



International Federation of Red Cross and Red Crescent Societies
Fédération internationale des Sociétés de la Croix-Rouge et du Croissant-Rouge
Federación Internacional de Sociedades de la Cruz Roja y de la Media Luna Roja
الاتحاد الدولي لجمعيات الصليب الأحمر والهلال الأحمر

Draft Guidelines

for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance

Version of 26 October 2007

Table of contents

Introduction	1
1. Purpose and Scope	1
2. Definitions	2
Part I: Core Responsibilities	3
3. Responsibilities of Affected States	3
4. Responsibilities of Assisting Actors	3
5. Additional Responsibilities of All States	4
6. Responsibilities Concerning Diversion and the Intended Use of Resources	5
Part II: Early Warning and Preparedness	5
7. Early Warning	5
8. Legal, Policy and Institutional Frameworks	5
9. Regional and International Support for Domestic Capacity	6
Part III: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance	6
10. Initiation	6
11. Initiation of Military Relief	6
12. Termination	7
Part IV: Eligibility for Legal Facilities	7
13. Facilities for Assisting States	7
14. Facilities for Assisting Humanitarian Organizations	7
15. Facilities for Other Assisting Actors	8
Part V: Legal Facilities for Entry and Operations	8
16. Personnel	8
17. Goods and Equipment	9
18. Special Goods and Equipment	10
19. Transport	11
20. Temporary Domestic Legal Status	11
21. Taxation	12
22. Security	12
23. Extended Hours	12
24. Costs	12

Draft Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance

Introduction

1. Purpose and Scope

1. These Guidelines are non-binding. While it is hoped that States will make use of them to strengthen their laws, policies and/or procedures related to international disaster response, as appropriate, the Guidelines do not have a direct effect on any existing rights or obligations under domestic law.

2. They draw from many existing international instruments, including United Nations General Assembly Resolutions 46/182 of 1991 and 57/150 of 2002, the Measures to Expedite International Relief of 1977 and the Hyogo Framework for Action of 2005.

3. Their purpose is to contribute to national legal preparedness by providing guidance to States interested in improving their domestic legal, policy and institutional frameworks concerning international disaster relief and initial recovery assistance. While affirming the principal role of domestic authorities and actors, they recommend minimum legal facilities to be provided to assisting States and to assisting humanitarian organizations that are willing and able to comply with minimum standards of coordination, quality and accountability. It is hoped that the use of these Guidelines will enhance the quality and efficiency of international disaster relief and initial recovery assistance in order to better serve disaster-affected communities.

4. These Guidelines are not intended to apply to situations of armed conflict or disasters that occur during armed conflicts, or to imply changes in any rules governing relief in those contexts. They are also not intended to recommend any changes to, or affect the meaning or implementation of, any existing international law or agreements, including but not limited to:

- (a) International humanitarian, human rights and refugee law;
- (b) The legal personality and status of States, inter-governmental organizations, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross;
- (c) International law related to privileges and immunities;
- (d) The Statutes and regulations of the International Red Cross and Red Crescent Movement and existing legal arrangements between the individual components of the Movement and States; and
- (e) Existing agreements between States or between States and assisting actors.

2. Definitions

For the purposes of these Guidelines,

1. **“Disaster”** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.
2. **“Disaster relief”** means goods and services provided to meet the immediate needs of disaster-affected communities.
3. **“Initial recovery assistance”** means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.
4. **“Goods”** means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.
5. **“Services”** means activities (such as rescue and medical care) undertaken by disaster relief and initial recovery personnel to assist disaster-affected communities.
6. **“Equipment”** means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
7. **“Personnel”** means the staff and volunteers providing disaster relief or initial recovery assistance.
8. **“Affected State”** means the State upon whose territory persons or property are affected by a disaster.
9. **“Assisting State”** means a State providing disaster relief or initial recovery assistance, whether through civil or military components.
10. **“Originating State”** means the State from which disaster relief and initial recovery personnel, goods and equipment begin travel to the affected State.
11. **“Transit State”** means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.
12. **“Assisting humanitarian organization”** means a foreign, regional, inter-governmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.

13. **“Eligible assisting humanitarian organization”** means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.

14. **“Assisting actor”** means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

Part I: Core Responsibilities

3. Responsibilities of Affected States

1. Affected States have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.

2. If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.

3. Affected States have the sovereign right to coordinate, regulate and monitor, disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

4. Responsibilities of Assisting Actors

1. Assisting actors and their personnel should abide by the laws of the affected State and applicable international law, coordinate with domestic authorities, and respect the human dignity of disaster-affected persons at all times.

2. 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 in particular:

(a) Aid priorities are calculated on the basis of need alone;

(b) Provided without any adverse distinction (such as in regards to nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions) to disaster-affected persons;

(c) Provided without seeking to further a particular political or religious standpoint, intervene in the internal affairs of the affected State, or obtain commercial gain from charitable assistance;

30IC/07/9.2 – Draft Guidelines

(d) Not used as a means to gather sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance.

3. To the greatest extent practicable, their disaster relief and initial recovery assistance should also be:

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

(b) Adequate for the needs of affected persons and consistent with any applicable international standards of quality;

(c) Coordinated with other relevant domestic and assisting actors;

(d) Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions;

(e) Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;

(f) Provided by competent and adequately trained personnel;

(g) Commensurate with their organisational capacities;

(h) Building upon and conducted in a manner that strengthens local disaster risk reduction, relief and recovery capacities and reduces future vulnerabilities to disasters;

(i) Carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment; and

(j) Provided in a transparent manner, sharing appropriate information on activities and funding.

5. Additional Responsibilities of All States

1. States providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.

2. All States should 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.

6. Responsibilities Concerning Diversion and the Intended Use of Resources

1. States and assisting humanitarian organizations should cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.

2. Affected States should 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.

Part II: Early Warning and Preparedness

7. Early Warning

In order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required, all States should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organizations as appropriate, including the United Nations' Emergency Relief Coordinator.

8. Legal, Policy and Institutional Frameworks

1. As an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy, and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery which take full account of the auxiliary role of their National Red Cross or Red Crescent Society, are inclusive of domestic civil society, and empower communities to enhance their own safety and resilience. States, with the support, as appropriate, of relevant regional and international organizations, should devote adequate resources to ensure the effectiveness of these frameworks.

2. These frameworks should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent with these Guidelines. They should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with States and assisting humanitarian organizations concerning United Nations emergency relief operations. They should also clearly designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.

3. Where necessary and appropriate, national governments should encourage other domestic actors with authority over areas of law or policy pertinent to international disaster relief or initial recovery assistance, such as provincial or local governments and private regulatory bodies, to take the necessary steps at their level to implement the Guidelines.

9. Regional and International Support for Domestic Capacity

1. With a view to increasing resilience and reducing the need for international disaster relief and initial recovery assistance, the international community, including donors, regional and other relevant actors, should support developing States, domestic civil society actors and National Red Cross and Red Crescent Societies to build their capacities to prevent, mitigate, prepare for and respond to disasters domestically.

2. The international community should also support developing States to build the capacity to adequately implement legal, policy and institutional frameworks to facilitate international relief and initial recovery assistance. This support should be provided to States in a coordinated manner among the relevant actors.

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

10. Initiation

1. Disaster relief or initial recovery assistance should be initiated only with the consent of the affected State and in principle, on the basis of an appeal. The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly. In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organisations.

2. Requests and offers for assistance should be as specific as possible as to the types and amounts of goods as well as the services and expertise available or required, respectively. Affected States may also wish to indicate particular types of goods and services likely to be offered that are not needed.

3. Affected States should make available to assisting actors adequate information about domestic laws and regulations of particular relevance to the entry and operation of disaster relief or initial recovery assistance.

11. Initiation of Military Relief

Military assets should be deployed for disaster relief or initial recovery assistance only at the request or with the express consent of the affected State, after having considered comparable civilian alternatives. Prior to any such deployment, terms and conditions

(including such issues as the duration of deployment, whether they must be unarmed or may be armed the use of their national uniforms, and mechanisms for cooperation with civilian actors) are to be agreed by the affected and assisting States.

12. Termination

When an affected State or an assisting actor wishes to terminate disaster relief or initial recovery assistance, it should provide appropriate notification. Upon such notification, the affected State and the assisting actor should consult with each other, bearing in mind the impact of such termination on disaster-affected communities.

Part IV: Eligibility for Legal Facilities

13. Facilities for Assisting States

It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V to assisting States with respect to their disaster relief or initial recovery assistance.

14. Facilities for Assisting Humanitarian Organizations

1. Subject to existing international law, it is the prerogative of originating, transit and affected States to determine which assisting humanitarian organizations will be eligible to receive the legal facilities described in Part V with respect to their disaster relief or initial recovery assistance.
2. It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of these Guidelines.
3. Any additional requirements imposed on assisting humanitarian organizations should not unduly burden the provision of appropriate disaster relief and initial recovery assistance.
4. Determination of eligibility by the State granting the facilities should be possible in advance of a disaster, or as soon as possible after its onset. Applicable procedures and mechanisms should be as simple and expeditious as possible. They should be clearly described and information about them should be made freely available. They might include the use of a national roster, bilateral agreements or reliance upon international or regional systems of accreditation, if available.
5. Retention of the legal facilities in Part V should be made dependent on ongoing compliance with the provisions of subsection 2 of this paragraph. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances.

15. Facilities for Other Assisting Actors

Affected States may also wish to extend, upon request, some of the legal facilities in Part V to assisting actors other than those covered by paragraphs 13 and 14, such as private companies providing charitable relief, provided this does not negatively affect operations of assisting humanitarian organizations or assisting States. Any actor receiving such facilities should be required to abide, at a minimum, by the same conditions described in paragraph 14.

Part V: Legal Facilities for Entry and Operations

It is recommended that States provide the legal facilities described in paragraphs 16-24 to assisting States and eligible assisting humanitarian organizations. It is understood that the granting of these facilities will be subject to the interests of national security, public order, public and environmental health, and public morals of the concerned affected, originating and transit States. Measures to protect such interests should be tailored to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of affected communities.

Where specific facilities recommended here are within the competence of authorities other than the national government, the national government should, where possible and appropriate, encourage those authorities to provide the relevant facilities to assisting States and eligible assisting humanitarian organizations.

16. Personnel

1. With regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations, affected States should:

(a) Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;

(b) In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;

(c) Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licences and other types of licenses and certificates that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;

30IC/07/9.2 – Draft Guidelines

(d) Facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

2. Upon request, originating and transit States should likewise waive or promptly issue, ideally without cost, exit or transit visas, as appropriate, for the disaster relief and initial recovery personnel of eligible assisting humanitarian organizations.

3. Assisting States and eligible assisting humanitarian organizations should consider to what degree disaster relief and initial recovery objectives can be met through hiring local staff.

17. Goods and Equipment

1. With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:

- (a) Exempt them from all customs duties, taxes, tariffs or governmental fees;
- (b) Exempt them from all export, transit, and import restrictions;
- (c) Simplify and minimize documentation requirements for export, transit and import;
- (d) Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

2. With regard to disaster relief goods and equipment only, originating, transit and affected States should additionally:

- (a) Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a “pre-clearance” process where feasible; and
- (b) Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.

3. In order to benefit from the facilities above, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.

30IC/07/9.2 – Draft Guidelines

4. Assisting States and eligible assisting humanitarian organizations should assume responsibility for removing or disposing of any unwanted and unused relief and initial recovery goods, particularly if they may pose a threat to human health or safety, or the environment.

18. Special Goods and Equipment

In addition to the facilities described in paragraph 17:

1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.

2. Affected States should waive or expedite the granting of any applicable licenses and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance. Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or where, appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.

3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law. Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:

(a) Any medications they import should be approved for use in the originating and affected State;

(b) Medications they use in their own operations should be:

(i) transported and maintained in appropriate conditions to ensure their quality and;

(ii) guarded against misappropriation and abuse.

(c) Any medications they donate for use by others in the affected State should be:

(i) at least twelve months from their expiration date upon arrival, unless otherwise agreed by receiving authorities;

30IC/07/9.2 – Draft Guidelines

(ii) transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and

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

4. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.

19. Transport

1. Originating, transit and affected States should grant, without undue delay, 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.

2. In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.

3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

20. Temporary Domestic Legal Status

1. Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.

2. Assisting States and eligible assisting humanitarian organizations should also be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.

3. Affected States should allow assisting States and eligible assisting humanitarian organizations to legally hire and terminate the contracts of local personnel.

21. Taxation

Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

22. Security

Affected States should take appropriate measures to address the safety and security of disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance. Assisting States and assisting humanitarian organizations should also take appropriate steps in their own planning and operations to mitigate security risks.

23. Extended Hours

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

24. Costs

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:

- a. In-country transport, including by national airlines;
- b. Use of buildings and land for office and warehouse space; and
- c. Use of cargo handling equipment and logistic support.