease	D	3	M	Taro beetle causing Taro Leaf Blight which seriously affects Samoa’s staple crop (taro). Domestic food supply at risk as well as exports. Eradication is difficult and very expensive.

Annex 1: Risk Hazards

Hazard	Likelihood	Consequence	Level of Risk	Maximum Credible Event (MCE)
Civil emergency – external	E	3/4	M	Invasion or aggressive take-over. Economic consequences; injuries and possible deaths. Extremely unlikely although consequences would be significant.
Lifeline Utility Failure – ele-communications	D	2	L	3 days no landline telecommunications (major substation failure). Other means of communication available (HF; satellite phone).
Lifeline Utility Failure – electricity	D	2	L	3 days no power in Apia. Apia affected (hospital; govt. services); villages ok.
Major infrastructure failure – building collapse	E	3	L	One of Apia’s multi-storied buildings collapses (earthquake or bomb). Immediate area devastated and building collapses. Adjacent buildings also affected. Situation is quickly contained. Some injuries, possible deaths.
Major infrastructure failure – dam	D	2	L	A breach in the face of Afulilo dam (hydro dam) caused by an earthquake. Three villages are located downstream of the dam (in Fagaloa Bay) and would be badly affected. Power supply would be seriously interrupted to those villages relying on power from the dam. An alternative power supply would have to be sourced for the medium long term as the dam is repaired.
Drought	E	2/3	L	A prolonged drought causes the dry out of intakes in rural areas. A lack of adequate water trucks means water supply to these areas is limited initially. Private contractors’ water trucks are used at significant cost. Crops fail and there are significant economic losses. The environmental impact is high as streams dry up, compounded by needing to take water from them to augment town supply. Villages suffer as there is limited water storage. There are many springs that could be utilised and alternate water sources.
Aircraft emergency (other location)	D	2/3	L	A medium passenger aircraft (25 passengers) crashes into hills south of airport. No survivors. Recovery efforts difficult. Mortuary facilities stretched.
Maritime vessel emergency	D/E	2	L	A cruise ship moored at the Port is on fire. 1000 people have to be evacuated and temporarily housed. Situation is quickly contained. No security issues.
Hazchem incident – land	D	2	L	Explosion of underground tanks – destruction up to 5 mile radius suggested. Low probability due to safety measures in place. Additional risk as is adjacent to fuel storage tanks.
Terrorism	E	3	L	Bomb goes off in one of Apia’s government buildings. Immediate area devastated and building collapses. Situation is quickly contained. Some injuries, possible deaths.
Civil emergency – internal	E	2	L	Political stability makes large riots and other major internal unrest unlikely.

Annex 2: Committee Membership List

National Disaster Council

Organisation	Representative
Ministry of Prime Minister & Cabinet	Prime Minister, Chairperson
Ministry of Natural Resources and Environment	Minister, Deputy Chairperson
Deputy Prime Minister and Minister of Trade	Member
Minister of Police, Prison and Fire Service	Member
Minister of Finance	Member
Minister of Women, Community and Social Development	Member
Minister of Works, Transport & Infrastructure	Member
Minister of Health	Member
Minister of Education, Sports & Culture	Member
Minister of Agriculture & Fisheries	Member
Minister of Revenue	Member
Minister of Justice and Court Administration	Member

Disaster Advisory Committee Members

Core members (Response Agencies as listed in Act)	Representative
Bluesky	CEO (or nominated representative)
BOC Gases	General Manager (or nominated representative)
Digicel (Samoa) Limited	General Manager (or nominated representative)
Electric Power Corporation	CEO (or nominated representative)
Land Transport Authority	CEO (or nominated representative)
Ministry of Agriculture & Fisheries	CEO (or nominated representative)
Ministry of Commerce, Industry and Labour	
Ministry of Communication & Information Technology	CEO (or nominated representative)
Ministry of Education, Sports & Culture	CEO (or nominated representative)
Ministry of Finance	CEO (or nominated representative)
Ministry of Foreign Affairs & Trade	CEO (or nominated representative)
Ministry of Justice and Courts Administration	
Ministry of Health	CEO (or nominated representative)
Ministry of Natural Resources and Environment	CEO (Chairperson of DAC) DMO

Annex 2: Committee Membership List

Core members (Response Agencies as listed in Act)	Representative
Ministry of Police & Prison	Police Commissioner (or nominated representative)
Ministry of Prime Minister & Cabinet	CEO (or nominated representative)
Ministry for Revenue	CEO (or nominated representative)
Ministry of Women, Community & Social Development	CEO (or nominated representative)
Ministry of Works, Transport & Infrastructure	CEO (or nominated representatives) comprising: Maritime Infrastructure Assets – Building Infrastructure Assets – Roads Civil Aviation
National Council of Churches	President (or nominated representative)
Origin Energy Samoa Limited	General Manager (or nominated representative)
Petroleum Products Supplies	General Manager (or nominated representative)
Samoa Airport Authority	General Manager (or nominated representative)
Samoa Fire & Emergency Services Authority	Commissioner (or nominated representative)
Samoa Quality Broadcasting	CEO (or nominated representative)
Samoa National Health Services	General Manager (or nominated representative)
Samoa Ports Authority	General Manager (or nominated representative)
Samoa Red Cross Society	Secretary General (or nominated representative)
Samoa Shipping Corporation	General Manager (or nominated representative)
Samoa Water Authority	General Manager (or nominated representative)
Samoa Bureau of Statistics	General Manager (or nominated representative)

Associate Members	Representative
Adventist Development and Relief Agency	Country Director (or nominated representative)
Australian High Commission	High Commissioner (or nominated representative)
CARITAS Oceania Samoa/ CCJD	Country Manager (or nominated representative)
Chamber of Commerce	CEO (or nominated representative)
Chinese Embassy	Ambassador (or nominated representative)
Head Office – European Union	Head of Office (or nominated representative)

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Annex 2: Committee Membership List

Associate Members	Representative
Japan International Co-operation Agency	Resident Representative (or nominated representative)
LDS	Head of Office (or nominated representative)
New Zealand High Commission	High Commissioner (or nominated representative)
Office of the Attorney General	Attorney General (or nominated representative)
Office of the Audit Comptroller	Audit Comptroller (or nominated representative)
Office of the Regulator	Regulator (or nominated representative)
National University of Samoa	Vice Chancellor (or nominated representative)
Public Service Commission	CEO (or nominated representative)
Samoa Banker Association	President (or nominated representative)
Samoa Hotel Association	CEO (or nominated representative)
Samoa Umbrella for Non-Government Organisations	CEO (or nominated representative)
Secretariat for the Pacific Regional Environment Programme	Director (or nominated representative)
UN Agencies	UN Resident Coordinator (or nominated representatives from UN DMT)
United States of America Embassy	Officér d' Chargé (or nominated representative)
US Peace Corps Samoa	Country Manager (or nominated representative)
World Health Organisation	Resident Representative (or nominated representative)

Annex 3: Official Sources of Warning

Hazard	Official Samoa Source of Warning	Who warning is sent to
Weather related hazards including: <ul style="list-style-type: none"> • Cyclone • Storm surge • High waves • Heavy rain • Strong & gusty wind • Floods • Droughts 	MNRE – Meteorology Division	Media DMO DAC
Volcanic eruption including: <ul style="list-style-type: none"> • Ash fall 	MNRE – Meteorology Division	Media DMO DAC
Tsunami	MNRE – Meteorology Division	Media DMO DAC
Public Health hazards including: <ul style="list-style-type: none"> • Disease • Pandemic • Epidemic 	Ministry of Health	Media DMO DAC
Terrorism	Ministry of Police Prisons & Fire Service Transnational Crime Unit	Media DMO DAC

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
CHAPTER 4					
GOAL: (Recommendation 1)					
Response Agencies to finalise Disaster Management Plans and Standard Operational Procedures for disasters and emergency					
Better Coordinated Response	Format and content of DMPs should be standardized as much as possible Submit DMP & SOP to DMO	Updated template for DMP's DMPs & SOPs to be updated and submitted every six (6) months	I LT	DMO	All Agencies
GOAL: (Recommendation 2)					
The NDMP under review should elaborate more on the role of the PHT when requested by Samoa to assist					
Clarity in the role which PHT will play if requested by Samoa to assist	Strengthen provisions within the NDMP to avoid repetition of roles and responsibilities between DAC agencies and PHT cluster groups	For relevant sections of the NDMP to be updated and elaborate more on: <ul style="list-style-type: none"> the role of PHT cluster groups when coming into Samoa; Chain of command which PHT clusters are to follow	I	DMO	All Agencies
GOAL: (Recommendation 3)					
NDMP should address baseline data and recording and specify central management information system database for disaster relief materials					
Increase Disaster Relief Material Information management capacity.	Develop a centralized National disaster database to contain information and data on the CIM Plans, past disaster events, studies/ research, hazard and risk assessments, mapping datasets, etc. to ensure that disaster relevant information is accessible and informed on planning and policy-making processes	<ul style="list-style-type: none"> Review to be undertaken of the appropriate platform for the database Relevant data and information collated (Reconcile baseline data) National database developed Awareness and training in database use undertaken Resources acquired to support database maintenance 	I	MNRE/DMO	All DAC agencies CSO's NGO's Private Sector

Annex 4: Samoa’s Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
GOAL: (Recommendation 4)					
Increased efforts should continue to educate and inform key stakeholders and partners on National Disaster Management legislation and policies					
Increase understanding of stakeholders of Disaster response and management laws and policies	Strengthen Capacities of all stakeholders in understanding and comprehending Disaster Management legislation and plans Participation of senior officials to DAC meetings fundamental	<ul style="list-style-type: none"> • Continue awareness and training programmes for all Government agencies, Civil Society, NGOs, Private Sector and Communities • Regular meetings of DAC to monitor and review progress of NDMP implementation • Senior officials to be well versed in DAC procedures • Follow up training with community and improve coordination 	I MT & LT	MNRE/DMO ALL DAC Agencies NGO's	CSO's Private Sector SRCS
CHAPTER 5					
GOAL: (Recommendation 5)					
Specific criteria should be included in the NDMP identifying when a disaster has exceeded national capacities and therefore warrant a request for international assistance					
Stakeholders to be informed of criteria which warrants a request for international assistance	DMO to compile data from past assessment reports from different agencies(lessons learnt) to identify the (criteria) for different hazards where Samoa has exceeded its national capacities Identify and clarify the roles of different agencies in making assessment Strengthen knowledge of all stakeholders in understanding these criteria	<ul style="list-style-type: none"> • Document or section within NDMP which sets out specific (criteria); • Adopt a simple process which limits number of committees involved. • Relevant training programmes for all DAC Agencies; • Follow up training with community. 	I I /MT/LT Ongoing	DMO All DAC agencies	CSOs NGOs Private Sector SRCS

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
CHAPTER 6					
GOAL: (Recommendation 8)					
The Government of Samoa should consider adopting an Order to specifically extend the privileges and immunities in the Diplomatic Privileges and Immunities Act 1978 to cover officials and personnel of States and approved International Organisations who are authorised to enter into Samoa as disaster relief personnel during periods of disasters and emergencies.					
Ensure that international personnel of states and approved organisations already in Samoa are afforded same protection officials based in missions in Samoa in accordance with IDRL Guidelines	To consider whether to revise or amend the Diplomatic Privileges and Immunities Act 1978 or Orders to clarify or extend certain or limited privileges and/or immunities to approved disaster relief personnel of states and approved organisations protected under the Diplomatic Privileges and Immunities Act 1978 who only come to Samoa during times of disasters. OR Continue Status Quo whether exchange of letters or other agreements are used	Amend Diplomatic Privileges and Immunities Act 1978; New Orders specifically covering the type of privileges or immunities afforded to disaster relief personnel of states and approved international organisations. Template exchange of letters stating privileges normally given	I	MFAT MPMC Aid Coordination DMO AG	DAC Agencies
GOAL: (Recommendation 9)					
The Government of Samoa to prioritise finalising the proposed draft Geneva Convention Bill 2014 for passage into Parliament so that the Samoa Red Cross Society can be formally recognised in Samoa.					
Enforce Geneva Convention in Samoa and legally recognise status of Samoa Red Cross Society in Samoa as Red Cross entity.	Geneva Convention Act 2015 already passed. Need to set a date for Geneva Act 2015 to come into effect. Date of Assent.	Signing of Minister of proclamation for Geneva Convention Act 2015 to come into force.	I	MFAT AG	SRCS

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Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
GOAL: (Recommendation 10)					
Minimum registration requirements should be stipulated to afford legal status to these foreign entities when operating in Samoa. The same procedures should also provide classification as to extent and type of disaster relief work which they can carry out in Samoa in accordance with their expertise.					
For there to be legal certainty that every international organisation/ entity present in Samoa temporarily during times of disaster are authorised to carry out disaster relief work.	A review of the process followed by DMO/ NEOC granting approval to international organisations/ entities (TOs) temporary legal status in Samoa is required; To categorise types of relief work which can be carried out by certain InTOs;	NDMP to include: <ul style="list-style-type: none"> • Process and minimum criteria to govern whether an InTO will be given temporary legal status; • Outline certain limitations or restrictions on approval in categories and consider using a licensing system. 	I	DMO MCIL	All DAC Agencies
GOAL: (Recommendation 11)					
A registry to be established in the Ministry of Commerce, Industry and Labour for registering all international organisations, NGOs and other foreign entities who intend to carry out disaster relief work in Samoa during a disaster and emergency.					
Same as above	For the practise of pre-registration of InTOs to be adopted to ensure proper checks and clearance can be requested from International Partners in advance.	MCIL to create a registry for InTOs with temporary presence in Samoa which will assist in keeping a formal record that can assist with pre-registration.	I	DMO MCIL	All DAC Agencies
CHAPTER 7					
GOAL: (Recommendation 12)					
The Samoan Government should review its policy consideration in relation to VAGST and whether it should be charged on imported foreign aid materials given that in practise, approved international entities do not pay this tax.					
To minimise restrictions on disaster relief material as they are mainly donated.	To review policy on whether to exempt VAGST as most approved organisation do not pay this cost as it is covered by MOF OR Review practise by MOF and impose on organisations to comply with current laws	Amendment to Schedule II Customs Tariff Act 1975 to reflect VAGST as – free OR Enforce current Schedule II, Customs Tariff Act 1975	I	MOR MOF (Aid Coordination Division) DMO AG	All DAC Agencies

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
GOAL: (Recommendation 13)					
The Samoa Government to consider amending S10A in the DEMA 2007 to extend the waiver authority of the Chairman of the NDC to taxes, duties, dues, charges and other fees which he determines necessary. Regulations or policies may be established to set out a criterion of factors where it will be appropriate to exercise this power and to also specify all the different taxes, duties, dues, charges and fees imposed by the different agencies which may be affected accordingly.					
To extend authority of Chairman of NDC to waive taxes, duties, dues and other charges.	<p>Consider an amendment to s10A of the DEMA 2007 to extend authority for Chairman of NDC to waive taxes, duties, dues and other charges.</p> <p>Consider and review whether this authority should only apply during a proclamation of emergency or should it also apply during a declaration of disaster and whether it applies outside these periods to replenishing.</p>	<p>Draft amendment to s10A of the DEMA 2007 to include the power of the Chairman of NDC to waive taxes, duties, dues and other charges</p> <p>Draft and adopt regulations setting out criteria which will assist the Chairman of NDC in deciding when to exercise this power</p> <p>Alternatively, instead of regulations, set out criteria in relevant section of the NDMP.</p>	I	<p>MNRE</p> <p>MOR</p> <p>MOF</p> <p>AG</p>	DAC Agencies
GOAL: (Recommendation 14)					
The DMO with assistance from the MOH and MAF should consider incorporating policies for preferred or non-perishable food baskets and food items which may be suitable for relief aid packages during times of disaster and emergencies so that international partners may be aware of this when offering international aid assistance.					
Standardise disaster relief food stuff or baskets to be offered for assistance	<p>To review or create policies outlining preferred food items to be provided as assistance suitable to disaster;</p> <p>The above policy should identify appropriate food items for Samoa;</p> <p>reflect minimum restrictions on food security and safety as already reflected in our laws</p> <p>To inform all stakeholders both locally and internationally.</p>	<p>Amendment to the NDMP to include policies in relation to preferred food items and summarising the current laws on restrictions for certain food items.</p> <p>Awareness notices and announcement of new policy to be carried out locally and internationally.</p>	I	<p>MOH</p> <p>MAF</p> <p>DMO</p> <p>AGO</p>	FAO

International Disaster Response Law (IDRL) in Samoa

Strengthening Samoa's Legal Preparedness for the Facilitation and Regulation of Foreign Disaster Response

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
GOAL: (Recommendation 15)					
All agencies involved with border control should review existing SOP to provide priority and expeditious clearance of relief materials during a period of disaster or emergency and reduce documents required for release.					
Expedite clearance process for relief material	All Agencies involved with border control to review SOP to provide priority and expeditious clearance of relief material (Simplified process); For the above SOPs to be provided to DMO so that expedited process can be explained in detail in NDMP	Simplified process reflected in the form of Agency SOP Awareness Trainings to communities.	I	DMO MOR MWTI MPMC (Immigration) MAF (Quarantine) Border Agencies	All DAC Agencies
CHAPTER 8					
GOAL: (Recommendation 16)					
The waiver in section 10A of DEMA 2007 should be revisited to determine whether the authority of the Chairman of NDC be extended to declarations of disasters and for regulations or policies to be established prescribing the form and/or manner in which the Chairman of the NDC may exercise this authority.					
<i>Note: The participants decided to leave both options open as consensus could not be reached in relation to implementation of this recommendation.</i>					
Option 1 Authority to grant waiver extended to declarations of disasters	Amend the legislation to extend the authority of the Chairman but with conditions to be determined (i.e. when necessary)	Amended legislation Amendment to clarify roles of the Chairman N/A	Medium	AGO/DMO/ DAC/H OS	All agencies
Option 2 Leave as is: Upgrade from a declaration of disasters to proclamation of emergency as is currently practised	Continue with current practice of upgrading to proclamation of emergency before any waivers are granted.		N/A		

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
GOAL: (Recommendation 17)					
Regulations or policies should also be formally established or centralised to outline the current practise followed by DAC agencies when considering and allowing international relief personnel entry into Samoa					
Regulations and policies to formally establish and centralised current practises and procedures of the DAC Strengthening the existing collaboration and awareness of necessary partners with the common understanding if and when a disaster arises	Review and draft regulations and policies to formally establish and centralised current practices and procedures to be followed by DAC agencies	Regulation and policy on centralised practices and procedures Recommendation should be reflected in response plans of all Agencies	Immediate	DMO	DAC Agencies
GOAL: (Recommendation 18)					
Professions such as the Medical Council should clearly set out by way of regulation or standard operation procedures to their governing legislation the simplified registration process and basic requirements of compliance applicable to international relief personnel before temporary licenses are approved and issued during times of disasters.					
A regulation or a standard operation procedure regulating the simplified registration process and basic requirements that international relief personnel should comply for any professionals (profession). Not only medical professionals but also include engineers and so forth Also include in the NDMP	Review existing policies/ legislation/standard operating procedures Amend existing policies/ legislation/ standard operating procedures	Amended policies, legislation, SOP	I	MOH/AGO/ REGISTERED PROFESSIONS	All other agencies
GOAL: (Recommendation 18)					
Professions such as the Medical Council should clearly set out by way of regulation or standard operation procedures to their governing legislation the simplified registration process and basic requirements of compliance applicable to international relief personnel before temporary licenses are approved and issued during times of disasters.					
A regulation or a standard operation procedure regulating the simplified registration process and basic requirements that international relief personnel should comply for any professionals (profession). Not only medical professionals but also include engineers and so forth Also include in the NDMP	Review existing policies/ legislation/standard operating procedures Amend existing policies/ legislation/standard operating procedures	Amended policies, legislation, SOP	I	MOH/AGO/ REGISTERED PROFESSIONS	All other agencies

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
CHAPTER 9					
GOAL: (Recommendation 19)					
Regulations and policies to applicable transport laws in Samoa be amended to cater for the arrival and treatment of disaster relief vessels and vehicles used temporarily for disasters and emergencies					
Avoid delays on distribution and used of relief supplies and personnel Strengthening existing systems in place and ensure there is a leeway to do so during disaster periods but should not compromise the general safety procedures to be done	REVIEW CURRENT REGULATIONS Fees imposed by Samoa Airport Authority SHOULD BE WAIVED FOR PLANES AND SHIPS BRINGING IN RELIEF SUPPLIES AND OVERSEAS PERSONNELS Include in the NDMP Specify waiver for relief vessel	Amended transport legislation and Civil Aviation Act and Samoa Airport Authority	I	MWTI DMO AGO LTA/SAA/ CUSTOMS Nt. Civil aviation rules already govern this. MOW Bill in process	DMO/ALL OTHER AGENCIES
GOAL: (Recommendation 20)					
For border agencies to expeditiously prioritise the landing and clearance of disaster relief vessels arriving in Samoa					
Prioritise landing and clearance of disaster relief vessels to avoid delay Expeditious landing and clearance of disaster relief vessels	Customs and Airport Authority to include in SOPs and legislation the need to prioritise clearance of disaster and relief vessels Communications between Customs and LTA to ensure there is no delay in process	Amended or revised SOP, Customs, Samoa Airport Authority legislation	I	Customs, SAA, LTA, SPA	DMO, NGO’s, Relief Agencies AGO
GOAL: (Recommendation 21)					
Airport fees and charges are waived in accordance with earlier recommendations relating to waiver of fees and charges.					
Waive FEES AND INCLUDE IN Airport AUTHORITY’S SOPs Yes But with conditions	Waive fees and charges and include in SOPs of Samoa Airport Authority Criteria to be agreed on as to appropriate occasion where waiver will apply	Samoa Airport Authority waives the fees and charges and everyone especially international relief entities are awarded	Immediate and Long term- Continue	Samoa Airport Authority, Customs, SPA, MOH	DMO

Annex 4: Samoa's Draft Action Plan

Expected Result	Action	Output	Priority Immediate (I) Medium Term (MT) Long Term (LT)	Lead Responsibility	Support Responsibility
CHAPTER 10					
GOAL: (Recommendation 22)					
MCIL should continue to monitor registered disaster relief agencies and renewal of registration annually is conditional on satisfactorily complying with the imposed requirements.					
Transparency/ Accountability	Continue Monitoring of registered relief Agencies	Issuance of notices requesting NGOs (registered) to adhere to best practices	LT	MCIL	All DAC Agencies
	Good communication and coordination between MCIL and Relief Agencies	Update systems in place All relief agencies be registered in compliance with MCIL requirements	I I		NGOs CSOs
GOAL: (Recommendation 23)					
That MOF and the Audit Office review its current procedures with a view of expediting process of payments for goods and services procured locally					
Simplify Process	Review and Improve current procedures have a simplified system	Improved simplified process or system	I	MOF Audit	DMO All DAC Agencies
	Specify Time Frame for payment turnaround or revisit this requirement	On time payments			
GOAL: (Recommendation 24)					
Consider whether registered agencies who receive disaster funds should adhere to the same accountability and transparency standards as Government and require that audited accounts relating to foreign assistance during times of disasters be published.					
Accountability and Transparency	Yes: Impose Standards to be applicable to all registered agency. Provide audited financial statements	Better distribution/ utilisation of funds received Clear financial reports and accounts for disaster funds	MT	MCIL	All DAC Agencies
	No: Donors wish to remain anonymous.	Status Quo remain			

Annex 5: List of Key References

International/Regional Instruments

- Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance 2007
- Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters 2005
- Vienna Convention on Diplomatic Relations 1961
- International Civil Aviation Organization (ICAO), Convention on Civil Aviation ("Chicago Convention"), 7 December 1944, (1994)
- Convention on the Facilitation of Maritime Traffic 1965
- Pacific Islands Forum – Regional Disaster Relief Fund 1975
- Pacific Regional Disaster Risk Reduction and Disaster Framework for Action Agreement 2005
- Strategy for Climate and Disaster Resilient Development in the Pacific

National Legal Instruments

Laws

- Constitution of the Independent State of Samoa 1962
- Customs Act 2014
- Customs Tariff Act 1975
- Diplomatic Privileges and Immunities (Declared International Organisations) Order 1998
- Diplomatic Privileges and Immunities (Declared International Organisations) Order 2006
- Diplomatic Privileges and Immunities Act 1978
- Disaster and Emergency Management Act 2007
- Geneva Conventions Act 2015
- Income Tax Act 2012

Annex 5: List of Key References

- Incorporated Societies Ordinance 1952
- Labour and Employment Relations Act 2013
- Narcotics Act 1967
- Parliament of Samoa Standing Orders
- Public Finance Management Act 2001
- Samoa Ports Authority Act 1998
- Samoa Red Cross Act 1993
- VAGST Act 2015

Memorandum of Understanding

- Memorandum of Understanding between Government of the Independent State of Samoa and the Samoa Red Cross Society (Inc.)
- Samoa Red Cross Society Constitution 2013

Plans/Strategies

- National Disaster Management Plan 2011-2014
- Standard Operating Procedure – Cargo Clearance Pre-Release, Ministry of Revenue

Reports

- Discussion paper “Disaster Laws”, 31st International Conference of the Red Cross Red Crescent Geneva 28 November – 1 December
- Government of Samoa, “Post Disaster Needs Assessment Report: Following the Earthquake and Tsunami in 2009, December 2009
- Government of Samoa, “Post Disaster Needs Assessment Cyclone Evan 2012”, March 2013
- International Bank for Reconstruction and Development, “Samoa: Disaster Risk Financing and Insurance”, February 2015
- International Committee of the Red Cross (ICRC)
- PCRAFI (Pacific Catastrophe Risk Assessment and Financing Initiative), “Country Risk Profile: Samoa”, September 2011.
- S. Harmeling, “Global Climate Risk Index 2012: Who Suffers Most from Extreme Weather Events? Weather Related Loss Events in 2010 and 1991 to 2010,” briefing paper, German Watch, Bonn, 2011
- UN Office of Humanitarian Affairs, “Disaster Response in Asia and the Pacific: A Guide to International Tools and Services”

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

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

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

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

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

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

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

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



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