



Organization of
American States

Caribbean Emergency Legislation Project

Improving the Legal and Institutional Framework Related to State of Emergency

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LIST OF ACRONYMS

ACP-EEC	Lome Convention of the African, Caribbean and Pacific Group of States – European Economic Community
ACMAD	African Centre of Applications for Climate, Meteorology and Development
ASEAN	Association of South East Asian Nations
AU	African Union
BBSA	Barbados Building Standards Authority
BIF	Banana Insurance Fund
CAP	Consolidated Appeal Process
CDEMA	Caribbean Disaster and Emergency Management Agency
CDERA	Caribbean Disaster and Emergency Response Agency
CDM	Comprehensive Disaster Management
CELP	Caribbean Emergency Legislation Project
CITES	Convention on International Trade in Endangered Species of Fauna and Flora
CCRIF	Caribbean Catastrophic Risk Insurance Facility
CEO	Chief Executive Officer
CERO	Central Emergency Relief Organization
CERT	Community Emergency Response Team
CHAMP	Caribbean hazard Monitoring Capacity Building Programme
DDPM	(Thailand) Department of Disaster Prevention and Mitigation
DMU	(Vietnam) Disaster Management Unit
DRR	Disaster Risk Reduction
DSD	Department of Sustainable Development
DEM	Department of Emergency Management
DPC	Civil Protection Directorate
DSD	Department of Sustainable Development
EMP	Environmental Management Act
EOC	Emergency Operations Centre
ECCAS	Economic Community of Central African States
ECOWAS	Economic Community of West African States
FAO	UN Food and Agriculture Organization (a UN Statutory body, located in Rome)
FEMA	(United States) Federal Emergency Management Administration
FSM	Federated States of Micronesia
GFDRR	Global Facility for Disaster Reduction and Recovery

GRIDEH	(Peru) <i>la Red de Gestión de Riesgo constituida en el departamento de Huancavelica</i> (Risk Management Network in Huancavelica)
GACI	Group of Support of International Cooperation
IFRC	International Federation of Red Cross and Red Crescent Societies
IGAD	Intergovernmental Authority on Development
IOC	Indian Ocean Commission
IUCN	International Union for the Conservation of Nature (formerly sometimes referred to as “The World Conservation Union”)
JCF	Jamaica Constabulary Force
MLG	Ministry of Local Government
MPW	Ministry of Public Works
NADMA	National Disaster Management Agency
NDC	National Disaster Committee
NDMA	National Disaster Management Agency
NDRF	National Disaster Relief Fund
NEMO	National Emergency Management Organization
NEMA	National Emergency Management Agency
NEPAD	New Partnership for Africa's Development
NEPO	National Emergency Planning Organization
NERO	National Emergency Relief Organization
NGO	Non-Governmental Organization
NSWMA	National Solid Waste Management Authority
OAS	Organization of American States
ODPEM	Office of Disaster Preparedness & Emergency Management
OPDES	Organization of Pre-Disaster and Help
OPM	Office of the Prime Minister
PC	Participating Country/Project Country
PNGRD	National Plan of Risk Management and Disasters
PNI	National Plan of Intervention
RSA	Republic of South Africa
SADC	Southern Africa Development Community
SIDS	Small Island Developing States
SPREP	Pacific Regional Environment Programme
TEMA	Tobago Emergency Management Agency

TDRM.	Total Disaster Risk Management
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
UNFCCC	UN Framework Convention on Climate Change (and its Kyoto Protocol)
UN/ISDR	UN International Strategy for Disaster Reduction
UNEP	UN Environmental Program (a UN Program (not a statutory body) headquartered in Nairobi, Kenya)
WHO	World Health Organization (a UN Statutory body, located in Geneva)

CHAPTER 1

**Country Assessments of the Legal and Institutional Frameworks
Related to State of Emergency and Budget Appropriation and Execution**

EXECUTIVE SUMMARY

Over time, the Caribbean region has been faced with frequent occurrences of hurricanes, floods, landslides and volcanoes, which have repeatedly affected its fragile islands on a major scale. Conscious of the need to more strategically prepare for these disasters, the OAS-DSD has initiated this project to examine the existing legal, institutional and budgetary frameworks to improve responsiveness, to ensure the adequacy of resources in the event of these occurrences and to promote disaster loss reduction¹.

Natural disasters produce an enormous impact on the environment and society. The problems brought about by these disasters cannot be solved easily, however, for even fully industrialized nations with long years of coping with earthquakes, floods, typhoons, volcanoes and other types of natural perils are still threatened by natural disaster risks². In small islands and coastal regions, ecosystems are small and closely linked, coastal zones are impacted by upper watershed activities and most resources are subjected to frequent—and often conflicting—exploitation. It is therefore essential to approach management from an *integrated perspective*. Small developing Caribbean countries have established several legislative and institutional structures to address particular aspects of disaster management, but their comprehensiveness and inadequacy in handling the oft-times crippling after-effects are a cause of urgent concern.

This OAS-DSD/World Bank “Caribbean Emergency Legislation Project” (CELP) was formulated to respond to the lack of relevant state of emergency legislation and institutional framework capable of mobilizing executive powers in the aftermath of a disaster. The CELP aims to raise awareness among government decision-makers and provide recommendations to improve legislative channels and administrative procedures during and immediately after natural disasters. In conjunction with the ongoing disaster occurrences in the region, the recent earthquake in Haiti makes the need for reform in this area all the more critical.

The project conducts a study to improve the legal and institutional frameworks for state of emergency and budget appropriation powers by proposing the implementation of a set of clear and transparent procedures. These state of emergency procedures are recommended for the twelve Caribbean countries participating in the project: Antigua and Barbuda, Barbados, Belize, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. Of these countries, ten are common law jurisdictions, while the Dominican Republic and the Republic of Haiti are civil law jurisdictions.

¹ Adapted from an Address by by Hon. Freundel Stuart Q.C., M.P., Acting Prime Minister and Minister of Finance, Investment, Telecommunications and Energy **and** Minister of Home Affairs at the opening of the 19th Meeting of the Board of Directors of CDERA May 13, 2009.

² Technical Committee Session C “The Effects of Disasters on Modern Societies” World Conference on Natural Disaster Reduction, Yokohama, Japan, 23-27 May, 1994

OVERALL SCOPE AND METHODOLOGY

This chapter includes:

- An inventory of the existing legal and institutional frameworks related to state of emergency and budget appropriation and execution, with regard to natural disasters, which identify, briefly describe and accurately cite the frameworks;
- A descriptive report of the existing legal and institutional frameworks related to state of emergency and budget appropriation and execution, assessing their scope and operability;
- Identification and analysis of legislative and administrative gaps in the existing legal and institutional framework and a clear identification of the needs in these frameworks;
- An assessment of provisions in existing legislation and regulations related to channels of responsibility during times of emergency and a gap analysis of these provisions particularly concerning transparency and accountability;
- A set of recommendations based on the entire study.

Data studies were conducted at four levels: (1) Research of reports and other documents; (2) Consultations with officials in charge of relevant administrations by local consultants in the participating countries; (3) In-country workshops, in Grenada and Jamaica respectively; (4) Regional workshop.

At the project management level, EAI President and Consultant Judy Daniel participated in a meeting at OAS headquarters, with OAS-DSD Senior Legal Specialist Claudia de Windt and Legal Specialist Michelle-Ann Williams, at the inception of the project to discuss the requirements.

Regarding the workshops, they all provided insightful comments from which the project ascertained actual disaster management experiences and corresponding recommendations for the mitigation of the impact of disasters. These recommendations are incorporated in this final report. At the regional workshop, disaster management agencies were in attendance from all project countries. The content of the workshop presentations included submissions regarding overall country assessments, donor agency experiences, insurance options, comparative analyses of disaster management practices and institutional structures globally.

The support received and the information obtained from all persons consulted were invaluable to the success of the project activities.

PART I

Country Assessments of the Legal and Institutional Frameworks Related to State of Emergency and Budget Appropriation and Execution

1.0 Introduction

The OAS-DSD has initiated this project to examine the current legal, institutional and budgetary frameworks in order to ultimately enhance response capabilities and ensure that there are adequate resources in the event of a natural disaster³. Furthermore, this project aims to promote an overall disaster loss reduction throughout the Caribbean, a region frequented by hurricanes, floods, landslides and volcanoes, in order properly prepare for emergency situations.

1.1 Scope and Methodology

In keeping with the Terms of Reference set out, an inventory of the pertinent laws and institutions pertaining to state of emergency and budget appropriation for each of the participating CELP countries⁴ was conducted. Part 3 of this report contains the data from this inventory, prepared by local consultants from each of the PCs. In preparing the inventory, they held discussions with officials in charge of relevant administrations to clarify matters and refine outputs.

Both constitutional and statutory instruments are germane to state of emergency framework in the project countries. The statutory instruments comprise Quarantine Acts, Public Health Acts⁵, Physical Planning and Development Control Acts, Waste Management Acts and Housing and Agriculture Acts; all of which make reference to emergency situations, but do not directly apply to natural disasters. On the basis of the Terms of Reference, this report focuses on instruments that are of direct and immediate application to state of emergency and disaster management.

Each country assessment was reviewed and analysed by a regional team to ensure that no detail was overlooked in the legal mapping exercise, that no gaps in the information existed, and that the recommendations were capable of implementation. Several national level documents and other study materials were considered in preparing this report.

The participating Caribbean countries are located in close geographic proximity to each other such that the effects of a disaster (e.g. hurricane, earthquake or other natural disaster) in one country would impact all countries, thereby highlighting the need for a harmonised regional approach in the management of such phenomena. In this context, the report also makes recommendations at the regional level.

1.2 Inventory and Matrix of Existing Legal and Institutional Frameworks related to State of Emergency, Budget Appropriation and Execution with regard to Natural Disaster

³ For the purposes of this study “natural disaster” includes earthquake, hurricane, flood, fire, outbreak of pestilence, or outbreak of infectious disease.

⁴ For reasons stated above, findings on Haiti are not treated within the Draft Report.

⁵ Reference is only made to emergency situations in cases where there are infectious diseases or epidemics which would warrant the need for specific steps to be taken by authorities in such situations.

This section provides a summary description of the existing legal and institutional frameworks for state of emergency and budget appropriation and execution in disaster and emergency situations in the twelve project countries. The large volume of laws that is applicable to a state of emergency is wide-ranging and could present a compelling reason for conducting an independent treatise on the subject. They include laws for physical planning, environmental management, public health and infrastructure. This study, however, focuses on the laws that are of direct application to a state of emergency and comprise constitutional and statutory provisions.

The study also reviews the institutional framework that is in place to discharge responsibilities for disaster and emergency management. The majority of these agencies are government entities, with a few being corporate bodies for whom the government is the sole shareholder. Their mandates are national in scope; however, they are responsible for providing services to client ministries and sectors. Within the institutional framework, non-governmental organisations, professional bodies and community-based organisations perform an important role in disaster and emergency events. Each of these agencies has a particular strength or competitive advantage - scientific, technical, operational, awareness-building and education - that enables it to perform some important aspect of disaster and emergency management.

Disasters are a normal occurrence and if we are to minimise their effects, we must rethink the financial coverage of the issue. This study reviews the budgetary allocations and procedures to assess their effectiveness within the disaster management framework.

Antigua and Barbuda

Legal Framework

Antigua & Barbuda Constitutional Order of 1981

Section 20 of the Constitution provides the framework for governmental action during emergencies. It:

- vests the Governor General with the power to declare, by Proclamation, a state of public emergency;
- sets out the circumstances under which a declaration of public emergency may lapse, be extended, endure, cease to have effect or be revoked by the Governor General or the House of Parliament;
- requires a declaration of emergency to be published in the Official Gazette.

The fundamental rights and freedoms of the citizens of Antigua and Barbuda are established in sections 4 and 5 of the Constitution. Once a public emergency is declared, it may invariably result in the infringement of the fundamental rights and freedoms of the citizen. Section 16 of the Constitution allows for the government to interfere with personal liberty under these circumstances. However, it limits the interference to what “...are reasonably justifiable, for dealing with the situation that exists... during that period.” In other words this section gives the authority to infringe upon the rights stated in sections 5 and 14 only in emergency situations. Section 17 is also particularly instructive because it imposes certain responsibilities on the government as it relates to infringement of individual rights and freedoms.

Emergency Powers Act, Cap 147 of the 1992 Revised Edition of the Laws of Antigua & Barbuda

This Act gives life to the provisions of section 20 of the Constitution that provides for a declaration of a public emergency. The Act refines the provisions by establishing the criteria by which the Governor General may proclaim a state of emergency. According to section 3 of the Act, if it appears to him [the Governor General] that conditions in the state are

“... likely to endanger the maintenance of public order or the defence of Antigua and Barbuda or the maintenance of the public safety or the defence of the community or any substantial portion of the community or any supplies or services essential to the life of the community...” [sec.3]

The exercise of the power by the Governor General must be based on the advice of the Cabinet. A declaration by the Governor General, if not earlier revoked, stays in effect for a maximum of one month. However, this declaration can be extended by resolution of Parliament if supported by a majority of its members, but not beyond six months at any one time.

Under the Act, a declaration of a state of emergency, whether proclaimed by the Governor General or by the Parliament through extension by resolution, may be revoked at any time.

Section 6 of the Act gives the Cabinet powers to regulate and control a wide range of activities in a state of emergency. Any regulations issued by the Cabinet must be published in the Gazette in the first instance or displayed on a public building if publication is not practical. A corresponding administrative framework for regulating activities prescribed under section 6 is, however, lacking.

Emergency Powers (Hurricane, Earthquake, Fire or Flood) Act Cap 148 of the 1992 Revised Edition of the Laws of Antigua & Barbuda

This Act supplements the Emergency Powers Act specific to natural disasters. It allows the Cabinet of Antigua and Barbuda to declare a state of emergency where any hurricane, earthquake, fire or flood occurs. It provides a one month duration of the state of emergency subject to further extensions. Section 3 of the Act gives wide ranging powers to the Cabinet “...to make orders securing the essentials of life to the community and for the preservation of the health, welfare and safety of the public.” This allows for the Cabinet to take effective measures to address disasters when they occur. Section 4 of the Act grants immunity to persons who take actions in good faith pursuant to any orders issued under the Act.

Disaster Management Act, 2002

This Act creates the local body and at the same time, sets the framework for regional cooperation in disaster management and response in Antigua and Barbuda. This 2002 Act sets up the administrative framework to respond to disasters, which is administered by the National Office of Disaster Services (NODS).

In an effort to indicate the importance of emergency management, the Act allows for the appointment of a Director of Disaster Preparedness to execute the responsibilities provided for under the Act. The Director is assisted by a number of public officers or other persons to discharge the functions of hazard inspectors, shelter managers or officers with enforcement powers. The functions of these personnel can also be executed by the Director, any deputy or assistant director, any police officer or any member of the Antigua and Barbuda Defence Force under sections 30 and 35 (3) (b) of the Act.

Antigua and Barbuda is a member of the regional Caribbean Disaster and Emergency Management Agency (CDEMA), in furtherance of the country agreeing to enact the Disaster Management Act of 2002 and establish a disaster management entity. The Act contains provisions that demonstrate the country's obligations appropriate to that membership. As well, the Act further defines national policies and priorities in the event of disasters and establishes and maintains a national relief organisation capable of responding swiftly, efficiently and in a coordinated manner.

Finance Administration Act, 2006

The aim of this Act is to make government more accountable and to crystallize government's policy relating to government financing. The Act, however, does not make any clear provision for emergency and disasters. Section 30, which deals with emergency expenditure, special warrants and the Contingency Fund, may however be deemed to apply to emergencies.

It provides -

(1) Subject to section 31, when in a financial year it appears to the Minister that—

(a) an expenditure for a service not foreseen and not provided for, or not sufficiently provided for, is urgently required for the public good; and

(b) the circumstances are such that the expenditure cannot, in the opinion of the Minister, be postponed without injury to the public good, the Minister may cause estimates of the amount of the expenditure to be prepared and—

(i) may, in anticipation of approval of the expenditure in a supplementary appropriation Act, issue a special warrant under his hand authorising the expenditure to be made out of the Consolidated Fund, but the aggregate of the amounts authorised by special warrants issued under this section in the financial year and not approved in a supplementary appropriation Act shall not exceed 25% of the annual estimates for the current year; and

(ii) may make advances from the Contingencies Fund by contingency warrants under his hand to meet the requirement referred to in paragraph (a) but so that the total balance available to the Contingencies Fund is not over drawn.

(2) When any expenditure has been authorised under subsection (1), supplementary estimates showing the expenditure shall be laid before the House as soon as reasonably possible after the date of the warrant and section 27(b) applies in relation to the estimates.

Institutional Framework

The disaster preparedness structure in Antigua and Barbuda comprises the:

National Office of Disaster Services (NODS)

NODS is the national agency responsible for disaster preparedness. The entity is headed by a Director and complemented by an administrative staff mandated by the Act. The Act gives the Director the authority, subject to the policy directives of the Prime Minister (section 5), to coordinate the general policy of the unit relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda.

National Emergency Operations Center (NEOC)

The National Emergency Operations Committee is established under NODS and is equipped to execute the Disaster Management Plan. Members include the protective services (police, coast guard, fire services) and essential services (health, public utilities, solid waste management, disaster preparedness). The Red Cross, Office of National Drug Enforcement Policy, and the Environment Division are also members of the Committee.

Standard Operating Procedures (SOPs)

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation and execution

NODS does not have funding at its disposal for responding to disasters when they occur. As a matter of policy, a line item is not created for emergency management in the annual budget, nor is it provided for in the estimates. Disbursements are made out of the Contingency Fund pursuant to section 30 of the Finance Administration Act discussed above. According to the established procedure, when a disaster occurs, NEOC becomes activated. This is communicated to the Prime Minister who in turn contacts the Finance Minister while simultaneously, \$150,000.00 becomes immediately available to NODS. The funds become available in a separate account for the Director and the Permanent Secretary in the Ministry. As the management of the disaster progresses, a determination would be made as to whether more funds are needed.

The amount disbursed to NEOC must not, however, exceed 25% of the total national budget of that year. A special warrant showing the expenditure must be laid before the House as soon as reasonably possible after the date of the warrant. In responding to the demands for funding for disaster management, the funds are sourced from every ministerial head in the amount of ten per cent of their approved budget.

Barbados

Legal Framework

Constitution of Barbados, 1966

Section 25 of Barbados' Constitution provides for the declaration of a state of emergency by the Governor General where a public emergency arises as a result of earthquake, hurricane, flood, fire, outbreak of pestilence, or outbreak of infectious disease. This declaration may remain in force for a maximum of 6 months unless it is extended or revoked at any time by a majority of the members of the House of Assembly. The Constitution provides for the protection from deprivation of private property. However, section 16 of the Constitution allows for the confiscation of property in circumstances where the environment is threatened.

Emergency Powers Act, Cap. 161

The purpose of this Act is to make exceptional provision for the protection of the community in cases of emergency. The Act empowers the Governor General to declare a state of public emergency by proclamation. Once the declaration has been made, the Governor General is mandated to communicate this fact to the Parliament and to summon both Houses.

Once a declaration is in force, the Cabinet of Barbados is authorised to make orders to provide for the supply of specified essentials such as food, water, light, etc; for maintaining transportation; for taking possession or control of property other than land; and for paying compensation.

Disaster Management Act, 2006

The main purpose of this recent enactment is to provide for the effective organization and management of disasters and other emergencies. Under the Act, the Governor General is empowered to declare a disaster or other emergency by proclamation after he has been advised by the Prime Minister after consultation with the Director of the Department of Emergency Management (DEMA). The Act establishes DEMA and secures the appointment of a Director to administer the Act. It also establishes an Emergency Management Advisory Council. DEMA is responsible, inter alia, for the development of the National Multi-Hazard Disaster and Emergency Management Plan, which must be prepared annually.

The Act is quite comprehensive. It sets out several procedures which are required to be contained in the Disaster Management Plan. These include preparedness and response to disasters and emergencies and coordination and implementation of the Emergency Management Plan (EMP).

Prevention of Floods Act, Cap. 235

This Act provides for the execution of works necessary to prevent and control floods and inundations caused by excessive rains, by high tides and by reason of the low level of various places causing inconvenience to persons and injury to health and property. Under the Act, the Minister is empowered to declare flood areas. However, in exercising his functions, the Minister is required to have regard to the Coastal Zone Management Plan in accordance with the Coastal Zone Management Authority.

Draft Barbados National Building Code (1993 Edition)

The Barbados National Building Code (1993 Edition) prescribes various technical requirements and standards governing the design and construction of buildings in Barbados. The Building Code seeks to address issues relating to structural sufficiency and durability, fire safety, health and amenity. The Building Code has not yet been incorporated into law and is therefore not underpinned by the force of law. It is expected that the Building Code will be implemented through the enactment of a proposed Building Control Act. The Government has established a Building Authority whose primary functions will include the administration and enforcement of the Building Code and the proposed Building Control Act. The Building Code does not affect the operation of any law concerning the use of public land, buildings, structures or roads. The Barbados National Standard Institution (BNSI) is responsible for the preparation, review, amendment and interpretation of the Building Code.

Institutional Framework

Department of Emergency Management

This Department was established to develop, promote and maintain a comprehensive National Disaster Plan to take account of both natural and man-made hazards. According to the Act under which the Department is established, its key functions are to -

- (a) Create mechanisms to promote and advance Disaster Management activities at all levels of society, and;
- (b) Promote the development and maintenance of effective warning, response and recovery

An illustration of the chain of command in emergencies is in Appendix 2.

Budget appropriation and execution

The Department of Emergency Management is supported by financing through budgetary allocations from central government. These monies which are taken from the Consolidated Fund are voted on by the Parliament of Barbados. The Table below shows the budgetary allocations for the past three years in US currency.

Table 1
Annual Budgetary Allocations for the DEM (US \$ for 2007 -2010)

FINANCIAL YEAR	DEM BUDGETARY ALLOCATION	VOLUNTEERS OPERATING EXPENSE
2007 - 2008	\$827,000.00	\$83,000.00
2008 - 2009	\$930,000.00	\$ 81,000.00
2009 -- 2010	\$918,000.00	\$91,000.00

In addition to budgetary allocations to the DEM, the sum of US \$5,000.00 p.a. is included annually to be divided among 30 District Emergency Management Centres and US \$5,000.00 p.a. for Roving Response. The sum of \$ 25,000.00 p.a. is also allocated for contingencies.

Belize

Legal Framework

Constitution of Belize, 1981

Section 18 of the Constitution makes provision for the Declaration of a State of Emergency in Belize. According to the section, "period of public emergency" means any period during which -

- (a) Belize is engaged in any war; or
- (b) there is in force a proclamation by the Governor General declaring that a state of public emergency exists; or
- (c) there is in force a resolution of the National Assembly declaring that democratic institutions in Belize are threatened by subversion.

According to subsection (2), the Governor General may, by Proclamation which shall be published in the Gazette, declare that a state of public emergency exists. This power to proclaim a state of emergency is effective only in circumstances in which the Governor General is satisfied that, inter alia, a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease, or other similar calamity. In this case, the Proclamation must contain a declaration that the Governor General is satisfied that these conditions prevail. A proclamation made under subsection (2) of section 18 may be made to apply only to a part of Belize called for that purpose "the emergency area," in which case regulations made under subsection (9) of section 18 shall except as otherwise expressly provided in such regulations have effect only in the emergency area.

According to subsection (9), the Governor General may make such regulations as are necessary or expedient for securing public safety, the defence of Belize, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community. Any such regulations may empower specified authorities or persons to make orders and

rules for any of the purposes authorised by this subsection and may contain any incidental and supplementary provisions that are necessary or expedient for the purposes of the regulations. Any order or rule made in pursuance of such regulations may amend or suspend the operation of any law and shall have effect notwithstanding anything inconsistent therewith contained in any law. It is noteworthy that the reference to "law" does not include the Constitution or any provision thereof or any law that alters the Constitution or any provision thereof.

Disaster Preparedness and Response Act, 2000

The Act defines "disaster emergency" to mean a public emergency declared under section 18(1)(b) of the Belize Constitution on account of the threat or occurrence of a disaster. *Section 3 of the Act established* the National Emergency Management Organisation (NEMO) as a Department of Government responsible for the management of disasters in Belize. The section also appoints a National Emergency Coordinator to be responsible to the Minister for coordinating the general policy of the Government of Belize relating to the mitigation of, preparedness for, response to, and recovery from emergencies and disasters in Belize.

The Minister, in accordance with section 5, gives the National Coordinator directions of special or general character in relation to his functions and duties as provided in the Act. A National Disaster Preparedness and Response Advisory Committee comprising the Prime Minister as ex-officio Chairman is appointed under section 6. Section 11 requires every Permanent Secretary and head of a department of government to ensure that there is at all times a public officer of his Ministry or Department is designated as the liaison officer for communication with the National Coordinator in relation to the procedures of the Ministry or Department relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Belize.

Disaster Preparedness and Response (Threatened Disaster Alert Mobilisation) Regulations, 2000

The Regulations establish the procedure that the National Coordinator should adopt in the event of a threatened disaster alert under section 27 of the *Disaster Preparedness and Response Act, 2000*.

According to regulations the National Coordinator shall, for the duration of the threatened disaster alert, (a) keep the Prime Minister provided with current reports on the state of implementation of the National Disaster Preparedness Response Plan to meet the threatened disaster; and (b) monitor the progress of the disaster threat so as to provide the Prime Minister with the earliest possible recommendation that the conditions have escalated to the point where a declaration of a disaster emergency was appropriate or that the alert should be ended as the case may be. This recommendation is, however, not binding on the Prime Minister. The Regulations were later amended to require the keeping of a register of persons in a shelter.

Disaster Preparedness and Response (Hazard Inspection) (Procedure) Regulations, 2000

These Regulations set out, inter alia, the procedure that should be adopted by a hazard inspector appointed under the Disaster Preparedness and Response Act, 2000 in cases of reasonable doubt as to the identity of the occupier of any premises for the purposes of supplying that occupier with the information related to a hazard inspector's report. The matters for which the hazard inspector may pursue the inquiry are set out under these Regulations.

Disaster Preparedness And Response (National Disaster Preparedness And Response Advisory Committee) (Rules Of Procedure) Regulations, 2000

These Regulations set out the rules of procedure for the Advisory Committee.

Disaster Preparedness And Response (Shelter) By-Laws, 2000

In accordance with these by-laws, a person seeking admission to a shelter shall provide information in such a form as the National Coordinator may require under the Disaster Preparedness and Response Shelter Regulations, 2000. The by-laws declare the circumstances under which a person may be refused admission to a shelter and prohibit any person from bringing any pet or other animal into the shelter without prior approval of the shelter manager.

The by-laws set controls on, inter alia, attire worn in the shelter, pets, alcohol and inflammables brought into the shelter, and obscene language used in the shelter. Section 19 gives the shelter manager the power to suspend or expel from the shelter any person who commits a serious breach of or persistently breaches any of the by-laws.

National Hazard Mitigation Policy, 2003

The Policy identifies several pieces of legislation as supporting hazard mitigation. They include the Environmental Protection Act, the Merchant Shipping Act, the Land Utilization Act and the Coastal Zone Management Act. The Draft Building Bill is also included. Among its objectives is the control of the building processes in Belize, particularly the development of construction standards for residential buildings. The main purpose of the policy is to provide an integrated approach to hazard risk management and sustainable development, at national, sectoral and community levels. It also provides an important benchmark for stakeholder cooperation and a useful platform for pro-actively addressing hazard reduction issues within the context of development planning.

National Building Standards

The Belize City Building Code was put in place in 1963. Building and planning regulations are also established for Belmopan, the seat of government. However, there is no national building code. Draft technical standards for Belize building construction and a residential construction guide have been completed by the Belize Chamber of Commerce and Industry with the assistance of OAS/CDMP. These standards were completed since December 1999 and are still being reviewed for legislative approval.

Institutional Arrangements

National Emergency Management Organisation (NEMO)

NEMO was established in response to the devastation left by Hurricane Mitch in 1998. Its key objective is to preserve life and property throughout the country of Belize in the event of an emergency, threatened or real, and to mitigate the impact on the country and its people.

NEMO's membership comprises the Cabinet, with the Prime Minister as the Chairperson, the Cabinet Secretary, as Secretary, the NEMO Secretariat and the 10 Operational Committees (chaired by Permanent Secretaries). The ten Operational Committees are as follows: Education, Communication and Warning; Medical and Relief Measures; Housing and Shelter; Search, Rescue and Initial Clearance; Collection Control and Distribution of Food and Material; Assessment and Evaluation of Damage; Foreign Assistance; Transport; Environment and Utilities.

The other permanent members are the Belize Red Cross, the Belize Teachers Union, the Chief Meteorological Officer, the Commandant BDF and the Commissioner of Police. Integral to NEMO are its 9 District Emergency Committees (chaired by the senior Minister in each District) representing Belize, Corozal, Orange Walk, Cayo, Stann Creek, Toledo, Belmopan, San Pedro and Caye Caulker.

European Community Humanitarian Office (ECHO)

ECHO has been financing disaster prevention, mitigation and preparedness operations throughout the developing world, including Belize, since 1994. ECHO established a regional programme, called the DIPECHO (Disaster Preparedness-ECHO), to increase the impact and improve the effectiveness of the ECHO operations. In the first phase of the programme, the three regions selected were Central America, the Caribbean and Southeast Asia.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation

The appropriations mechanism for disaster is quite simple for Belize. NEMO, as the entity responsible for emergency management in Belize, receives an annual sum of BZ 250,000.00 allocated by the Ministry of Finance. The sum is to cover NEMO's general operating costs in a given year. A sum of no more than BZ 300,000 is allocated for the taking of preventive measures as regards disasters. These measures refer to training, public awareness campaigns and equipment.

There is no allocation for disasters in the formal national budget. Should a disaster occur, NEMO makes an assessment of damage and on this basis submits an application for an allocation to the Ministry of Finance. The allocation must be approved by the Prime Minister. The Ministry of Finance also makes grants or loans available to NEMO to cover expenses related to the occurrence of a disaster. It is noteworthy that the Prime minister is the ex-officio Chairman of NEMO which makes NEMO accessible to him and assures the expeditious approval of applications for allocations in the event of disaster.

Voluntary contributions are made directly to NEMO. It is not unusual, however, for organizations to make such contributions in the form of services rather than through direct cash contributions.

Dominica

Legal Framework

The Commonwealth of Dominica Constitution, No. 1027 of 1978

Section 14 of the Constitution authorises the taking, during any period of public emergency, of measures that are reasonably justifiable for dealing with the situation that exists in Dominica during that period.

A Proclamation made by the President may declare that a state of emergency exists if he is satisfied that -

- (a) a public emergency has arisen as a result of the imminence of a state of war between Dominica and a foreign state;
- (b) as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity; or

- (c) action has been taken or is immediately threatened by any person of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or substantial portion of the community, of supplies or services essential to life. (section 17(3))

The Constitution defines a “period of public emergency” as, *inter alia*, a period during which (a) Dominica is engaged in any war; (b) there is in force a proclamation by the President declaring that a state of emergency exists; or (c) there is in force a resolution of the House supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Dominica are threatened by subversion.

Emergency Powers Act, Chapter 15:02

The Emergency Powers Act provides for the security of the state in an emergency. Under this Act, the President or a person duly authorised by him may put certain measures in place during a period of public emergency, as are reasonably required for dealing with the situation.

The President is empowered to make and publish Regulations and to issue orders and instructions for the purpose of exercising the powers conferred on him by the Act. If it is impracticable or impossible to publish the regulations in the Gazette, a proclamation notice, regulations or order in pursuance of the Act, the President may publish by notices affixed to public buildings or distributed amongst the public by oral pronouncements.

A number of subsidiary legislation has been made under the Act; the most recent of which are the following:

- State of Emergency Proclamation 1994 SRO 17 of 1994
- Emergency Powers Regulations
- Emergency Powers (Curfew) Regulations SRO, No. 18 of 1994
- Emergency Powers Curfew Order 1994 No. 19 of 1994

Emergency Powers (Disaster) Act, Chapter 15:03

This Act seeks to provide for the welfare and safety of the community in cases of disaster and for matters related to disaster. A disaster for the purposes of the Act is defined at section 2 to mean –

“any grave abnormality such as hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave earth quake, volcanic eruption, landslide, drought, fire, explosion, epidemic, pollution, transportation accident, oil spill or any other catastrophe that warrants mobilisation and use of extraordinary human and economic resources to repair damages caused or to circumvent those that could arise during the situation or to generally confront and overcome such a severe and unusual situation.”

The Act confers on the President the power to declare a state of emergency where Dominica or any part of Dominica is affected or is imminently likely to be affected by any disaster. A Proclamation made under this Act is valid for no longer than 1 month. Parliament must be notified of the proclamation where proclamation of emergency has been made and while it is in force. The President is given the power to make orders, securing the essentials of life to the community and for the preservation of health, welfare and public safety.

An order made under the Act may provide, inter alia, for the requisitioning and regulating of the supply and distribution of food, clothing, water, fuel, light and other necessities of life.⁶ The demolition of any building or other structure may be ordered if deemed to be dangerous and the disposal of the dead.

Institutional Framework

National Emergency Planning Organisation (NEPO)

NEPO is “the government organisation that has responsibility for the planning and organisation of counter-disaster measures at central level.” The Prime Minister is the chairman of NEPO while the National Disaster Coordinator is the secretary to NEPO. NEPO has in turn established a National Advisory Committee. This Committee is meant to develop and recommend policies, plans and guidelines for the prevention, mitigation, preparedness, response, and recovery measures for Dominica.

According to the National Disaster Plan, in the absence of the President, the line of succession for declaring a national disaster and authority is the Prime Minister, the Minister for Communications, Works and Housing, Cabinet Secretary and the Permanent Secretary of the Ministry of Communications, Works and Housing. The Plan requires NEPO to develop, operate and maintain a National Emergency Operations Centre in accordance with the Plan. A number of subcommittees comprising representatives from several government agencies have been put in place under NEPO.

Office of Disaster Management (ODM)

The Office of Disaster Management does not have a separate status and personality in law. It was established in response to the recent increases in natural disasters particularly hurricanes. ODM is responsible for the management, coordination and response to disasters in response to which the Office is in the process of adopting a comprehensive Disaster Management framework that will include mitigation, response and recovery.

The Office of Disaster Management plays a pivotal role in the implementation of the Plan once it is activated. ODM is required to monitor and supervise any activity which may have bearing on the level of preparedness, prevention and safety in the society. In performance of its functions, ODM coordinates with the various departments of government and other institutions and organisations. The institutions with which ODM coordinates may vary depending on the disaster or emergency situation to be addressed.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation and Execution

The Parliament of Dominica appropriates monies toward disaster management within the annual budgetary allocations to governmental entities. Funds are appropriated to the Ministry with responsibility for disaster, under which ODM falls and the necessary payments are made to ODM or purchases are made to meet the needs of ODM. A contingency budget is also made available to the Office.

Should a disaster actually occur, the Ministry of Finance issues funds to agencies based on the responsibilities they discharge. The amount of the actual disbursement takes into account the results of an assessment of the disaster. The Minister of Finance must authorize the disbursement. The Permanent

⁶ Section 5(2).

Secretary as chief accounting officer for the respective governmental entity is responsible for the day-to-day distribution. These measures are in accord with the provisions of the National Disaster Plan.

As a participating state of the Caribbean Disaster Emergency Management Agency, the Commonwealth of Dominica is entitled to receive contributions from its Emergency Assistance Fund. Like voluntary contributions from individuals and aid agencies, all are also disbursed through the Ministry of Finance.

Dominican Republic

Legal Framework

Constitution of the Republic⁷ of the Dominican Republic

The basis of the legal framework for Declaration of State of Emergency can be found in Article 265 of the Constitution of the Republic.⁸ A state of emergency may be declared in the case of events threatening to seriously and imminently disturb the economic, social, or environmental order, or constitute a public calamity. Chapter IV of Law 147/02 regulates the applicable regime in disaster situations.

The Declaration of a Disaster is made by the President of the Republic through a Presidential Decree based on the recommendation of the National Emergency Commission (Art.23 Law 147/02). The Declaration classifies the situation in terms of magnitude and effects as national, provincial or municipal, and indicates the rules that correspond to the special regime for disaster situation. The Declaration could be made up to three months after the occurrence of the situation that provoked it. Until a return to normality is declared, the President of the Republic can modify the qualification given to the disaster situation and the applicable regulations (Parr. I Art.23 Law 147/02). When a situation is declared as of provincial or municipal character, the plan is elaborated and coordinated by the Provincial or Municipal Committee (Art.24 Law 147/02).

By recommendation of the National Council, the President of the Republic decides by way of a decree that the situation of disaster has ceased and normality has returned. Nevertheless, in the same decree he can establish that application of the same special measures will continue totally or partially during the subsequent rehabilitation and reconstruction phases, during which applicable special measures could be changed by a Decree (Art. 26 Law 147/02).

For the enforcement of the regulations contained in this Law, the President of the Republic is granted with the power to approve and issue administrative and regulatory norms on the following issues (Art. 27 Law 147/02) -

- Adjust and integrate in the National System, the organization and functioning of the following bodies: the National Council for Disasters Prevention, Mitigation and Response, the National Emergency Commission, the Technical Committee for Risks Prevention and Mitigation, the Center for Emergency Operations and the Regional, Provincial and Municipal Committees for Disasters Prevention, Mitigation and Response;
- Organization, administration and operation of the National Fund;

⁷ The legal Constitutional basis was on the Constitution of 1994 which was very recently replaced by a new Constitution in force since 26 January 2010. Official Gazette No. 10561.

⁸ The legal Constitutional basis was on the Constitution of 1994 which was very recently replaced by a new Constitution in force since 26 January 2010. Official Gazette No. 10561.

- Special legal regime for disaster situations declared under the prescriptions of this Law and during the phases of rehabilitation and reconstruction.

Law 147/02⁹

This Law created the National System for Disaster Prevention, Mitigation and Response.¹⁰ The System encompasses the set of guidelines, policies, activities, resources, programs and institutions that allows the realization of the four main national objectives in terms of risk: risk reduction and disaster prevention; socialization of risk prevention and mitigation; effective response in case of emergency; and rapid and sustainable recovery of affected areas and populations.

Decree 932-03 of September 13 2003 is the by-law of Law No. 147/2002 on Risk Management, developing the procedures and regulations needed for the enforcement of the Law on Risk Management, widening and detailing the provisions of the Law.

Institutional Framework

National Council for Prevention, Mitigation and Disaster Response

The National Council is the lead entity for guiding, managing, planning and coordination within the National System for Disaster Prevention, Mitigation and Response. The Council meets at least twice a year and is chaired by the President of the Republic or its delegate and integrated also by (Art.9 Law 147-02). Included among the membership of the Council are -

- Secretary of State of the Armed Forces and National Police¹¹
- Secretary of State for Environment and Natural Resources
- Secretary of State for Public Works and Communications
- Secretary of State for Public Health and Social Assistance
- Secretary of State for the Interior and Police
- Secretary of State for Education
- Secretary of State for Foreign Affairs.
- General Secretary of the Dominican Municipal League
- The Director of the National Meteorological Office
- The Director of the Dominican Red Cross
- The Chief of the Santo Domingo Fire Department
- The General Administrator of the Dominican Corporation of State Electricity Companies, and;
- Three representatives of the civil society designated/appointed by the President of the Republic from the relevant Entrepreneurial, Professional, Labor or Community Associations.

The Objectives of the System are set out in Article 6 of Law 147/02) are:

- The reduction of risk and the prevention of disasters; and,

⁹ September 22,2002

¹⁰ www.geocities.com/leyesdominicanas/ley147-02.html -

¹¹ According with the new Constitution the Secretaries become Ministers.

- Socialization of risk prevention and mitigation.

National Emergency Commission

This Commission is established under the National Council and coordinated and chaired by the Executive Director of the Civil Defense. It is responsible for the planning, coordination, guidance and control of activities aimed at solving urgent needs, and of carry on protection, life-saving and rehabilitation programmes and activities, through the institutions encompassed by the Commission (Art. 15, D 932-03). The Commission is integrated by members of the National Council, designated by Presidential Decree

The Commission has, among others, the following functions (Art. 14, D 932-03):

- Propose the elaboration of plans, budgets, regulations and standards for the consideration or approval by the Council.
- Recommend conducting, promoting and supporting studies and research.
- Establish and maintain relationships with other national governmental, private or international entities, whose duties are linked to the Commission, as well as the signature of agreements with them.
- Management of international aid in coordination with the Secretary of Foreign Affairs.

National Technical Committee on Risk Prevention and Mitigation

In order to implement the policies and decisions of the National Council, the National Emergency Commission has established the Technical Committee on Risk Prevention, Mitigation and Response, the Center of Emergency Operations, the Regional, Provincial and Municipal Committees and a Consultative Team (Art. 7, D 932-03). The Technical Committee works as an advisory and coordination entity, subordinated to the Commission (Art.10 Law 147).¹²

The Committee proposes and submits updating of the National Risk Management Plan and the National Emergency Plan to the National Commission for their knowledge and approval by the National Council. (Art. 11.II, Law 147-02). The Committee is also responsible to advise and review the regional, provincial and municipal plans before they are submitted for approval (Art. 17 II, D 932-03).

Although created by law in 2002, the National Technical Committee only became active on March 26, 2008. Several provincial and municipal committees have also been established.

Emergency Operations Center

Created by Decree 360/01 and ratified by Law 147/02 (Art.12), the Center has the mission of serving as the coordinating agency for preparedness and response in case of disaster. The Center is under the coordination of the Civil Defense, the Secretary of State for the Armed Forces and the Fire Department of Santo Domingo (Art. 12 Par I Law 147-02).

¹² Are members of the National Technical Committee (NP) representatives of the followings bodies and institutions: Secretary of State of the Armed Forces and National Police, Secretary of State for Environment and Natural Resources (SEMARN), Secretary of State for Public Works and Communications (SEOPC), Secretary of State for Education, Secretary of State for Industry and Trade, Secretary of State for Public Health and Social Assistance (SESPAS), Secretary of State for the Interior and Police, National Office of Civil Defense, Dominican Red Cross, Secretary of State for Planning and Development, National Water Resources Institute (INDRHI), National Institute for Potable Water and Sewage (INAPA), National Housing Institute (INVI), Dominican Corporation of State Electricity Companies (CDEE), National Department of Mining, Dominican Municipal League, Santo Domingo Fire Department, Santo Domingo Sewage and Aqueducts Corporation (CAASD), City Council, National Meteorological Office, University Seismological Institute.

National Emergency Operating Committee

The National Emergency Operating Committee is responsible for the formulation and proposal, through the National Emergency Commission, of the National Emergency Plan, for its approval by the National Council. (Part I Art.16 Law 147/02).

Consultative Teams

The Technical and Operative Committees created by Law 147/02 can establish permanent or temporal assessing units devoted to specific programs, subprograms, and projects (Article 13 Law 147/02).

The functions of the members of the consultative teams (Art. 22, D 932-03) are the following:

- a) Actively participate in the development of plans, sub-programmes and projects elaborated in conformity with the National Risk Management Plan and the National Emergency Plan or in their updating.
- b) Collate and process all the information resulting from the execution of programmes, sub-programmes and projects that could be used and/or required by the National Council.

Other Committees (Regional, Provincial and Municipal) for Disaster Prevention, Mitigation and Response.

Committees are integrated by the highest provincial and municipal authorities, and chaired by the local government, the Civil Defense and the head of the local Red Cross (Article 14 Law 147/02).¹³

The National Fund for Disaster Prevention, Mitigation and Response: Civil Defense Fund

A National Fund for Disaster Prevention, Mitigation and Response is created by Article 20 of Law 147. The Fund has administrative, technical and financial autonomy. The purpose of the Fund is to receive and manage national budgetary allocations, and financial contributions of any title and source, to take measures for risk reduction, and to provide assistance and rehabilitation to the population in case of disaster. The Fund assistance is provided in a complementary or subsidiary manner under co-financing and concurrency inter-institutional schemes. The Fund, though an important institution, is not a major financial resource. Its role is therefore complementary and supplementary as a recipient of funds from national and other voluntary contributions.

According to the Law 147/02 (Art.20 Par I), the Fund must be vested with enough resources to not only complement the institutional efforts of the national and local entities for the disaster prevention, mitigation and response, but to also keep economic reserves that allow the central government to count with immediate available resources after the occurrence of a disaster. In practice, the capacity and Fund availability is very limited.

The destination of the resources of the Fund are oriented, assigned and executed, as indicated in the guidelines established under the Risk Management National Plan and on the special provisions contemplated in the specific action plans for response, recuperation and rehabilitation of declared disasters (Para. 2 Art. 20 Law 147/02).

¹³ Committees are integrated by representatives of the local authorities on Planning, Environment and Natural Resources, Public Work and Communications, Education and Culture, Agriculture, Public Health and Social Assistance, Armed Forces and National Police, Civil Defense, Red Cross, Fire Department, Water Resources, Water and Sewage, Housing and Municipal bodies. Two representatives of Civil Society are elected from professional, community and trade union associations

The Fund is operated by an Administrative Board (Art.21 Law 147/02). The Board is integrated by:

- The National Emergency Commission, as chair,
- The Technical Secretary of the Presidency or its delegate,
- The Technical Secretary of Finance or its delegate,
- The Governor of the Central Bank or its delegate,
- And the Director of the National Budgetary Office, or its delegate.

The functions of the Board are (Article 32, Decree 932-03):

- The design of the policy for the use of the resources of the Fund,
- The surveillance of the policy Fund compliance and the achievement of its objectives,
- Keep watch over security, appropriate management and optimal performance of the resources of the Fund,
- To know of the funds requests and approve or disapprove them,
- And to know the annual budget for the Fund operations, taking into consideration all the possibilities and sources admitted by law.

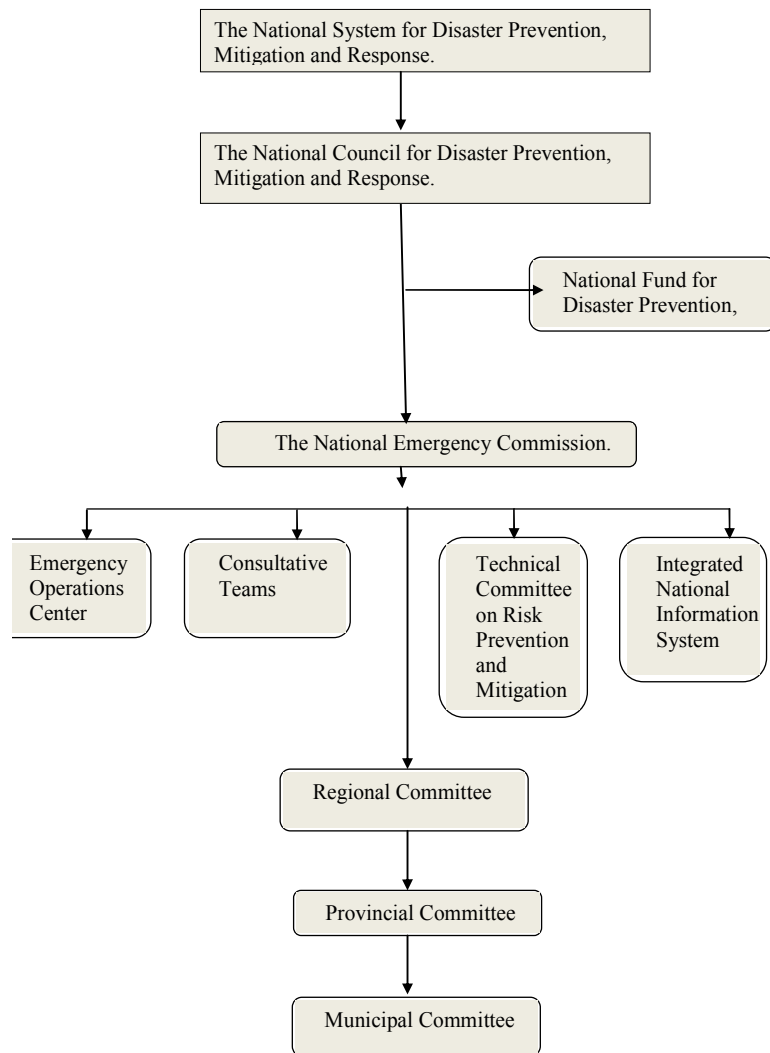
When the funds are provided for an international institution, by any title, the conformity of the Technical Secretariat of the Presidency is required. Regarding the funds allocated in conformity with the Budget and Public Expenditures of the Nation Law, it is necessary to submit a request to the National Budgetary Office, in the terms established by Law.

Administrative Board of the National Fund for Disaster Prevention, Mitigation and Response

The National Fund for Disaster Prevention, Mitigation and Response is operated by an Administrative Board, (Art.21 Law 147/02). The members and functions of the Board are those of the Civil Defense Fund above.

Figure 2 provides an illustration of the national system for disaster prevention, mitigation and response.

Figure 1:
Flowchart: The National System for Disaster Prevention, Mitigation and Response



Budget appropriation and execution

The National Fund for Disaster Prevention, Mitigation and Response: Civil Defense Fund

The resources of the above Fund are allocated by the National Budget and Public Expenditures. The State Law for Budget, No 423/06, establishes the amount to cover unexpected costs generated by public calamities or catastrophes, which must be approximately 1 % of the budget and its use, is decided by the President of the Republic in conformity with the measures adopted by National Emergency Commission. (Art. 33 Law 423/06)

According to the Law (Art.20 Par I.), the Fund must contain enough resources, not only to complement the institutional efforts of the national and local entities for the disaster prevention, mitigation and response, but also to keep economic reserves that allow the central government to count with immediate available resources after the occurrence of a disaster. In practice, the capacity and Fund availability is very limited.

In order to access the Fund, it is necessary to submit a request to the National Budgetary Office, in the terms established by Law. The destination of the resources of the Fund are oriented, assigned and executed, as indicated in the Guidelines established under the Risk Management National Plan and on the special provisions contemplated in the specific action plans for response, recuperation and rehabilitation of declared disasters. (Par. 2 Art. 20 Law 147/02).

When the funds are provided by an international institution, by any title, the agreement of the Technical Secretariat of the Presidency is required. The National Emergency Commission receives budget allocations through the national Annual Budget of the country to cover its operational activity and for the realization of their activities on disaster prevention, mitigation and response (Art.22 Law 147/02). Upon request from the National Emergency Commission, regional, provincial and municipal entities could support response, rehabilitation and reconstruction activities and apply budgetary resources, if necessary, out of their jurisdiction (Art.25 Law 147/02). Public autonomous and decentralized institutions are required to incorporate in their annual agency budgets the funds required to accomplish their obligations (Art.28 Law 147/02).

Due to budgetary constraints, on years 2006, 2007 and 2008 the magnitude of the allocated resources was of 0.3%, 0.26% y 0.33%, respectively, of the budgeted incomes, as informed by the General Directorate for Budget of the Secretariat of Federal Incomes.¹⁴ The Budget Law of 2010 has allocated 532.7 millions of pesos, of which 35,384,000 pesos correspond to the National Emergency Commission which is equivalent to more or less than one seventh of 1% of the whole budgeted costs established by Law.¹⁵

Other sources of financing/funding

A system for the administration and allocation of goods donated in order to address disasters situations is in place. Goods of any kind received as donations will be, as much as possible, assigned in accordance to the specific plan of action to attend to situations and requirements previously identified by the National Emergency Commission, except when the donor has declared the purpose or object of the donation (Art. 58, D 932-03).

The administration of the donated financial goods corresponds to the National Fund (Art. 60, D 932-03) and in the moment of distribution, the Financial Board will establish a clear definition between financial aid and aid in nature (Art. 61, D 932-03), according to the following rules:

- Financial aid: currency, resources received in money coming from donors being these countries, national and international agencies, public and private institutions, legal or natural persons; and is devoted to reconstruction or mitigation measures
- Aid in nature: medicines, clothes, food and other items of personal use, construction articles and material goods in general administered by the National Emergency Commission.

External Support

¹⁴ http://www.end.gov.do/download/eje_4/E4.3_%20GESTION_DE_RIESGOS.pdf

¹⁵ Suarez. Nelson “Hay que aumentar inversión para prevención y respuesta desastres”, Periódico Digital Hoy –Sección Negocios, 23 Enero 2010”

External financial support has also been provided. On May 2008, the World Bank Board approved an US\$80 million loan for the Dominican Republic to support the country's recovery efforts after Tropical Storms Noel and Olga.¹⁶

Grenada

Legal Framework

Grenada Constitution Order, 1973

The Grenada Constitution Order of 1973, No. 2155 of 1973 which was enacted December 19, 1973 and came into operation on the February 17, 1974 makes provision for the declaration of a state of emergency in Chapter I (Protection of Fundamental Rights and Freedom).

By virtue of section 17 (1) of the Constitution, the Governor General has Constitutional authority to declare a state of emergency by making a Proclamation to that effect. This power was exercised as recently as 2004, with the passing of Hurricane Ivan in Grenada (Statutory Rules and Orders No.20 of 2004). The Constitution provides that a resolution of the House of Parliament or an extension of such a resolution shall not be passed unless it is supported by a majority vote of all the members of the House. Every declaration of emergency shall lapse in the case of a declaration made when Parliament is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration. In other cases the declaration of emergency shall lapse at the expiration of a period of twenty-one days, beginning with the date of publication of the declaration, unless it has in the meantime been approved by a resolution of both Houses of Parliament.

A proclamation of emergency must be approved by a resolution by both the Houses of Parliament. Once approved by Parliament the emergency remains in force for a period of six months from the date of proclamation or for a shorter period. In the event that it is extended beyond six months, another resolution has to be passed by parliament. This Resolution may, however, be revoked at any time by a resolution of the House of Parliament.

Emergency Powers Act No. 17 of 1987

The Emergency Powers Act contains 9 provisions, which in essence, support provision 17 of the Constitution.

Section 2 of the Emergency Powers Act defines the term "period of emergency" by linking it to Section 17 of the Constitution of Grenada. In this Act "period of emergency" is defined as "*a period beginning with a declaration made by the Governor General of the State that a state of emergency exists therein and ending either with a declaration so made that a state of emergency no longer exists therein or in accordance with the provisions of section 17 of the Constitution of Grenada.*" Section 3 (1) provides for instances when a state of emergency shall be declared.

Section 3(2) is similar to the Constitutional provision in vesting the Governor General with the power to revoke a declaration of emergency at any time. The Governor General must act, however, on the advice of the Cabinet when exercising his powers in section 3(1) and (2).

¹⁶ For project documents see

<http://web.worldbank.org/external/projects/main?pagePK=64283627&piPK=73230&theSitePK=40941&menuPK=228424&Projectid=P109932>

The Act makes provision in section 4 for the Cabinet to make regulations during a period of emergency in Grenada. These regulation-making powers may include prohibiting persons from being out of doors between specific hours or even prohibition of persons from travelling. However, the Cabinet, in its discretion, may order that monies be paid to persons suffering loss or damage by reason of the exercise of section 4 of this Act. Section 5 establishes an outline of the procedures for *Gazetting* regulations.

National Disaster (Emergency Powers) Act Cap 3 of The 1990 Revised Laws Of Grenada

This Act makes provision for Emergency Powers specifically for the maintenance of supplies and services essential to the life of the community of the occurrence of a national disaster. Accordingly, the Prime Minister has the authority to declare that a national disaster has occurred in Grenada when he is satisfied that supplies and service essential to the life of the community are likely to be endangered. A declaration of this nature shall remain in force until revoked by the Prime Minister by notice published in the Gazette.

According to Section 2, “national disaster” is defined to mean “a disaster occurring as a result of an earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease or other calamity.”

Section 4 of the Act makes provisions for the Prime Minister or a person authorized by him to regulate specific areas such as water supplies, electricity and gas and food and liquor supplies and all other measures necessary to maintain supplies and services essential to the life of the community. These regulations are to be published in the Gazette, and in cases where this can not be done, it shall be published by means of notices affixed to public buildings or distributed amongst the Public or by oral public announcement by radio or otherwise.

Agriculture (Hurricane Rehabilitation) Act Cap.11 Rev.

This Act makes provision for measures to be followed to ensure prevention of disasters as well as, post-disaster actions to assist persons affected by hurricanes.

Institutional Framework

NADMA (National Disaster Management Agency)

The National Disaster Management Agency (formerly National Emergency Relief Organization (NERO)) is the body responsible for the overall management of disasters and emergency situations in Grenada. NADMA’s mission is to reduce the loss of life and property within Grenada, Carriacou and Petite Martinique by ensuring that adequate preparedness, response and mitigation measures are in place to deal with the impact of the hazards.

NADMA’s operations reflect the mandate of the Caribbean Disaster Emergency Management Agency in adopting a holistic approach that includes preparedness and response. NADMA has five main groupings: Executive Council; The National Emergency Advisory Council (NEAC); Management Committees; District Committees; and Village or Community Committees.

National Disaster Management Advisory Council (NADMAC)

This body is responsible for ensuring that all committees are working regularly and revising emergency plans periodically. Its duties include:

- To ensure that all disasters and emergency preparedness processes and resources are adequate.
- To mobilize, direct and coordinate preventative, mitigating, preparedness, response, rescue and relief mechanisms for all hazards and emergency situations.
- To promote preventative mechanisms and activities and rapid response techniques by all organizations and agencies with disaster functions of services especially Police, Fire, and Health Services.
- To prepare for approval by the Cabinet, guidelines and administrative policy for all sections of the National Disaster Organization.
- To ensure the acquisition and dissemination of adequate public information and to promote and approve educational and training activities on emergency situations.

Other governmental agencies

All government agencies and ministries are responsible for designing their own continuity of operations and emergency response plans. These plans must be given to the National Disaster coordinator of NADMA no later than April 30th of each year for submission to the National Emergency Disaster Management Council within one week of its receipt. As a general rule, government agencies and officers will continue to exercise their normal functions during a disaster; but in some cases, special additional responsibilities will be assigned. Several government bodies are vested with powers and responsibilities during disaster and emergency situations. They include the Office of the Prime Minister as Chair of the National Disaster Management Council with responsibility to –

- Coordinate all response, relief and rehabilitation activities from the Emergency Operation Centre during emergencies and disasters.
- Declare a National Disaster when necessary.
- Coordinate all the reconstruction activities.

The Police, Fire Services, Coast Guard secure essential services and vulnerable points, crowd and traffic control, evacuation and fire and rescue.

It is important to note the following:

1. In cases where a Department or Statutory Body is assigned specific responsibilities in the agency document, ultimate responsibility rests with the Permanent Secretary of the Ministry concerned. The Permanent Secretary must ensure that all members of staff involved are familiar with the plan.
2. Where more than one agency is involved with the same area of activity, it is the responsibility of the first listed Permanent Secretary or Head of Department, unless otherwise indicated herein, to arrange meetings to arrive at a common line of action.
3. Where an agency has to liaise with another organization, it must make sure that inter-communication is well established, e.g. by exchange of telephone numbers of relevant personnel and a code for recognition.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget appropriation and execution

Currently the national annual estimates of revenue and expenditure allocate resources to NADMA for disaster and emergency situations. Monies are allocated for recurrent expenditure only, such that the 2010 estimates of revenue and expenditure have allocated a mere GD\$165,000 for the organization. The details

of the expenditure are in Table 2 below. Finance personnel have indicated that this is a result of the current economic situation and the need for funds to be allocated to other sectors as a matter of priority.

Table 2

GRENADA	
Estimates of Revenue and Expenditure for the year 2010	
Vote 10- Prime Minister's Ministry	
NADMA	
Capital Requirement	Estimates 2010
<u>Items</u>	
Supplies and Materials	5,000
Purchase of Equipment	5,000
Purchase of Furniture and Fixtures	10,000
<u>Projects</u>	
NADMA's Emergency Operations Center Repairs	50,000
Support for Disaster Management Coordination	20,000
NADMA Mitigation Programme	75,000
	165,000

The Ministry of Finance, Planning & Development provides budgetary support for emergency expenditures to design, update, test and evaluate continuity of operations and emergency response plans and procedures. The Ministry provides estimates for the amounts of financial and other relief and rehabilitation requirements as well as collects, collates and maintains damage statistics and assists with coordination of supplies and other assistance received by government and non-governmental organizations.

CDEMA, the OAS and other international agencies such as USAID provide assistance to Grenada for pre and post disaster emergency situations. Assistance is also received by government and non-governmental organizations to provide relief, rehabilitation and reconstruction assistance to victims of natural and man made disasters and emergency situation. These programmes¹⁷ have instituted their own system of budget and accountability which operates outside of the governmental framework.

Haiti (Republic of)

Legal Framework

Constitution

¹⁷ Caribbean Hazard Mitigation Capacity Building Programme (CHAMP), Grenada Hurricane Resilient Home Reconstruction Project, Emergency Recovery and Disaster Management Project

The legal framework for state of emergency and disaster management in Haiti is very limited. At the constitutional level, there is no provision regarding disaster management in Haiti.

2008 Law on the Declaration of the State of Emergency.

This law was revised in 2010 and voted by the Parliament and sets out mechanisms for dealing with disasters.

1990 Decree

A decree in 1990 sought to institute an early warning system. According to the decree, the Haitian Government gives full responsibility to Civil Protection Directorate (DPC) of the Ministry of Interior and DPC for a national disaster plan. The plan requires parliamentary endorsement which is still outstanding and has therefore not yet entered into force.

Meteorology Law

Another organic law of the Ministry of Agriculture which focuses on meteorological information is in place.

Institutional Framework

Organization of Pre Disaster and Help (OPDES)

OPDES was established in 1983 in Haiti as a permanent structure which, with the support of the Red Cross, would be responsible for the operations of intervention in the event of catastrophes on all the national territory. However, national societies of the Red Cross from abroad came to reinforce the capacities of the Haitian Red Cross (HRC).

An institutional reform process was started in 1999, which led to the development of a National Plan of Risk Management and Disasters (PNGRD). Other specific tools such as the National Plan of Intervention (PNI) and an Action Plan for the Hurricane season were developed as well. The PNGRD stresses the principles of participation of the various partners, decentralization of the activities and distribution of the responsibilities among the institutions for the State and the local authorities. The PNGRD was validated in November 2001 by the government at the time.

Group of Support of International Cooperation (GACI)

Since 1998, Haitian authorities have initiated the coordination of activities to better coordinate international assistance with organizations and international institutions during times of catastrophes. Within the GACI, UNDP acts as coordinator within the System of the United Nations while the DPC of the Ministry of Interior Department coordinates group meetings. The GACI was integrated into the PNGRD and PNI to support the structure. The first document was already validated while the second, used in the event of disaster, has not yet been the subject of a governmental validation.

As a result of an institutional analysis that took place during the preparation of the law, it was also recommended to raise the level of general direction of the DPC in order to grant it full autonomy.

Haitian Red Cross

Founded on May 29, 1932, the Haitian Red Cross (HRC) was the first institution officially recognized by the Government of the Republic of Haiti as an auxiliary of the state authorities, having the objective of carrying out assistance to the population in situations of catastrophe. In support of this institution, an ad hoc committee was created at the highest level of the state to manage each emergency which occurred.

Only the Haitian National Red Cross has mandates for national emergency responses activities during emergencies. The National Plan clearly establishes the roles of each Ministry with the Haitian Red Cross under the leadership of the Interior Ministry; however, the problem is that the Plan does not have the force of law.

The national system for disaster management under the Civil Protection Directorate has established Committees of civil protection at departmental, communal and local levels. These committees are coordinated by the local authorities.

Budget Appropriation

Prior to the 2010 earthquake, a budget in the sum of USD 600,000 was allocated to response activities, but not to preparedness. The country relies on the support of the international community for preparedness.

Jamaica

Legal Framework

Constitution of Jamaica, 1962

According to section 26(5) of the Constitution, where the Governor General is satisfied that a public emergency has arisen as a result of the imminence of a state of war between Jamaica and a foreign state; or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life; he may make a Proclamation declaring that a state of national emergency exists.

Unless otherwise resolved by a majority vote of all the members of the House of Representatives, such a Proclamation will be in force for a period of one month and can be extended in a similar manner for up to twelve months. In this respect, the Governor General acts in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet.

Emergency Powers Act (EPA) 1938

This Act provides the procedural framework for giving effect to a Proclamation. It defines a Proclamation specifically for the purposes of Section 26(4) of the Constitution in the following terms -

“Proclamation” means a Proclamation, effective for the purposes of subsection (4) of Section 26 of the Constitution of Jamaica, which is issued upon the Governor General being satisfied –

- (a) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or
- (b) those actions had been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.

In Jamaica, the Governor General is the representative of the Queen, who is still the sovereign of the country and is therefore its ultimate Head of State.

The Act makes it lawful at Section 3 for the Governor General to make Regulations (by Order) for securing the “essentials of life to the community” and in so doing he can confer or impose on *any*¹⁸ government department or any persons in Her Majesty’s Service such powers and duties as the Governor General may deem necessary or expedient for the following: “the preservation of the peace, for securing and regulating the supply of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor General to be required for making the exercise of those powers effective.”

Without prejudice to the generality of those powers, the Emergency Preparedness Act also allows the Governor General to make more specific regulations as necessary or expedient to carry them out. The regulations must be laid before the Senate and the House of Representatives as soon as possible *after* they are made, and expire after seven (7) days from the time when they are so laid before the Senate and the House of Representatives; whichever shall be the later unless a resolution is passed by the Senate and the House of Representatives, providing for the continuance thereof (4).

The expiry or revocation of the Regulations does not affect any action taken under them nor does it invalidate any such action or any penalty or punishment incurred in respect of any contravention or failure to comply therewith or any proceeding or remedy in respect of any such punishment or penalty.

Disaster Preparedness and Management Act, 1993

The National Disaster Plan is prepared under this Act. The Act itself sets out provisions that outline legal, operative and administrative guidelines and instructions for the response of all relevant bodies to natural disaster and emergency events and provides a framework for accountability for disaster responsibilities.

Local disaster-related Declaration

In terms of local conditions, whenever ODPEM reports to the pertinent Minister the existence of any local condition in any part of the island tending to endanger public safety and there is no other law to guard against or remove that condition; or where it reports that any part of the island appears to be threatened with or affected by a natural or technological hazard and that measures apart from or in addition to those referred to in the Disaster Preparedness and Management Act, that Minister must report to the Prime Minister (one and the same at this time) who may cause that area to be declared a Disaster Area by order published in the Gazette.

¹⁸ Our emphasis.

Institutional arrangements

The disaster management and emergency framework in Jamaica consists of a multi-tiered framework involving different institutional entities which have different areas of primary responsibility. All such institutions are recognized in the Plan which gives detailed breakdowns of levels and sub-levels and roles and responsibilities both before and after such events. Additionally, many agencies such as the National Works Agency have their own internally produced documents outlining their view of their roles and responsibilities and general position in the entire scheme. As such, the framework will be described here in a general sense.

At the Ministerial level, virtually all Ministries of Government have some place in disaster and emergency response and to some extent this is self-evident from a practical standpoint. The necessity of that arrangement was recognized in the power of the Governor General to impose any function as necessary on any Department of Government or person in Her Majesty's service. Notwithstanding, the following Ministries have lead¹⁹ roles in emergency and disaster response: the Ministry of National Security, Ministry of Land, the Ministry of Health, Ministry of Local Government, the Ministry of Housing and the Ministry of Transport and Works. The Office of the Prime Minister (OPM), though not a Ministry per se, has the responsibility for several relevant portfolios such as Environment and, as will be seen, reposes in the Prime Minister the duty of being the relevant "Minister" as referred to in the enacting legislation of several statutory bodies which also play key roles in the disaster and emergency frameworks.

The Office of Disaster Preparedness and Emergency Management, Office of the Prime Minister

The Office of Disaster Preparedness and Emergency Management (ODPEM) is a statutory body created by the Disaster Preparedness and Emergency Management Act 1993. Its principal objective is to advance disaster preparedness and emergency management measures in Jamaica by facilitating and coordinating the development and implementation of integrated disaster management (Section 4).

ODPEM is headed by a Director General who is responsible for spearheading its coordinating role in emergency and natural disaster events. The Prime Minister is the Minister responsible for ODPEM. Although it is the Governor General that is reposed with the power and responsibility of making a Proclamation in the event of a [public emergency], it appears to be the Office of the Prime Minister to which agencies and bodies must look for practical guidance and command in disaster and emergency situations.

The Prime Minister may also direct the enforcement of any measures recommended by ODPEM or any other measure he thinks will expediently remove or guard against the relevant condition and its probable consequences. An Order under this section of the Disaster Preparedness and Management Act can extend to all or any part of the island and can remain in force for any period.

National Disaster Committee (NDC)²⁰

The Prime Minister is the Chairman of NDC and it is his Office that activates the National Disaster Preparedness and Emergency Plan. NDC plays a coordinating role in disaster and emergency responses. Under the Act, its functions include –

¹⁹ The author's own description

²⁰ National Disaster Action Plan 1997.

- (a) developing and implementing policies and programmes to achieve and maintain an appropriate state of national and sectoral preparedness for coping with all emergency situations which may affect Jamaica;
- (b) encouraging and supporting disaster preparedness and mitigation measures in all the parishes in collaboration with the local government authorities, community based organizations and the private and voluntary agencies respectively;
- (c) providing appropriate training programmes and consulting services related to all aspects of disaster preparedness, disaster mitigation, loss reduction, and disaster management;
- (d) planning and implementing programmes to enhance public awareness and understanding of disaster related issues, emergency management, hazard prevention and other similar matters;
- (e) identifying and analyzing hazards or emergency situations and conducting related operational research into their effects;
- (f) establishing, maintaining and managing mutual assistance and cooperation agreements.

The Ministry of Local Government and its Agencies

The Ministry of Local Government (MLG) is the agency responsible for the country's 14 parish councils each headed by an elected Mayor. There is no budget allocation to the MLG specifically for disaster response.²¹

Parish councils also act as local health authorities and in this respect there is some overlap in the institutional framework. They also host the Parish Disaster Committees Agencies which are critical components of local level responses and act as coordinators within parishes. Other agencies under the remit of this Ministry that are involved in emergency and disaster response are the Jamaica Fire Brigade and the National Solid Waste Management Agency, both creatures of statute. The Jamaica Fire Brigade's role is to deal primarily with fire management, evacuation and leading search and rescue efforts. The Solid Waste Management Agency is responsible ordinarily for solid waste management throughout the island and undertakes emergency clean up activities as needed and allowed by its resources.

Ministry of Transport and Works: The National Works Agency

The National Works Agency is an executive agency that falls under the Ministry of Transport and Works. Its main function is to help build and maintain the nation's roadways in emergency situations. It acts as a means of first response to clear roads, repair bridges and generally to restore access to communities with methods such as bridge repairs. It is guided by a Corporate Plan and Framework Document and receives funding from its parent Ministry but not specifically for disaster preparedness or emergency management. In the last financial year it received a budgetary allocation of J\$200,000,000 for the cleaning of drains and flood control in the event of a hurricane. The NWA accesses additional funding if necessary from CDB and IDB.

Ministry of Health

The Ministry of Health is responsible for all local health authorities, whose remit includes public health, and the provision of emergency medical services by public hospitals, clinics and other providers of medical services to the public at large. Local Boards are given wide powers under the Act (Section 7) to make regulations relating to, among other things, the overcrowding of buildings and the closure of buildings dangerous to the inhabitants and the general public. They are given wide powers to carry on all activities that appear to them to be requisite, advantageous or convenient in the interest of public health.

²¹ Devon Rowe.

The Minister has the power to make regulations in relation to the prevention, mitigation and suppression of disease including the closure or destruction of buildings and the restriction of movement of persons in and out of infected areas.

The Security Forces

Jamaica's security forces are critical to the country's management and response to disaster and emergency situations. Its major components are the Jamaica Defence Force and the Jamaica Constabulary Force.

The JDF is charged with the defence of and maintenance of order in Jamaica by the Defence Act (1962). It consists of a regular force and a reserve force known as the Jamaica National Reserve. The Act allows the Prime Minister to give the Chief of Staff directions with respect to the operational use of the JDF for the purpose of maintaining and securing public safety and public order. While so doing, JDF officers enjoy the same privileges and immunities and protection as are enjoyed by members of the Jamaica Constabulary Force (JCF). The Minister responsible for Defence sits on the Board of the JDF, which is responsible for its administration. It is the Governor General who appoints the Chief of Staff.

The Jamaica Constabulary Force is mandated by the Constabulary Force Act (1935) to keep watch day and night and to preserve the peace. Constables have a wide range of powers including powers of search and arrest with or without a warrant and, along with the JDF, have historically been the agents through which the Governor General's Regulation under the EPA has been put into effect. The relevant Minister is the Minister of National Security.

Other Statutory Bodies

Other partners in disaster and emergency response plans include the National Water Commission, a statutory body charged with provision and maintenance of water supply and sewerage service, and the Jamaica Public Service Ltd, a private body which is the sole provider of island-wide electricity services. The Water Resources Authority (WRA) is also mandated to deal with management of the country's freshwater resources and is recognized as a partner in emergency and disaster response in the National Disaster Plan 1997.

Non-Governmental Bodies

Non-governmental bodies are also part of the natural disaster framework; notably, the Seismic Unit of the University of the West Indies, which is primarily a research institution. It notifies ODPEM and the media of the fact and location of earthquake occurrences. It has no budgetary provision for disaster planning or response. Eighteen million dollars is provided in the current financial year for salaries and equipment repairs or update. Budget augmentation from the UWI is for research purposes only. The Salvation Army and Red Cross are also recognized in the National Disaster Plan.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation and Execution

It is the Finance Minister who must authorize by warrant the payment of any monies out of the Consolidated Fund, which is the fund into which all revenues of the country are paid. It is also the Finance Minister who has the ultimate responsibility for disbursements from the Consolidated Fund for the running of the country. This includes the various Ministries of Government, which must then in turn disburse funds for their own needs as well as of their subordinate agencies. Ultimately, it is also the

Finance Ministry that must ensure that adequate funds are available and disbursed in times of emergency. This is partly because there is no across-the-board standard for how each agency or Ministry with a role in disaster and emergency management is allocated funds to carry out its function in this respect. Some entities such as ODPEM may have specific budgetary allocations for this, while others such as NSWMA must either absorb it as part of their ordinary operations or must request that the Finance Ministry advance or reimburse monies as needed. Table 3 below is indicative of the 2004-2005 National Budget.

Table 3

Extracts from the National Budget 2004-2005	Ministry of Finance and Public Affairs (Jamaica)
Ministry of Health 37.7 Million	Ministry of Land and Environment 57.5 Million
ODPEM/ Seismic Unit 12 Million	Ministry of Water and Housing --- (since 2002)
Community Development (Agriculture Ministry) \$500,000	Ministry of Transport and Works 110 Million
Flood Damage Rehabilitation Project funded by	CDB, IDB. CDB Allocation 1,668,500.00
Allocation from IDB 784,000	Government of Jamaica 196,000
Ministry of Local Government 165 Million	

With regard to OPDEM, its statutory framework provides, in section 9, that its funds and resources consist of such sums that may from time to time be placed at its disposition by Parliament (ostensibly the Consolidated Fund). Its budgetary allocations from government appear to be for the purpose of dealing with salaries and general expenses, while funding for disaster response comes from international donor agencies like the Inter American Development Bank (IADB), CEDA, the World Bank and the Japan International Cooperation Agency (JICA). Project grants are also used to supplement ODPEM's income.

There is an allocation in the national budget for a National Relief Fund, sometimes referred to as a National Disaster Fund. It is set at a yearly sum of 50 million dollars and is not a fund in the strict sense of the word, but is an allocation that is called upon as needed or as requested basis to whichever entity requests it. It remains under the control and administration of the Ministry of Finance and Public Affairs to whom requests must be made for access to funding. Table 4 is indicative of the 2009-2010 budgetary allocation for Disaster Management, which is given specifically to ODPEM for its recurrent expenses.²² Additionally, the Jamaican Constitution, at section 118, allows for the creation of a Contingencies Fund from which the Finance Minister may be authorized to make advances if he sees an unforeseen need for [any] expenditure for which no sufficient provision has been otherwise made (by an Appropriation law).

²² This is approximately J\$30,000,000 more than its ordinary sum, due to the purchase of office space in this financial year (Source: Ministry of Finance)

Table 4

Extracts from the National Budget 2009-2010	
Ministry of Finance and Public Affairs (Jamaica)	
Office of the Prime Minister:	
Disaster Management	154 Million
Environmental Protection & Conservation	33.5 Million
Earthquake Unit (UWI MONA)	19 Million
National Resources Conservation	13.3 Million
Projects:	
An integrated approach to the marine Coastal and Watershed Resources of East Portland (GOJ/UN Office For Project Services)	14.9 Million
Natural Hazard Management in Urban Coastal areas (IADB)	27.5 Million
Building Disaster-resilient Communities (GOJ)	13.2 Million
Solid Waste Management	678.5 Million
Ministry of Health – Disaster Management	46.1 Million
Ministry of Water & Housing – Disaster Management	356 Million

At this time, the Office of the Prime Minister (OPM), which is a Department of Government, holds the Environment portfolio and so OPDEM, NSWMA and the Natural Resources Conservation Authority (NRCA) – the latter being the statutory body responsible for environmental management of the country’s natural resources – are now directly under the remit of OPM. This is a different approach to natural resource management than that of the previous political administration and the 2004-2005 budgetary allocation is included in Table 3 above to illustrate how handling or assignment of this area may change from time to time with government policy. Therefore, it is now OPM that deals with whatever disaster and emergency management responsibilities there are that are not specifically ascribed to the relevant Ministries or their subordinate agencies.

All additional voluntary or loan funds that are made in the event of a disaster are accessed via the Ministry of Finance and the Planning Institute of Jamaica (PIOJ). The CDB, for example, has a \$20,000,000 loan assistance fund which can be applied to assist in recovery efforts.

St. Kitts and Nevis

Legal Framework

The Constitution of 1983

Section 19 of the Constitution is instructive on matters pertaining to the declaration of an emergency in St. Kitts and Nevis. According to the provision, the Governor General may, by proclamation, declare that

a state of emergency exists either in Saint Christopher or Nevis. Such a proclamation shall not be effective unless it includes a declaration that the Governor General is satisfied that a public emergency has arisen either –

- a) because of the possibility that Her Majesty may shortly be at war;
- b) *because of the occurrence of any accident or natural calamity; or*
- c) because action has been taken by any person, or there is an imminent threat of action by any person, of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

However, in the exercise of his powers to make or revoke any such declaration, as is referred to in subsection (4), the Governor General shall act in accordance with the advice of the Prime Minister. However, no such advice shall be given without the concurrence of the Premier (Nevis).

Every declaration of emergency shall lapse –

- a) in the case of a declaration made when the National Assembly is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and
- b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration unless it has in the meantime been approved by resolution of the Assembly.

A declaration may be made with respect to all or part of either island and may be extended from time to time with each extension not exceeding twelve months from the date of the resolution. According to subsection (5), a declaration of emergency may at any time be revoked by the Governor General similarly by proclamation.

With regard to Nevis Island, unless sooner revoked, a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection 19(3) shall not be in force until that resolution ceases to be in force. Furthermore, a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection (4) shall, to the extent that it relates to the island of Nevis and notwithstanding that a declaration of the National Assembly approving it in pursuance of subsection (3), remain in force. A resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of not less than two-thirds of all the Representatives and Senators. Furthermore, a resolution revoking any such resolution shall not be passed unless it is supported by the votes of a majority of all Representatives and Senators.

According to section 16 of the Constitution, entitled “Emergency measures derogating from s.5 or 15,” nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 5 or 15 to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis during that period.

Emergency Powers Act No. 15 of 1967

This Act provides for emergency powers in times of war, public calamity or public disturbance. Other relevant pieces of legislation which relate to various Agencies/Institutions which are part of the National Disaster Organisation, include the following: Police Act No.6 of 2003, Fire and Rescue Services Act No. 6 of 1999, St Christopher and Nevis Defence Force Act No. 10 of 1997, Island Constables Act No. 31 of 2009, and St. Kitts and Nevis Red Cross Society Act No 6 of 1985.

National Disaster Management Act No. 5 of 1998

The National Disaster Management Act, St. Christopher and Nevis, No. of 1998 establishes the legal framework for disaster management. The Act provides for the effective management and control of disasters, and for related or incidental matters. A National Emergency Management Agency (NEMA) was to be set up pursuant to section 3. NEMA prepared the country's National Disaster Mitigation Plan and policy document in 1999 which was revised in 2001. The Plan provides for the engagement of public, private, governmental and non-governmental organizations. Community mobilization is organized through district committees. The development of contingency plans at the community level has been ongoing for several years.

Development Control and Planning Act in 2000

Following the devastating impact of Hurricane George in 1998, the government of St. Kitts and Nevis enacted the Development Control and Planning Act in 2000. This document provides the legislative framework for the regulation of the construction sector and for the orderly undertaking of physical development activities. In support of the Act, the St. Kitts-Nevis Building Code was upgraded and the Building Inspectorate was increased. And other measures have since been taken to minimise the impact of disasters on government buildings.

Institutional Framework

National Emergency Management Agency (NEMA)

NEMA is the agency responsible for coordination in times of national emergency. It is established as a department in the Ministry of National Security. It is generally responsible for management, mitigation, control and recovery in times of national emergency. NEMA coordinates the various activities of the institutions with the necessary resources to deal with the national emergency. In other words, unlike the United States of America's Federal Emergency Management Agency (FEMA), which has its own resources such as heavy equipment and food, NEMA works together with the institutions with the resources.

NEMA's points of contact within the Ministries and other organisations are the Permanent Secretaries of the various Ministries and the Heads of Departments or heads of the various organisations (specified in the St. Kitts and Nevis National Disaster Plan). NEMA is also responsible for preparedness, coordination of training and educational exercises during non-emergency times. The police officer interviewed indicated a desire for more drills and table tops during times of non-emergency.

The St. Kitts and Nevis National Disaster Plan was prepared under the Disaster Management Act officially endorsed and approved by the Cabinet of Ministers in 1999. Since that time, the said Plan has been the guiding document during two national emergencies in St. Kitts and Nevis; mainly, Hurricane Lenny in 1999 and Hurricane Omar in 2008. The Plan is currently being reviewed because new agencies are now involved that did not exist when the plan was originally approved in 1999, including the fire and rescue service and the emergency medical service.

Nevis Disaster Management Department

NEMA works together with the Nevis Disaster Management Department to ensure that the island is in a state of preparedness at all times. The Department was set up by the Nevis Island Administration,

meaning it is not a Federal Department despite being specifically established to deal with disasters/national emergencies in the island of Nevis. It has set up a Committee within the Department to coordinate with NEMA regarding emergencies affecting the island of Nevis. Its area of planning includes collaboration with NEMA, coordination with District Emergency Organisations and advising NEMA on the requirement for anticipatory orders under the Emergency Powers Act.

The Department has prepared a Nevis Disaster Management Plan which, according to the National Coordinator, is in need of various modifications. There is a proposal by the Nevis Disaster Management Department to completely replace this plan and work is on the way to secure funding to undertake the revamping of this plan. The Department hopes to start the review in mid-2010.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation and Execution

The Ministry of Finance is the government agency that is responsible for budget appropriation and the Financial Secretary, assisted by the Accountant General, responsible for oversight. There is no change in “budget execution oversight” at times of emergency/disaster. There is, within the budget, a contingency reserve fund which may be accessed in the case of a national emergency. In addition to the contingency reserve fund, the Minister of Finance may issue an appropriation warrant in the case of a national emergency. Any appropriation warrant that is issued in the case of a national emergency has immediate effect, but must eventually be validated by Parliament’s approval by way of passing a related Supplementary Appropriation Bill.

The Financial Secretary is responsible for budget execution oversight in the case of funds allocated for a national emergency. The Officer from the Ministry of Finance indicated that this system has been tried and tested and has been found to be very efficient in cases of national emergency. All of the detailed paper work which would cause delays is dealt with after the Minister has issued the appropriation warrant and the funds have been disbursed for effective disaster mitigation among other things.

In Nevis, the Nevis Island Administration is also responsible for the disbursement of funds in case of a national emergency affecting the island of Nevis.

St. Lucia

Legal Framework

The Saint Lucia Constitution Order 1978

Much like its counterparts Barbados and St. Vincent and the Grenadines, the emergency powers arrangements in St. Lucia are quite simple. Established in two main legislative instruments, the Constitution establishes the power to declare a state of emergency and the Emergency Powers Act furthers the implementation of its provisions.

Under section 17 of the Constitution, the Governor General may, by proclamation published in the Official Gazette, declare that a state of emergency exists. Such proclamation shall not be effective unless it contains a declaration that the Governor General is satisfied –

- a) that a public emergency has arisen as a result of the imminence of a state of war between Saint Lucia and a foreign state;
- b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or
- c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

The section sets out the procedures for revocation, extension and lapse of such a declaration.

The Governor General is also authorised to impose regulations and make orders to deal with situations existing or likely to exist during a period of public emergency. Parliament has a similar right to enact laws during this period. However, the Governor General's power supersedes any power exercised by Parliament during the relevant period. Nevertheless, Parliament is allowed to enact laws even in circumstances where such laws may be in breach of section 3, the protection of right of personal liberty, or section 13, protection from discrimination of the grounds of race etc. According to section 14, any such law and/or regulation must be reasonably justified to deal with the existing situation or likelihood of situations to occur during the period of public emergency, seeming to draw a balance between the government's responsibility to safe guard public interest and protection of individual's liberties.

Emergency Powers Act No. 5 of 1995

The provisions of this Act supplements and implements section 17 of the Constitution, setting out the hierarchy of responsibility and actions to be taken after the Governor General has proclaimed a public emergency under section 17. According to its provisions the Minister of Finance is authorized to make orders during a public emergency. These orders relate to the requisitioning of transport, food, clothing and other necessities. However, the government, mainly the Senate and House of Assembly, must approve of these orders by resolution.

Disaster Management Act, 2006

This Act repeals and replaces an earlier Disaster Management Act. It contains detailed provisions regarding the functions and operation of the National Emergency Management Organisation (NEMO). The Act requires a Director to head the organisation along with a National Emergency Advisory Committee chaired by the Prime Minister. This Committee is responsible, among other things, for setting up additional district committees to assist in carrying out the objectives and functions of the organization as stipulated in the Act and in accordance with the national plan of the country. The Act imposes the responsibility on the Director to submit an annual report to the Committee. The report is adopted after consultation with the Prime Minister and becomes part of the national plan of the country.

The Act also authorizes the Governor General to proclaim the whole or part of any treaty to be law during an emergency period. This is an important provision because it creates assimilation of systems and guidelines which facilitates and encourages international mutual assistance during disaster and emergency situations. In some instances treaties are treated as self-executing and thereby deemed applicable in domestic law. The Caribbean Disaster Response Agency Agreement forms part of the Third Schedule of the Act in this context.

Health Practitioners Act – 16.11 of the Revised laws of Saint Lucia

Under section 39(1) of the Act, the Governor General, acting on the advice of the Chief Medical Officer may, during times of public emergency, authorize the registration of persons who may not otherwise qualify as medical practitioners. However, any person so registered must cease to practice when the Governor General orders that the state of public emergency is over. This is a necessary authority to increase human resource power which is critical to respond to emergency and disaster situations.

Institutional Framework

National Emergency Management Organisation

NEMO was established under the Disaster Preparedness and Response Act of 2001 which has been repealed and replaced by the Disaster Management Act 2006. There is a duty imposed on the organization and the government to notify the public of hazard or emergency or evacuation situations. The Act also authorizes the Governor General to proclaim the whole or part of any treaty to be law during an emergency period. This is an important provision because it creates assimilation of systems and guidelines which facilitates and encourages international mutual assistance during disaster and emergency situations. In some instances treaties are enacted into law immediately. For example, the Caribbean Disaster Response Agency Agreement, forms part of the Third Schedule of the Act.

NEMO is operated by a small core of administrative staff and volunteers in implementing the National Emergency Management Plan of 2007. Generally, the plan consists of a number of very comprehensive practices, policies and plans for preparedness and response to emergency and disaster situations. The plan provides for consultation of various groups, some of which include district committees, government ministry, advisory committee, private sector and NEMO. This collaborative effort is important in order to secure full participation to encourage a wide range of ideas to secure guidelines for disaster and emergency preparedness and administrative execution.

An illustration of the chain of command in emergencies is in Appendix 2.

Budget Appropriation and Execution

The Estimate of Expenditure (Budget) for St. Lucia is conducted along similar lines as its Eastern Caribbean neighbours. Sections 78 and 79 of the Saint Lucia Constitution establish the duty to make disbursements from the Consolidated Fund or other public fund. According to that process as it pertains to NEMA, the Ministry of Finance prepares the Macroeconomic outlook for the upcoming fiscal year. Macroeconomic indicators are reviewed and projections for recurrent revenue, recurrent expenditure and capital expenditure are formulated. Then, a request for New Initiatives for recurrent revenue, recurrent expenditure as well as capital expenditure is sent to ministries. The Agencies (including NEMA) submit their New Initiatives. The Ministry of Finance reviews the submission and prepares recommendations in consultation with Agencies. NEMA submits its estimate requests, which are then reviewed by the Ministry of Finance. Several meetings are held with Agencies within the Ministry of Finance at the Technical Budget Committee and Minister of Finance Budget Policy levels. The Minister of Finance also meets with selective Agencies, where their achievements for the current year, other significant issues and estimate requests are discussed. After extensive reviews and dialogue, the Ministry of Finance presents the draft estimates to the Minister of Finance. The Minister and Finance Officials meet with Cabinet to finalize the estimates.

Following the Cabinet meeting, Ministry of Finance prepares the printed estimates and develops the budget papers. The Attorney General develops the Appropriation Bill and the Resolution. When passed,

the Appropriation Act is then agreed up on by the Governor General and published in the Gazette. During this phase, the Ministry of Finance releases the Allocation to Agencies on a quarterly basis. The release of Allocation is based in part on the revenue performance in the case of recurrent expenditure. Capital expenditure allocation, on the other hand, is determined based on the availability of the loan or grant and the status of the projects. NEMA along with other Agencies are required to submit monthly revenue reports and quarterly performance reports to the Ministry of Finance.

Section 81 of the Saint Lucia Constitution establishes the responsibility of Parliament in creating a contingency fund to meet any financial requirements in which the Minister of Finance believes that an urgent and unforeseen expenditure has arisen for which no other provision exists. This may include a situation of public emergency. In these circumstances, a supplementary estimate and bill must be approved by the House of Assembly as soon as possible for the purpose of replacing the amount advanced.

Similarly, section 80 of the Constitution authorises Parliament to make expenditures in advance of the appropriation bill at the behest of the Minister of Finance for expenditures necessary for government services, provided that the appropriation law has not come into effect by the beginning of the financial year. This provision may be relevant to activate in an emergency situation, which has taken place after the budget has been passed by the government and which requires essential governmental services.

St. Vincent and the Grenadines

Legal Framework

St. Vincent and the Grenadines Constitution of 1979, ss. 14, 17 and 72

Section 17 of the Constitution determines that the Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists. According to the section, a proclamation shall not be effective unless it contains a declaration that the Governor General is satisfied –

- a. that a public emergency has arisen as a result to the imminence of a state of war between Saint Vincent and a foreign state;
- b. that a public emergency has arisen as a result of the occurrence of any volcanic eruption, earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or
- c. that action has been taken, or is immediately threatened by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

Section 17 also sets out the procedure regarding lapse, revocation and extension. A declaration made during the sitting of the House lapses within a week from the date of publication and according to subsection (8), any provision that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time. The declaration is revoked in the manner it is made; that is, by proclamation published in the Gazette. Irrespective of whether a former declaration has lapsed or been revoked, section 17(8) provides for a subsequent declaration to be made.

Section 18(2) defines a period of public emergency to mean any period during which –

- a. Her Majesty is at war; or
- b. a declaration of emergency is in force under section 17 of (the) Constitution.

Emergency Powers Act, Cap 274 (Rev.)

This Act is supplementary to section 17 of the Constitution which speaks to the power to declare an emergency. Section 3 of this Act empowers the Governor General to make regulations touching and concerning several aspects of governance such as communications and transport, utilities and imposition of curfews. It provides a non-exhaustive list of the powers of the Governor General who is the primary government official constitutionally authorized to declare a state of emergency. It illustrates that the power wielded by the Governor General and by extension the Executive, during a formally declared period of emergency, is evidently far-reaching. The declaration of a state of emergency therefore elicits the exercise of certain powers as statutorily ordained. The Emergency Powers Act is useful in its expression of the scope of the Governor General's powers and responsibilities.

National Emergency Management Organization Act, No. 15 of 2006

Part 1 of this Act defines "disaster" as "an actual or imminent situation, whether natural or otherwise, which requires a significant and coordinated response and is caused by an occurrence such as volcanic eruption, earthquake, hurricane, flood, tidal wave, landslide, fire or epidemic and which causes or threatens to cause widespread loss or damage to property, widespread loss of human life, injury or illness to human beings, or damage to or degradation of the environment, but excluding events occasioned by war or military confrontation." The definition is quite comprehensive and coincides essentially with the situations expressed in section 17 (3) of the Constitution, but it precludes a military confrontation.

The Act imposes an obligation on the Director of NEMO upon consultation with the National Emergency Council to prepare an annual report on the exercise of the functions of NEMO. The report is required to include a Disaster Management Policy Review related to disaster management in the State. This report is to be submitted to the Minister responsible for disaster management and then to the House of Assembly for approval. If approved, it is then published.

The Act distinguishes between a disaster and an emergency, defining the latter to mean "an adverse event that can be taken care of by local community resources," thus on a smaller scale to a disaster. Nonetheless, section 3(2) of the NEMO Act underscores the linkage between the Governor General's constitutional power to declare a state of emergency and the Minister's power to declare a disaster. It provides that "where a period of emergency exists, the National Emergency Management Organization and any other person or body exercising powers and functions under this Act may, if it is required by the Governor-General, exercise such powers and functions as the Governor-General may permit."

Part 5 underscores the need for effective communication between the Director of NEMO and various Permanent secretaries and heads of government departments through liaison officers. Section 26(2) in particular emphasizes the importance of ensuring that the lines of communications are clear and that funds allocated for disaster management are managed well and made readily available. This section allows for the involvement of persons, bodies or organizations that are presumed to be a worthwhile alliance. *Part 6* concerns the designation of vulnerable areas and highlights the involvement of the Planning Board by virtue of section 7 (1) (b) of the Town and Country Planning Act in disaster management.

Institutional framework

National Emergency Management Organization (NEMO)

NEMO is a statutory body whose chief responsibility is that of “coordinating disaster management in the state.” NEMO is responsible for preparing the National Response Plan. The National Emergency Council, the National Emergency Executive Committee and District Disaster Management Committees are the key organs of NEMO. These supplementary centres are indeed the hub through which all activities in response to disasters and alerts are channelled.

NEMO’s mandate is comprehensive and its activities are all-encompassing, integrating the input of both government and non-governmental agencies. NEMO operates as a local initiative enabling a degree of self sufficiency to address local concerns involving the handiwork of local individuals, organs and ministries with financial support from the Government through funds appropriated annually. Undoubtedly, regional and international networking with relevant agencies and organization is part and parcel of holistic disaster management.

The National Emergency Council

This Council represents the pooling of resources for a wide cross section of influential persons in the state and is chaired by the Prime Minister. The composition of the council includes the following: the Deputy Prime Minister, the Attorney General; the Director General of Finance and Planning, the Director of the National Emergency Management Organisation, the Commissioner of Police, and the Ministers responsible for disaster management, national security, works, housing, telecommunications, health and the environment, social development or mobilisation, and energy.

The National Emergency Executive Committee

This body exercises a supervisory role over sub committees established concerning matters such as public information, training and education, damage and needs assessment, transport and road clearance, emergency shelters and shelter management, emergency supplies, health services, emergency telecommunications, search and rescue (land and sea), rehabilitation and reconstruction and voluntary services. The members of these sub committees are listed in the Saint Vincent and the Grenadines National Response Plan, which is a document required by this Act to be prepared by NEMO. Overall, the Executive Committee is obligated to report to the Council whose authority exceeds it. The Executive Committee is chaired by the Director of the NEMO with the Permanent Secretary in the Ministry responsible for disaster management as Deputy Chairperson.

District Disaster Management Committees

These Committees are chaired by the designated District Coordinator and are comprised of as many persons as are necessary for them to function efficiently. There is a measure of flexibility in terms of its membership and as such, the membership relies on the scale of disaster involved.

These specific areas once identified are, by Order, designated to be vulnerable. This information is published in the Official Gazette. Any such designation can be challenged within the conditions as expressed in this section.

An illustration of the chain of command in emergencies is in Appendix 2.

Budgetary appropriation and execution

Disasters and emergencies are unpredictable events and as such, it is likely that as these vary in intensity. This affects the ability of the Government to anticipate the necessary resources from the Consolidated Fund, especially if they occur outside the budget season.

Emergency budget appropriation and execution is primarily governed by the Finance Administrative Act No. 28 of 2004. This Act instructs the preparation of annual estimates of revenue and expenditure, current and capital and the passage of appropriations bill after the estimates prepared by the Minister are submitted and approved the House of Assembly at the beginning of each financial year. The conclusion of the annual budget discerns how much monies are allocated to various departments and government agencies such as NEMO. The Act regulates budget appropriation and execution not solely in the scope of day-to-day administration, but also in emergency and disaster situations.

In disaster and emergency situations, NEMO is geared specifically towards disaster management and response and not particularly financial issues arising from the threat or impact of a disaster or emergency. Each year since its inception, sums exceeding \$70,000 have been allocated to sustain NEMO's administrative expenditures. This sum is extrapolated from the Consolidated Fund, which according to section 14 of the Act and section V of the Constitution is where all public funds are paid into, with a few exceptions.

In essence, any monies to be expended ought to be addressed in the budget and any approval takes effect by way of an Appropriation Bill. Furthermore, section 25 of the Act provides for the making of supplementary estimates and appropriation bills.

Section 41(2) of the NEMO Act authorizes the Minister responsible for Finance, via a contingencies warrant under his hand, to “make advances out of the Contingencies Fund if he is satisfied *that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the State for the purposes of disaster management.*” This provision is in accordance with section 72(1) of the Constitution, which compels the establishment of a Contingencies Fund and empowers the Minister in similar manner. Section 29 of the Finance Administration Act establishes said fund.

The main provision of the Act, however, is section 28 which concerns “special warrants,” which caters to “expenditures for a service not foreseen and not provided for, or not sufficiently provided for, is required for the public good.” This special warrant was issued by the Finance Minister, currently the Prime Minister of Saint Vincent and the Grenadines, Hon. Dr. Ralph E Gonsalves. Along with the Cabinet, the Ministry of Finance, especially the Director General, Accountant General, Budget Director and other Officers would have to establish a workable manual system to properly record and process the special warrant in the event that all computer functions and systems are disabled. This takes effect as a supplementary appropriation out of the Consolidated Fund, provided the Fund is sufficiently replenished to meet the request being made.

Trinidad and Tobago

Legal Framework

Constitution of the Republic of Trinidad and Tobago Chap. 1:01, Act 4 of 1976

The Constitution of the Republic of Trinidad and Tobago contains several provisions pertaining to a state of emergency and/or disaster, vesting the powers and duties with regard to its Proclamation in the President.

Chapter 1, Part III, section 7 provides the emergency powers and exceptions for emergencies: “Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period, make Regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under his section or any such Act.” The section also states that an Act or Regulation passed during an emergency period “shall have effect even though inconsistent with sections 4 and 5, except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.”

Section 8 presents the proclamation powers of the President. It states that “the President may from time to time make a Proclamation declaring that a state of public emergency exists.” In order to be effective, a Proclamation must set out specific grounds for its issuance included among which is as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity, whether similar to the foregoing or not; or a public emergency has arisen as a result of action being taken; or is immediately threatened, by any person, of such a nature and so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.

Section 9 provides that within 3 days of making the initial Proclamation, the President must deliver to the Speaker for presentation to the House of Representatives a statement detailing the basis for the declaration. Section 10 provides for the extension of a Proclamation from time to time by resolution supported by a simple majority vote of the House of Representatives. However, no extension granted may exceed 3 months and the extensions in aggregate must not exceed 6 months. The Proclamation may be further extended for not more than 3 months at any one time, by a resolution passed by both Houses of Parliament and votes supported by no less than three-fifths of all the members of each House. The Proclamation may be revoked at any time by a resolution supported by a simple majority vote of the House of Representatives.

Section 12 requires publication of the Proclamation, Notice, Regulation or Order, unless it is impracticable or inexpedient to publish in the Gazette; in which case, the President may cause the same to be published by notices affixed to public buildings or distributed amongst the public or by oral public announcements.

Disaster Measures Act, Chap. 16:50, Act 47 of 1978

This Act provides for the taking of prompt and expeditious measures for the alleviation of the effects of disaster and for matters connected therewith. In the event of a conflict, this Act takes precedence and has effect, even though it is inconsistent with sections 4 and 5 of the Constitution.

The Act authorizes the President to declare by Proclamation where local circumstances (not necessarily national) demand such area to be declared a “disaster area.” A disaster is defined to be an area affected or is imminently likely to be affected by any fire, flood, landslide, hurricane, earthquake, disease or other calamity. The Proclamation must define the disaster area and specify the circumstances giving rise to the declaration. Section 3 of the Act authorises the President to (i) assume control of and regulate communication, transport, supplies, water, fuel and power installations; (ii) enter into and take possession of any building; (iii) prohibit or restrict the possession or use of any specified articles; (iv) impose restrictions on persons leaving or entering the disaster area; and (v) take all other measures which are reasonably necessary to mitigate the effects of the disaster.

The Act empowers the President to make Regulations and Orders in pursuance of the Act, and provides immunity from suit for persons acting under the Act's lawful authority. Compensation can also be provided for loss or damage incurred as a result of exercise of the Act's powers. As with the Proclamation pursuant to Section 8 of the Constitution, in declaring a state of public emergency, the President must deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds that exist for declaring a disaster.

Defence Act, Chap. 14:01, Act 7 of 1962

The Defence Act establishes the Trinidad and Tobago Defence Force, which is "charged with the defence of Trinidad and Tobago and with such other duties as may from time to time be defined by the Council." The Defence Force supplements the protective services as needed during a state of disaster or emergency. This Act also establishes the Coast Guard and their powers of stop and board and search, as well as the authority to pursue and detain.

Telecommunications Act, Chap. 47:31

Section 84 of this Act outlines the powers of the President with respect to telecommunications in Trinidad and Tobago during a state of emergency. Where such a state exists, the President may, on the advice of the Ministry of National Security "authorize the taking of possession and control by the Government of any telecommunications equipment, installation, service, apparatus or station to be used for Government service" or for such ordinary service as the Minister may determine.

Other statutory instruments include the following: the Trinidad and Tobago Electricity Commission, Chap. 54:70, the Regional Health Authorities Act, Chap. 29:05; and the Trinidad and Tobago Emergency Mutual Aid Scheme, Act No. 8 of 2000.

Institutional Arrangements

Office of Disaster Preparedness and Management (ODPM)

The Office of Disaster Preparedness and Management (ODPM) was established by the Cabinet in January, 2005, ostensibly to replace the National Emergency Management Agency (NEMA), which was also established by the Cabinet in 1988. ODPM falls under the ambit of the Ministry of National Security, which hosts such law enforcement agencies as the TTPS, TTFS and TTDF. ODPM implements the fully comprehensive Disaster/Emergency Standard Operating Procedures and Contingency Plan.

ODPM is committed to a comprehensive, all-hazard approach to disaster management, which focuses on the 4 major phases of the disaster management cycle: preparedness, response, mitigation and recovery. ODPM's key role, therefore, is to function as a coordinating entity, responsible for mobilizing all the key players and leading the national effort to protecting public health and safety, restoring essential government services and providing emergency relief to those affected by severe disasters.

Tobago Emergency Management Agency

Tobago National Emergency Management Agency was established by Executive Council Minute #64 of 1988, and renamed the Tobago Emergency Management Agency (TEMA) by Executive Council Minute #722 of 2008, after the dissolution of NEMA and formation of ODPM. Its stated mission is to

“coordinate a network of agencies and individuals within the island of Tobago to direct their efforts to the maximum preservation of life and the protection of property in times of disaster.”

TEMA views the components of disaster management in Tobago as: 1) command and control 2) coordinating of resources 3) ability to communicate and 4) planning and as such operates under the Incident Command System, spearheaded by the Tobago Disaster Management Committee. As part of its management duties, TEMA engages in risk assessment, which includes an Impact Assessment Special Needs Survey, which is constantly updated to provide information on the most vulnerable areas on the island. TEMA has successfully launched its Community Emergency Response Team (CERT) programme, which aims to provide communities with an immediate response during times of disaster/emergency. In many instances, the CERT technicians are the first to arrive on the scene and are thus “first responders.” Upon the arrival of the appropriate agency from the protective services, the technicians hand over command pursuant to the Incident Command System. TEMA then engages in its primary role of coordination, which is triggered only when the capacity of the appropriate agency is exceeded. TEMA has executed Memoranda of Understanding with first responders such as the TTFS and EHS, which memorializes the collaborative response between those respective agencies and the CERT technicians.

TEMA has established a fully functional EOC at its headquarters, prides itself on its use of two software programmes for Incident Management, which installs redundancy in its operations in the event of a disaster/emergency.

Tobago Disaster Management Committee.

This Committee meets on a need basis and comprises of the Heads of each relevant agency involved in disaster management, including government agencies such as the protective services, NGOs such as the Red Cross and other public entities such as the Chamber of Commerce.

Trinidad and Tobago Emergency Mutual Aid Scheme

The scheme is responsible for coordinating the response activities of the relevant agencies in the event of industrial emergency situations and the Trinidad and Tobago Red Cross Society and other volunteer organizations – assist in shelter management, first aid and distribution of food and supplies.

Other key agencies

Other key players involved in national or local disaster/emergency management include the Trinidad and Tobago protective services, the Trinidad and Tobago Electricity Commission – responsible for ensuring adequate provision of electricity for operations; the Water and Sewerage Authority – responsible for ensuring adequate provision of water and sewerage services to the public and operations; Ministry of Works and Transport – responsible for the clearance of roads and restoration of infrastructure and for traffic flow and the Ministry of Health – responsible for the provision of medical and public health services and the control of contagious diseases from the site of event to health facilities.

In other instances, supporting agencies have departments that are established specifically for engaging in disaster preparedness, mitigation, recovery and response for that agency. Such organizations include, WASA and the Ministry of Health, which both boast Disaster Preparedness Units. In the case of WASA, the department operates primarily through the Authority’s Emergency Operations Procedures Manual and consists of 8 employees, 4 of whom are engineers. The Department is responsible for developing,

implementing and monitoring the water systems throughout Trinidad and Tobago to ensure that in the event of a disaster or emergency, the country is provided with an adequate water supply.

An illustration of the chain of command in emergencies is in Appendix 2.

Budgetary Appropriation and Execution

ODPM is afforded specific line items in the Ministry of National Security's Estimates of Expenditure as an agency under its purview. However, this allocation funds the normal, day-to-day activities of ODPM, with no special provision for an emergency release of funds to ODPM in the event of a disaster. There has been some consideration given to establishing a disaster management fund in the event that additional emergency funds are required. However, the CEO of ODPM has expressed concern over the lack of procedures for the emergency release of funds. The lack of such a process reflects concerns over the issues of accountability and transparency. While theoretically there is no procedure for an emergency release of funds, the tacit process is that the agency generally receives what is necessary to perform the functions devolved to it in times of emergency. This amounts to a process that is no more transparent or accountable than a formalized procedure, which would undoubtedly be accompanied by strictures for ensuring control and accountability.

A National Disaster Relief Fund (NDRF) was established by the Cabinet in 1997, and is accessible by the Government upon declaring a national disaster. The Fund was established to release funds to another government unit or to home-owners for the construction of homes. The administration of the Fund is managed by an established Coordinating Committee, which establishes the procedure/guidelines to determine the qualification of applicants. A summary of the procedure for the release of funds under the NDRF is at Figure 2 below while a summary of agency appropriation mechanisms is at Table 5.

Figure 2

<u>TRINIDAD AND TOBAGO</u> <u>SUMMARY OF PROCEDURE FOR RELEASE OF FUNDS UNDER NDRF</u>
i. NEMA activates a team of technical experts to assess the damage and submit findings to NEMA. The Agency compiles reports for consideration and approval of the Coordinating Committee ²³ .
ii. Owners of the building are held responsible for the repairs to their property and for providing the labour required. The owners would ensure that invoices are prepared for the purchase of the materials.
iii. The Honourable Minister of National Security, based on the recommendations of the Coordinating Committee, considers the approval of sums based on agreed criteria.
iv. On approval by the Minister, NEMA would prepare invoices for amounts up to \$25,000 or less; whichever applies. Identification card numbers would be noted on the invoices.
v. Claims will be honoured by way of supplying building materials to claimants. The following steps are required to be followed. These involve the submission of claims to municipal corporation(s) or the Tobago House of Assembly for onward transmission to NEMA.

²³ Compensation for losses suffered are calculated on the basis of 75% of the original estimate to a maximum of \$25,000.00 or on the value of the materials required to undertake the repairs - whichever cost was lower

vi. The Director of NEMA prepares departmental vouchers in respect of each quotation. These vouchers shall bear the name of the claimant and the date of the Honourable Minister's approval. The commitment should be entered into the accounting records (scheduling of the Vote). The submitted voucher, together with the quotation and a copy of deposit account receipt, is then forwarded to Comptroller of Accounts to prepare the cheques.

vii. Comptroller of Accounts prepares cheques to the suppliers and transmits them to Accounting Executive, Ministry of National Security. The Ministry of National Security will in turn forward cheques to the municipal corporation(s) or the Tobago House of Assembly for delivery to suppliers.

viii. Materials are issued directly to the claimants from the supplier. The municipal corporation(s) or the Tobago House of Assembly will verify the purchase and delivery of the materials to the claimants.

ix. The Committee monitors construction work on buildings to ensure proper construction practices are followed and that materials are used for the purposes for which they were supplied

Table 5

TRINIDAD AND TOBAGO

SUMMARY OF AGENCY BUDGETARY APPROPRIATION MECHANISMS

ORGANIZATION	DISASTER/EMERGENCY FUND	DISASTER/EMERGENCY DEPARTMENT
Trinidad and Tobago Police Service	No	No
Office of the Disaster Preparedness and Management	No	Yes
Trinidad and Tobago Fire Service	No	No
Trinidad and Tobago Defence Force	No	No
Tobago Emergency Management Agency	No, but use of Vote 36 'Extraordinary Expenditure'	Yes
Ministry of Works and Transport	No	No
Ministry of Health	No	Yes
Ministry of Energy and Energy Industries		

Trinidad and Tobago Electricity Commission	No	No
Water and Sewerage Authority	No	Yes

TEMA follows a budgeting procedure that is mandated for all divisions under the Tobago House of Assembly. TEMA first produces a strategic plan in preparation for the upcoming fiscal year and the accounting process begins by an accounting clerk who prepares requisitions and departmental vouchers, which are then forwarded to the Accounts Department in the Office of the Chief Administrator for processing. TEMA is afforded a line item in the Assembly's annual Estimates for Expenditure, and generally receives the amount requested. In the last fiscal year, however, presumably due to poor economic conditions, it only received \$11 million of the \$25 million sought. This allocation is utilized to fulfil TEMA's strategic plan and day-to-day operations, with the majority of expenditure going for materials/supplies and training of staff. Other headings include minor equipment, maintenance/rental of vehicles and fees.

In the event of an emergency or disaster, TEMA utilizes Vote 36, which is devoted to 'Extraordinary Expenditure.' Much like the NDRF, these funds "cover all materials and emergency items that are needed to aid victims during recovery and equipment purchased for emergency relief." Discussions with the Deputy Coordinator indicate that this Vote is heavily utilized, albeit not as much as TEMA's management would like. TEMA is disappointed with the limits that are placed on Vote 36, which reflect the concerns of the accounting department that items purchased under the Vote are not extraordinary or of an emergency nature. The procedure that the applicants follow for release of funds under Vote 36 is similar to that for release of funds from the NDRF (Box 2). However, it appears that in practice, there are no guidelines to determine which requests qualify as 'extraordinary' under the Vote.

Discussions with the Head of the Department revealed that TEMA is usually awarded 35-40% of the budget requested from the Ministry of Finance, which is usually insufficient to perform the Department's necessary duties and is usually supplemented by the Authority. The funds released are used for procuring instalments and equipment such as continuous 48-hour stand-by generators for plants throughout the country, as well as staffing and office needs. Maintenance is recognized as an integral part of mitigation, and the upkeep of equipment and instalments is routinely included as standard in all contracts for tender.

Even though they have responsibilities as first responders in the event of a disaster, none of the other agencies under the umbrella of the Ministry of National Security have departments that deal specifically with their particular activities for disaster preparedness response. Instead, this is done on an *ad hoc* basis, with the broader aspects left solely up to ODPM. As a result, these agencies also lack specific budgetary appropriation for disaster preparedness and response activities. Instead, they utilize the general budget allocated to them in order to finance their response to disasters. This applies to the protective services such as the Police Service, Fire Service and Defence Force, as well as other ministries such as the Ministry of Works and Transport. In these instances, there are no procedures established for the emergency release of funds; rather, even in the event of a disaster, these government agencies are required to follow the same accounting procedures as during normal times for the acquisition of emergency goods and services.

PART II

2.0 Assessment of Gaps and Weaknesses in the Legal, Institutional and Budget Appropriation and Execution Framework relating to State of Emergency and Disaster Management

This Part draws attention to the gaps and weaknesses in the treatment of the legal, institutional and budget appropriation framework for state of emergency and budget appropriation with regard to natural disasters within project countries. For the most part, they are similarly susceptible to the ravages of disasters and the resulting impacts on their national development. These factors make them well-positioned to tackle these shortcomings on a harmonized basis. The assessment that follows is made under sub-headings that do not seek to propose a priority for addressing them.

2.1 Budget Appropriation

The recent surge in hurricanes of hugely devastating consequences (Ivan in Grenada), the sudden increase in earthquakes (Haiti and more recently Chile), and the threat of tsunamis and increasing drought make it imperative that concern for the consequences of disasters be reflected in the financial resources that are set aside at national levels.

It is a standing complaint of disaster managers²⁴ that budget appropriations for disaster agencies should be allocated towards the taking of preventive measures, such as training equipment and media campaigns, and not just for post-disaster activities. A similar situation occurs under the Civil Defence Fund set up in the Dominican Republic, where although the law mandates a specified level that should be available in the Fund established for disasters, it is generally undersubscribed, depending largely upon voluntary contributions from donors for additional resources. The need for adequate funding for disaster management cannot be over-stated. To address the low level availability of funding within their national budgets, the search for alternative financing mechanisms is crucial. The Caribbean Development Bank has recently established a Disaster Mitigation Facility (DMFC) for the Caribbean, partially funded by USAID. The DMFC aims to partner with borrowing member countries to promote the integration of disaster mitigation into development planning. The DMFC will place emphasis on developing guidelines for natural hazard impact assessment and provide training for the member countries.

Of particular relevance to towering costs of post-disaster recovery, one approach adopted in Jamaica is based on instruction. The country established the Banana Insurance Fund (BIF) as a mandatory insurance scheme established to assist banana growers in the event of loss from hurricane or windstorm. All farmers who export bananas must participate. Under the Banana Insurance Act (1945), every banana grower is statutorily insured an assessed number of statutory units of cultivated bananas. There is also contractual insurance, which is optional and available to the producers who serve the local market, until they attain export status. A Board is established under the Act, which is a statutory body whose affairs are governed by a Board of Directors.

Another regional approach is exemplified in the Caribbean Catastrophe Risk Insurance Facility (CCRIF). The CCRIF was established in June 2007 as a parametric insurance facility, owned, operated and registered in the Caribbean for Caribbean governments. It insures government risk and is designed to limit the financial impact of catastrophic hurricanes and earthquakes to Caribbean governments by quickly providing short term liquidity when a policy is triggered. It is the world's first regional insurance fund, giving Caribbean governments the unique opportunity to purchase earthquake and hurricane catastrophe coverage, which is not available elsewhere. By pooling their risk, the governments saved approximately

²⁴ E.g. Mr. Carl Herbert, National Coordinator, NEMA St. Kitts and Nevis

40% on what each government would have paid had they negotiated individually through commercial insurance markets.

The CCRIF represents a paradigm shift in the way governments treat disaster risk, with Caribbean governments leading the way in pre-disaster planning. The CCRIF is one of the ways the Caribbean region has begun to take a proactive stance against natural disasters. Its involvement is a signal to international donors, lending agencies, insurance markets and our local disaster agencies and citizens, that Caribbean governments are leading the way in pre-disaster planning by working to develop programmes and policies to mitigate natural disasters long before they happen.²⁵

Box 1

St. Lucia, Jamaica and the Dominican Republic stand out as the only countries in which allocations for disaster management are made from the national budget. According to the Saint Lucia Constitution Order 1978,²⁶ sections 78 and 79 establish the duty to make disbursements from the Consolidated Fund or other public fund. The culmination of a detailed transaction occurs after NEMA submits its estimates requests. Upon due consideration and review, funds are allocated to the disaster agency NEMA to cover recurrent expenditure. In some cases, sector agencies can make additional resources available to the disaster effort, though it would even appear that the approach considers the reliance on external support from donor agencies should a disaster strike.

For St. Vincent and the Grenadines, section 72(2) of the Constitution and section 29(3) of the Finance Administration Act provide for the preparation of a supplementary estimate and a supplementary appropriation bill. Funds are disbursed from the Contingency Fund, not the Annual National Estimates and Expenditures, and are disbursed on application to the Minister of Finance, who is usually the Prime Minister and also Chair of the National Emergency Advisory Committee. This can be seen in the case of St. Lucia. This high level membership bodes well for expeditious handling of the application. The process involves the collaborative efforts of the Minister of Finance, Accountant General and Director General. As apparent by the January 12th, 2010 speech of Mr. Edmond Jackson, the Budget Director in the Ministry of Finance of the country, one could infer that the Contingency Fund was not functional and that the Fund could not be accommodated in light of the high debt to GDP ratio. He confirmed that the fiscal policies do not effectively plan for disaster so that there are no resources for mitigation. Grenada, likewise, presents a startling example of the low priority that is accorded disaster management. To this day, despite the crippling effects of Hurricane Ivan in 2008, the Ministry of Finance makes no provision for budget allocation and budget execution in emergency situations. That provision is made only when disaster strikes.

Relatively small amounts of money are allocated in the national budget for disaster relief. Table 3 shows what is obtained in Jamaica (J\$50,000,000). Some agencies and entities are given specific funds to deal with disaster response while others must either absorb the cost or must request it from the Ministry of Finance on a contingency basis. Whether combined or from a single source, *committed* resources for disaster management are woefully inadequate.

One other issue that arises relates to the fluctuating importance of disaster and emergency agencies held by political directorates. There is a need to maintain a full-time focus, raise the visibility of disaster management and elevate its significance on the national agenda. This should be borne out by the measure of the funds allocated to the matter. A registry of information could be established and made publicly available, to which yearly or other periodic information is posted. The general recommendation among project countries on this matter, therefore, is for allocations for disaster management to be placed on the

²⁵ http://www.ccrif.org/main.php?main=14&id=32&news_id=15

²⁶ Corresponding constitutional provisions are to be found in Antigua and Barbuda, Dominica, Grenada, St. Kitts & Nevis and St. Vincent & the Grenadines.

annual national budget. They should not be available on a contingency basis through the Contingency Fund. Funding for projects depends heavily on funding from regional and international bodies. This should not continue as an absolute source. Donor agency funds and supplies on the other hand should be treated as supplementary and not the main source of funding.

2.2 Local Infrastructure

Disaster management must focus on the institution of preventive and mitigation measures towards disasters. Many of the participating states have established Building Construction Codes. Some are being upgraded to consider present trends and major catastrophes while others are being considered for legislative enactments (Barbados).

In an interview with the Director of NEMO, in St. Vincent and the Grenadines, it was highlighted that there are gaps in relation to economic plans and development plans in terms of the regulation of building codes. It was also noted that there are not enough personnel and there is greater need for collaboration between agencies and the Planning Unit. The Director referred briefly to the impact of Hurricane Ivan on the housing stock in Grenada and intimated that NEMO aims to conduct a project whereby the housing stock can be retrofitted and thus made more resilient to disasters. In the same breath, he realizes the difficulty of obtaining government funding for a project of this magnitude.

There is an opportunity here to harmonise building codes for these PCs that share the same geographic area and ultimately the same disaster risks. To give full effect to their implementation and enforcement, the codes should be established in law. Resources could be used to develop a harmonised model law. The Draft Building Code Act of Barbados could be used as a starting point for the exercise.

2.3 Constitutional Framework

In Jamaica, the Constitutional framework for state of emergency is clearly established. According to the Constitution, the Governor General is vested with the responsibility under guidance of the Executive with making emergency Proclamations. A state of public emergency as defined in the Constitution and expressly includes the types of disasters to which the island is known to be vulnerable. Although there have been legal challenges arising from previous declarations, Jamaica's democratic systems, including its legal system, are fundamentally sound and functional, meaning that no significant issue arises on these points. The Emergency Powers Act supplements and coincides with the Constitutional provisions and is also a progressive feature of the country's statutory framework.

In Grenada, the legal framework shows an obvious shortcoming with regards to establishing clear conditions for making a declaration of disaster. Specifically, a legislative gap exists between the Constitution, the Emergency Powers Act and the National Disaster (Emergency Powers) Act. The first two pieces of legislation give the Governor General power to determine that a state of affairs warrants a declaration of emergency, while the National Disaster (Emergency Powers) Act gives the Prime Minister the power to declare a national disaster. This existing arrangement has the potential for conflict. In light of this, there is a need to revise the respective instruments. If such Constitutional amendments are to be made, however, a referendum must be held according to section 39 of the Constitution.

The occasion of disaster demands that decisions are quickly made. A process that involves parliamentary approval serves as a constraint to the exercise. Consideration should be given to adopting a hierarchy of officials who can act where the original official (the Governor General) is unable to act. This practice is in effect in St. Lucia. This is particularly pertinent to Antigua and Barbuda where there exists a need to eliminate ambiguities and blunders in the legal and administrative processes in some areas to make certain the steps that are to be taken whenever a disaster occurs.

Constitutional provisions in St. Lucia, St. Vincent and the Grenadines seem adequate to address matters regarding emergency declaration and response for each country and do not reveal procedural flaws. Though not expressly stated, it is quite clear that for St. Vincent and the Grenadines, the power to issue a declaration is to be exercised in the most serious or severe cases that require such a response from the Cabinet. The Constitution, backed by legislative provision, specifically addresses the details surrounding the formality and effects of the declaration. It does not address comprehensively the administrative mechanism that arises after the declaration. Similarly, the powers of the Governor General in relation to making regulations are clearly expressed and the fact that the powers are non-exhaustive is desirable. The NEMO Act is intended to deal with these concerns so that after a declaration is issued, the plans, policies and activities pre-arranged by this organization are manifestly activated.

As a general comment, there is a need to improve the administrative aspects of the National Emergency Management Organisation. In coordinating disaster management, the organization operates within a fairly wide scope in reference to disaster and emergency situations. The role it plays in terms of structured approach to disaster management is noteworthy, creditable and pivotal.

2.4 Gaps in statutory framework

All of the PCs, except Trinidad and Tobago, have enacted Disaster Management Acts. Generally these instruments are relatively new and consequently have yet to be tested in the handling of a disaster. Certain weaknesses are apparent. For Antigua and Barbuda, in accordance with the Disaster Management Act of 2002, the Director of NODS reports to the Prime Minister in times of disaster regarding which arrangement has been deemed to compromise the independence of the Director from political influence and undermine the integrity of the Department's operations. There is a lack of cohesion among response agencies and the committal of resources to be managed exclusively by NODS in the event of a disaster. This is identified as another area for which provisions must be made in the Disaster Management Act of 2002; to include perhaps, penalties for non-compliance by response agencies.

For Barbados, the overall national legal framework relating to disaster and emergency management is generally adequate. The government has prepared modern pieces of legislation over the last 10 years which include the Emergency Management Act, 2006 and various environmental pieces of legislation. Notwithstanding the current status, there is a clear need to develop a few new pieces of legislation or amend some of the existing legislation²⁷ to give effect to emerging issues like climate change policy and the proposed adaptation plan which have a direct link to hazard management in the island. For those that have been enacted, however, there is a need to establish strong implementation strategies which should involve the provision of adequate resources (human, information, technological) to make them fully operational. In some instances, legislation may require simple updates to make them more current.

Although the National Disaster Plan is expressed to be produced under the provisions of the Emergency Powers (Disaster) Act of 1987²⁸ of Dominica, a review of the Act demonstrates the ambiguity of the said provisions. The Act does not adequately elaborate the roles that the various bodies are expected to take on in disaster management nor does it clearly indicate the action to be taken by empowered authorities in the event of a disaster. These gaps and lack of clarity carry serious consequences on the occasion of a disaster when time is of the essence. To date, the Disaster Preparedness and Emergency Management Act is still being drafted. The process to finalise this draft should encompass provisions that fill these obvious gaps.

There is no legislative authority for NADMA in Grenada. Based on information obtained from the coordinator of NADMA, there is a current draft copy of legislation for its establishment; however, to date,

²⁷ E.g. Draft Environmental Management Act, 1998, Town & Country Planning Act, Cap. 240, Prevention of Floods Act Cap 235

²⁸ Chapter 15:03 in the 1990 Revised Laws of Dominica.

this draft has not been enacted into law. The recommendation therefore, is for the legislation to be pursued by the Ministry of Legal Affairs and enacted into law in 2010, granting NADMA legislative authority to carry out its responsibilities. Consideration should be given to the Disaster Preparedness Model Legislation prepared by CDEMA. If there is need for regulations, these must also be drafted.

The Emergency Powers Act in St. Kitts and Nevis was enacted in 1967 and heavily alludes to the 1967 Constitution of St. Kitts and Nevis. This legislation is notably archaic and as a result, amendments, modification or a replacement of this legislation should be considered. A few matters that may be addressed to modernize the legislation include:

- a. Deleting the preamble as the drafting style in the Federation has changed over the years and preambles are no longer used in the Acts.
- b. Update the definition of “Constitution.”
- c. References to Saint Christopher, Nevis and Anguilla no longer relevant.
- d. Proclamation to declare a state of national emergency may also need to be published in news papers and legislation should provide for mechanisms that would make a state of national emergency known to the general public, including, use of radio and television (when possible).

The National Disaster Management Act No. 5 of 1998 may need to be amended, modified or replaced because a statutory body, referred to as the National Disaster Management Agency, was established under that Act but was never established in the Federation. Instead, what exists is NEMA, which has never operated as a statutory body since its creation in 1995. NEMA therefore does not derive its authority from the said Act, or at best what exists is a strange *de facto* relationship between NEMA (as it exists) and the said Act. The Government of St. Kitts and Nevis will need to decide as to exactly what setup for NEMA (or similar organisation) will best serve the needs of the nation in the case of a national emergency.

The National Disaster Management Act would also need to make provisions for Regulations to be prepared to regulate the way things would work between the island of St. Kitts and the island of Nevis, especially regarding access to federal and international funding for national emergencies affecting Nevis.

OPDM in Trinidad and Tobago occupies a central position regarding state of emergency and disasters. The organization is not established in law but, instead is an entity of the Cabinet. The principal legislation which specifically deals with disasters – the Constitution of the Republic of Trinidad and Tobago and the Disaster Measures Act – does not identify ODPM as the disaster/emergency management organization, or affirm the authority of ODPM.

Instead, the Disaster Measures Act deals with the declaration by the President that a “disaster area” exists, despite no specific regulations or subsidiary legislation having been prepared under the Act. Arguably, however, the establishment of ODPM is a relevant measure of executive action by the Government *in lieu* of regulations or subsidiary legislation. Accepting this perspective, one would accept ODPM as the corresponding agency for dealing with the disaster area declared by the President pursuant to the Act. Further authority is found in Section 3(v) which authorizes the President to “*take all other measures which are reasonably necessary to mitigate the effects of the disaster.*” However, another interpretation of this section that has been put forward is that the Disaster Measures Act allows the President to act in response to an emergency, but does not allow for preparation of events that are likely to happen.

There are therefore differing opinions regarding the legislative basis for the establishment of ODPM and its coordinating function. The debate simply serves to make it clear that definitive legislative authority is needed. Merely establishing ODPM is insufficient to carry out the mandates of the Act. Instead, there is need for regulations or subsidiary legislation which clearly define the various roles of the many agencies responsible for ensuring public health and safety in the event of a disaster or emergency. ODPM has

recognized this need for legislation and has made a policy decision to prepare comprehensive legislation on disaster management in Trinidad and Tobago.

Finally, building codes and provisions for zoning must be established. Much of the region has established building codes, though much remains unenforced or inadequate to address the intensity and frequency of recent natural disasters. The Dominican Republic has enacted a legal framework for building codes while Barbados has prepared a Draft Building Code Act. Both instruments should be considered by the project countries to provide guidance in preparing similar legislation. A harmonised and efficient approach could also exist in the form of a Model Building Code Act. This could be prepared as a regional instrument used to guide the preparation of national instruments while promoting harmonised standards among countries that share the same geographic area and are equally exposed to the same level of risk posed by natural disasters.

2.5 Gaps in institutional and administrative capacity

The capacity of national institutions charged with managing disasters is low. This factor constitutes a major setback for our small island developing countries. Adequate staffing is a crucial problem. Some efforts have been introduced through the hosting of workshops and seminars to strengthen institutional capacity, but a greater investment appears to be necessary. The Deputy Director of NEMO agreed with this perspective and recommended that, in relation to disaster management, the payment of compensation to disaster committee volunteers and liaison officers could provide some relief to this problem. This, he maintains, can serve as an incentive to encourage continuous participation and instill national ownership in disaster management activities.

Generally, there are a number of agencies that have been able to demonstrate their capability over a considerable period of time. In Barbados, such agencies include the Department of Emergency Management Town and Country Planning Office (TCPO), the Coastal Zone Management Unit (CZMU), the Ministry of Public Works, the Royal Barbados Police Force, the Barbados Meteorological Services (BMS), the Barbados Water Authority and the Ministry of Health. However, the need exists for streamlining according to their competences and role at the point of the disaster and emergency event (i.e. whether it is prevention and mitigation, preparedness, or response and recovery).

ODPM in Trinidad and Tobago views itself primarily as a coordinating entity. It relies on its supporting organizations to perform operations necessary for disaster preparedness, response, recovery and mitigation. The onus of each governmental agency and private sector organization is to include provisions for all necessary phases of disaster management in their individual disaster management plans. Unfortunately, this practice is not seen often, with most supporting agencies not possessing any plan or manual for disaster preparedness, response, recovery or mitigation. However, certain public bodies such as WASA, T&TEC and the Ministry of Health have created departments to deal specifically with disaster and/or emergency, with a focus on mitigation activities. Thus, while disaster mitigation is being addressed in the country by individual agencies, it is not done on a comprehensive national basis.

In St. Vincent and the Grenadines, the work of the Executive in collaboration with NEMO is quite visible. Behind the scenes, the organisation is highly efficient and its operability and relevance cannot be questioned as it continues to carry out studies, surveys, assessments and submit periodic reports to the Cabinet. In terms of further enhancement of emergency plan transparency and accountability, the activities of NEMO will be highly scrutinized and as such, it is imperative that NEMO continues to document its activities and keep clear the lines of communication with its key players.

Along with a need for enhanced training, there is a need for greater sharing of information on the risks and vulnerabilities associated with disasters in general. Programmes directed towards local communities

to increase their awareness and understanding, build capacity and knowledge to mitigate, prepare for emergencies and implement action plans to reduce hazards and risks must be undertaken as important capacity building initiatives.

The importance of effective management of information is yet to be recognised as an important tool in the disaster management sector. By way of example, the Deputy Director of NEMO offered that on several occasions, the Office of the Prime Minister would be the only agency that is privy to communications. The ability of administrators to make sound disaster management decisions – to analyze risks and decide upon appropriate counter-measures - can be greatly enhanced by the cross-sectoral integration of information. This information comes from many different sources and at present it is difficult in Caribbean countries to bring it all together to support an effective, coordinated system among agencies.

In Trinidad and Tobago, due to a lack of clearly defined authority, ODPM relies to some extent on informal relationships with high-ranking officials of the relevant agencies. It was reported that in some instances, first responders are contacted through these informal channels, which leads to disruption in operations when these contacts are unavailable for initiating communication. Further, training received from ODPM by these officers is sometimes not shared in their respective agencies as anticipated, thereby hindering widespread dissemination of critical management information.

During Hurricane Ivan in Grenada, both telecommunications and electricity systems failed for most of the island. Cable and Wireless worked along with GRENLEC (Grenada Electricity Services Limited), NAWASA (National Water and Sewerage Authority) and the Ministry of Works to restore public utilities. The lack of inventories at the national level and insufficient training on how to operate communications equipment prevented more resources from being used at an earlier stage in the immediate days after the impact. Regarding transport, the Ministry of Works did not have any resources with respect to transportation or equipment for clearance of roads. The activities pertaining to this committee had focused only on road clearance, but not on transportation during emergencies and disasters. As a result, a disaster transportation plan had to be designed. Lack of transportation also caused problems with the movement of emergency responders, especially with the distribution of foods and other relief items. Only with assistance from USAID and OFDA (U.S. Office of Foreign Disaster Assistance) was transportation provided. Likewise, the absence of a relief supply distribution system or post-hurricane damage assessment capabilities were severely limited.

Similar to the other PCs, the current framework on disaster and emergency situations in Dominican Republic is very recent (2002). As well, even more recent is the real start of the work of some of its elements. The lack of human resources and information is already apparent. Some of the limitation and gaps of the existing framework can be revealed in Box 2 below²⁹:

²⁹ See the Report, Dominican Republic “Informe nacional intermediario en la implementación del Marco de Acción de Hyogo. 2007/2009”

Box 2

Limitation and gaps of the existing framework in the Dominican Republic

- Significant achievement has been reached in the establishment of a national and multi-institutional platform for risk disaster reduction, but important limitations are recognized, particularly regarding financial resources and operational capacities.
- Human and technical resources of the public institutions in their capacity to incorporate risk issues on investment decisions and in project designing is limited.
- Information for prevention, mitigation and response, risk maps and vulnerabilities is only available for some areas of the country. Systematic studies at the national level are required. It is also necessary to share all the existing information.
- Potential users of the information do not have such habit. Most of the time information remains unused.
- Regarding some phenomena as hurricanes, generic information is available, but there is a lack of specific information at the local level.
- Decentralization is still an ongoing process, with the establishment of the Provincial and Municipal Committees for disaster prevention, mitigation and response taking place.

Networking with international donor agencies is important to the administrative operations of a disaster agency. The relationship requires the establishment of clear guidelines in order to incorporate and regulate the contribution of international agencies to the disaster effort. This becomes even more essential in cases where the local disaster agency is not totally disabled, but able to carry out work in a limited but nonetheless effective manner. Non-governmental organisations have also provided extensive support to ensure preparedness to deal with a disaster or emergency situations, but much more needs to be committed at the national end.

On the matter of coordination, there is still no formal agreement or arrangement between NEMA and the Nevis Disaster Management Office to regulate cooperation and coordination of activities between these agencies. The Director of the Nevis Disaster Management Office indicated that there were discussions about the two agencies signing a memorandum of understanding to address this gap. Nevis has its own Nevis Disaster Management Plan. Consideration should be given to incorporate the Nevis Plan as a part of or an annex to the National Disaster Management Plan.

The National Disaster Management Plan itself needs to be updated to ensure all relevant agencies and institutions are accounted for and know their role during a national emergency. As well, the annexes need to be completed and included in the plan. The Director of the NEMA indicated that the review process has already begun. With regard to Nevis, the Director of the Nevis Disaster Management Department indicated that its existing plan will be revamped as soon as the funding for that project can be secured.

This review of gaps and deficiencies in the national framework in the project countries reveals the needs of the disaster management structures in each of the countries. Certain significant features can be noted:

1. Many of the systems have not been established as part of the national planning framework.
2. Cooperation between countries in the region is limited.
3. Relatively limited initiative has been made to use the systems for mitigation.
4. National Disaster Plans need to become “living documents” and disaster preparedness must be a way of life for all. This approach to disaster management is lacking.

5. Many of the new systems have been developed based on international funding either as part of broader capacity building projects or within a post disaster reconstruction programme such as is seen in both the state level projects implemented in Grenada and Jamaica.

The review points to the need for greater financial and technical support to upgrade the disaster management systems and fully harness their power to both mitigate disaster risks and improve disaster response.

PART III

3.0 Key Recommendations and Conclusions

The following recommendations summarise the actions that should be taken to improve the legal, institutional and budgetary framework for disaster management in the project countries. They are first set by country, of general application to all project countries and then regionally.

3.1 Country-specific recommendations

Antigua and Barbuda

Disaster Management Act of 2002 - The Act should also establish penalties for non-compliance by response agencies.

Constitution - Eliminate ambiguities and blunders in the legal and administrative processes in some areas to make certain the steps that are to be taken whenever a disaster occurs.

Barbados

Disaster Management Act of 2006 - This Act requires simple reviews and updates to make its provisions more current and effective in emerging issues like climate change policy and the proposed adaptation plan, which have a direct link to hazard management in the island.

Belize

The immediate need is for the establishment of building codes and zoning. Most of the inhabitants are poor and tend to locate their homes in coastal areas where they make their livelihoods. Like all PCs, there is an absolute need for reliable funding arrangements to include disaster prevention and mitigation.

Dominica

Emergency Powers (Disaster) Act of 1987 - This Act should clearly identify the lead organizations that deal with national disasters, their roles and responsibilities in the event of a disaster.

Disaster Preparedness and Emergency Management Act - Finalise and enact this draft Act.

Dominican Republic

Some needs for the improvement of the System are³⁰:

- The strengthening of the Technical Committee through the establishment of a permanent unit on risk management for its coordination and follow up of the work and to update a National Plan on Risk Management.
- The establishment of an implementing mechanism of the National Fund, to facilitate the financial support of risk reduction activities at all levels (national, provincial, local).
- To complete the establishment of the provincial and municipal Committees on disaster prevention, mitigation and response. To ensure that those Committees elaborate their own emergency and management risk plans.

³⁰ See the Report, Dominican Republic "Informe nacional intermediario en la implementación del Marco de Acción de Hyogo. 2007/2009"

- To disseminate at all levels (national, provincial, local) the existing legal framework for risk management.
- To promote the strengthening of and Integrated National Information System as required by law.
- To include risk management in the country national development strategy and on the planning of all the institutions which pertain to the National Emergency Commission?

Grenada

Constitution of Grenada - Amend section 17 to provide:

“A Proclamation made by the Governor General shall not be effective unless it is declared therein that the Governor- General is satisfied

(a) that a public emergency has arisen as a result of the imminence of a state of war between Grenada and a foreign State or as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity whether similar to the foregoing or not; or

(b) that action has been taken or is immediately threatened by any person or body of persons, of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.”

Emergency Powers Act and the National Disaster (Emergency Powers) Act - Legislative gaps between these two instruments need to be rationalized in order to maintain consistency and clarity within the various pieces of legislation as to who has the responsibility for declaring a state of emergency.

Establish the NADMA in law.

Haiti (Republic of)

There is a need to adopt legislation to create a National System of Risk Management and Disasters. The Plan has been in process since 2004.

Jamaica

Clarify procedures between OPM and the Finance Ministry in relation to the disbursement of funds for disaster and emergency situations.

St. Kitts and Nevis

Emergency Powers Act - Amend the Act as follows:

- a. Deleting the preamble as the drafting style in the Federation has changed over the years and preambles are no longer used in the Acts.
- b. Update the definition of “Constitution.”
- c. References to Saint Christopher, Nevis and Anguilla no longer relevant.
- d. Proclamation to declare a state of national emergency may also need to be published in news papers and legislation should provide for mechanisms that would make a state of national emergency known to the general public, including, use of radio and television (when possible).

The National Disaster Management Act No. 5 of 1998 - Amend, modify or replace or establish the National Disaster Management Agency in the Federation and make provisions for Regulations to be

prepared to regulate the way things would work on the ground between the island of St. Kitts and the island of Nevis, especially in terms of access to Federal and international funding for national emergencies affecting Nevis.

A formal agreement or arrangement between NEMA and the Nevis Disaster Management Office to regulate cooperation and coordination of activities between these agencies should also be established.

The National Disaster Management Plan itself needs to be updated and incorporate the Nevis Plan as a part of or an annex to the National Disaster Management Plan.

St. Lucia

Maintain the support of committee volunteers and liaison officers by providing them with compensation as essential tools to ensure proper administration between government and NEMO.

St. Vincent and the Grenadines

Improve the administration and functioning of the National Emergency Management Organisation.

Trinidad and Tobago

Establish legislative authority for ODPM as the coordinating agency for disaster management.

4.2 General Recommendations

4.2.1. Constitutional

- **Tackle Constitutional and Other Statutory process**

The exercise of authority to proclaim state of emergency by the Governor General or President, as applicable, in most cases requires the approval or advice of another functionary like Parliament, the Cabinet, or the Prime Minister. This arrangement does not recognize the unpredictable nature or magnitude of a disaster event. In this light, consideration should be given to allowing the exercise of the power without Parliamentary or other approval. Actions in response to disaster must be swift. It is foreseeable, as experienced recently in Haiti, that it may be difficult to facilitate collective decision-making as anticipated by this constitutional provision. In addition, the process involving parliamentary approval regarding a disaster is, as intended, deliberate and slow. Given the potential implications of creating a leadership vacuum, St. Lucia's approach, which establishes a hierarchy of officials, is identified as being responsible for decision-making pertinent to state of emergency.

A study should be convened that proposes alternatives for the exercise of decision-making powers at times of disasters, mechanisms that include the establishment of a hierarchy of individuals that may exercise those powers and the accompanying procedures that should be undertaken.

4.2.2. Statutes

- **Establish adequate legislative authority for disaster management**

As a general guide, it is recommended that legislation be established or reviewed to incorporate the principles of the Hyogo Framework for Action 2005-2015. Specifically the legislation should consider:

- the role and responsibilities of the disaster management agency;
- coordination between disaster declaration and state of emergency authorities;
- coordination of relevant sectors;
- integration of National Disaster Policy into national land use planning and building codes;
- the declaration of a disaster;
- the development of a National Response Plan;
- the formation and procedures of advisory committee within the operations of the disaster management agency;
- shelter establishment and management;
- provisions addressing offences and volunteers;
- the development of a National Policy on disaster management, and;
- the establishment of a regulatory framework.

Countries may consider the Disaster/Emergency Standard Operating Procedures and Contingency Plans that are in place for Trinidad and Tobago. These procedures set out on a step-by-step basis the actions that should be taken on the occurrence of a disaster and take into account the magnitude of the disaster.

- **Enact legislation to promote the implementation of improved standards for all buildings and infrastructure**

Many areas suffer from the lowest standards of infrastructure, accommodation and facilities. It may even be argued that the very poorest areas could be relatively insensitive to natural hazards and the residents more resilient and more readily adaptable to their effects. Locals, therefore, have no real incentive to improve disaster mitigation measures leaving governments no other option but to enact legislation for the strict enforcement of building standards.

Building codes prescribe technical requirements and standards for the design and construction of buildings. It seeks to address issues relating to structural sufficiency and durability, fire safety, health and amenity. The Building Code has not yet been incorporated into law and is therefore not underpinned by the force of law in a majority of the Project countries.

The effort to prepare and enact a Building Code could be enhanced through the preparation of Model (Regional) Legislation to establish a framework for building codes in all the PCs and is a strongly recommended action. Governments should in turn utilize the Model to prepare country specific legislation on the subject. The Draft Barbados Building Code Act is instructive for this latter aspect.

Additionally, the promotion of the implementation of improved standards for all buildings and infrastructure could be achieved through various incentives such as subsidising building materials in the informal sector, providing grants or low-interest credit in the private housing sector and reducing insurance premiums and tax incentives in the commercial sector.

- **Develop regulations on building design for shelters**

To ensure the safety of hospitals, schools and other public facilities and to maintain their functioning as bases in an emergency, effective regulations on building design should be established.

4.2.3. Budget Appropriation and Execution

- **Establish adequate funding mechanisms for disaster management**

Faced with harsh economic realities on a daily basis, governments are less concerned with the prospects of natural disasters which have yet to happen while they have more immediate and pressing calls upon its funds. Further, attending to disasters requires a high level of flexibility, efficiency and a great sense of immediacy that the existing budgetary arrangements in all the PCs cannot provide. Since there is no provision in place for budget allocation and budget execution in emergency situations, advance reserves in the form of a contingency fund should be established to provide flexibility, central accountability and efficiency in preparing for and responding to these unplanned and usually untimely events. Though the practicality of sustaining such a fund is likely to be eroded by the current status of the global economy, a concept paper to encourage the establishment of such a fund should be initiated.

At the regional level, borrowing capabilities should be established in the Caribbean Development Bank Disaster Mitigation Facility (DMFC), partially funded by USAID. The DMFC aims to partner with borrowing member countries to promote the integration of disaster mitigation into development planning. The DMFC will place emphasis on developing guidelines for natural hazard impact assessment and provide training for the member countries.

- **Create mechanisms for transparency and accountability by external agencies**

It is also not uncommon for augmentation of the work of disaster and emergency response agencies to be done by international or third-party funding. This augmentation though, would likely be for pre-emptive or development work. No specific fund created by external agencies for disaster response was discovered, however, which brings the issue of transparency and accountability to the forefront. The establishment of a specific Fund might be one way to address this issue. Funding from regional and international institutions for the implementation of mitigation measures should also be vigorously sought to assist in adherence to the proposals of the disaster and emergency agencies.

4.2.4. Capacity Building

- **Promote capacity building and strengthening of institutional arrangements**

A weak and ineffective institutional infrastructure can be a significant obstacle in the promotion of comprehensive disaster management. In most of the participating countries, National Disaster Management Plans establish procedures for reducing risk, but the plans will be ineffective unless their implementation is governed by adequate resources, careful planning and coordination, and trained personnel.

Capacity building and strengthening of institutional arrangements at all levels to address risk reduction as an ongoing function is recommended. This includes disaster reduction-related legislation, covering land-use regulation, building codes and reinforced links to environmental protection is recommended. At the national level, it must also include the development of an integrated disaster risk management plan that covers areas of risk assessment, early warning systems, training and public awareness programmes, as well as emergency response management, recovery resources and community-based organizations.

- **Enhance risk management and insurance coverage for disasters**

The main objective of disaster insurance is to quickly and finitely pay for losses whenever disasters occur. The insurance industry in the Caribbean has been hard-pressed to provide this measure of relief. As part of the disaster preparedness effort, fundamental study and research should be convened to enquire into the coverage practice in other countries. For example, in Japan, insurance companies have set up a special

system called the Catastrophic Loss Reserves. When the loss ratio exceeds a certain level in a certain year, the amount exceeding the loss ratio is withdrawn.

Increasing the actual amount of financial resources that are available for comprehensive disaster management – prevention, mitigation, response, and recovery – will always be a difficult hurdle for all PCs. Countries should enquire into the institution and operations of precedent-setting disaster insurance mechanisms such as the Banana Insurance Fund (BIF) of Jamaica and the Caribbean Catastrophe Risk Insurance Facility (CCRIF), which showed that by pooling their risk, the governments saved approximately 40% on what each government would have paid had they negotiated individually through commercial insurance markets.

- **Promote the transfer and exchange of disaster information**

The disaster management process requires an ongoing commitment to the education and training of disaster managers by the various tiers of government and professional bodies. The exchange of information regarding difficulties, problems and solutions and the results of research is essential for improved disaster management. This can be fostered by the free flow of information at the local and international levels through formal agreement, workshops and conferences.

As our countries continue to be ravaged by disasters, more information becomes available through various actual experiences in dealing with them. This information is very useful to building capable disaster management in the Caribbean region. Opportunities for information exchange in the form of “train-the-trainer” seminars, exchanges of personnel and the commissioning of joint studies and research can be tremendously useful in strengthening disaster management efforts.

The causes and impacts of natural hazards often occur in a number of neighbouring countries, highlighting the need for a harmonised approach in the management of such a phenomenon. Efficiency can be optimised via exchange of experiences amongst countries and constructive dialogue amongst stakeholders via participatory processes.

- **Improve access to information and promote effective communication**

Ready access to information is a critical implementation tool for disaster preparedness and management. During the course of this research project it was difficult to obtain concise information especially with regard to budget appropriation and execution. For example, though there was access to the NADMA website, there was limited information making it difficult to obtain documentation, policies and papers. The recommendation then is for the establishment of a single data and information repository network where all information pertaining to disaster and emergency can be accessed.

The dissemination of warning information to the public is weak and must be enhanced in all respects. Messages for alert, watch and warning phases that are broadcasted through the media should be delivered with a frequency agreed with the authorities, day as well as night.

- **Update National Emergency Plans and Procedures**

Many countries have expended much effort in preparing their National Disaster Plans for which a mandate for annual updating exists; however, just as many of these countries have failed to prepare such a mandate. A dated plan is just as ineffective as none at all. The plans should consider and make specific arrangements for all types of disasters (hurricanes, earthquakes, tsunamis, floods). It is important that

financial and technical resources be made available, particularly for the continuous revision of national disaster plans. The plan, however, does not deal with funding at all nor is there even a national disaster fund in existence. This lack of funding must be resolved.

When disasters occur, the agricultural sector is vulnerable. A recommendation is therefore made for the training of individuals in the agricultural sector, disaster mitigation and other aspects of disaster management.

- **Strengthen Community Committees**

It has become increasingly evident that community participation in the avoidance and mitigation of disasters is vital. In order to devise and implement effective strategies and reduce vulnerabilities, the community most affected must have a say in the procedure to identify site-specific solutions and to assess the efficiency of proposed measures. Thus more community involvement is vital. Effort should be taken to identify and understand people's perception of risk, to develop better channels of communication and popular consultation and to rely on local resources.

Truly decentralised decision-making should be the order of the day. It operates to strengthen the disaster management organization itself by making use of limited resources, particularly with respect to the need for rapid response in the face of swiftly occurring catastrophe.

- **Improve capability of disaster and emergency personnel**

The agencies with responsibility for disaster and emergency management have a pivotal role to play, yet the office is not adequately staffed or effectively organized to address disaster and emergency situations. There is a need to staff these agencies adequately.

4.3 Regional Considerations

Given the scale of most of its countries, the trans-boundary nature of resources and ecosystems, the number of common institutions and challenges, Caribbean sustainable development demands *regional approaches for disaster management*.

- **Improve collaboration with CDEMA and other regional disaster management entities**

In 1991 the member states of the Caribbean Community (CARICOM) established the Caribbean Disaster Emergency Response Agency (CDERA) (renamed Caribbean Disaster and Emergency Management Agency [CDEMA]). In addition to conducting coordinated responses to disastrous events, CDEMA is also responsible for disaster management and mitigation initiatives. This membership provides an apex for collaboration among the project countries that are all also members of CDEMA and is a useful mechanism in areas that demand cooperation e.g. insurance.

- **Encourage cooperation with regional security system**

The Regional Security System (RSS) was established by the Treaty Establishing the Regional Security System 1996. The RSS, through its Central Liaison Office, coordinates disaster response on behalf of CDEMA. It activates a special group of men and women known as the Caribbean Disaster Relief Unit (CDRU). This unit consists of members of the Defence and Police Forces of the CARICOM member states. The RSS has taken part in a number of operations throughout the region.

- **Promote cooperation with the Caribbean Community Climate Change Centre (CCCCC)**

The CCCCC was established in 2002 and housed in Belize. This regional entity coordinates regional responses to manage climate change. Regarding mitigation planning, the Centre recognizes that climate change and natural hazard mitigation efforts need to be collaborative.

Project countries should continue their efforts to support and collaborate with these above mentioned institutions as they forge their way to establish comprehensive disaster management approaches in their individual countries.

4.4 Conclusions

The general thrust of this study has been an assessment of the legal and institutional frameworks for state of emergency and budget appropriation and execution in disaster and emergency situations. It crystallizes the importance of the national emergency management organizations, its challenges and highlights significant financial challenges in effectively managing disaster and emergency situations.

By way of assessment, the study shows that an adequate amount of preliminary work has been done at the national level to position the lead institutions for coordinating and undertaking disaster and emergency management. The findings show that there are varying degrees of preparation among the relevant agencies to participate in disaster and emergency management. The agencies that stand out are those which perform traditional scientific, technical and operational functions. These agencies also tend to be staffed by persons trained at a sufficient level to enable these organizations to effectively and efficiently perform the required tasks.

The existing institutional arrangements, however, are not perfect and still require some strengthening, which will vary according to the agency involved and the role it can best play in disaster and emergency management. Generally, there are some weaknesses that will require responses that include: train and recruit disaster and emergency management staff; train and recruit climate change staff; improve inter-agency collaboration based on the principles of integration and cooperation; improve funding; increase research, data collection, monitoring, compliance and enforcement; and provide necessary tools.

One of the key recommendations is to enhance the operational function of other key agencies such as the building authorities. It will be imperative that these bodies be provided with necessary resources to deliver meaningful and effective work programmes. Findings also show that the existing policy and legislative framework is relatively satisfactory. Governments in the region have prepared a number of important policies and programmes and drafted several pieces of legislation. Admittedly, the more intense and frequent the disaster, the less competent the PCs will be when managing autonomously. Nonetheless, the ideal situation is to have relevant and updated legislation and administrative policies that would certainly ensure that the disaster management framework maintains a comparatively high standard.

An overwhelming weakness, however, lies in the need to review these instruments and establish comprehensive frameworks for disaster and emergency, including the allocation of adequate resources that can be mobilized in a clear transparent manner at the appropriate time. One crucial factor is the need for increasing awareness and education nationally and across sectors.

Although we cannot avoid natural disasters, CELP participating countries can undertake programmes aimed at decreasing losses. Disaster reduction is both an issue for consideration in the sustainable development agenda and a cross-cutting issue regarding the social, economic, environmental and humanitarian sectors.

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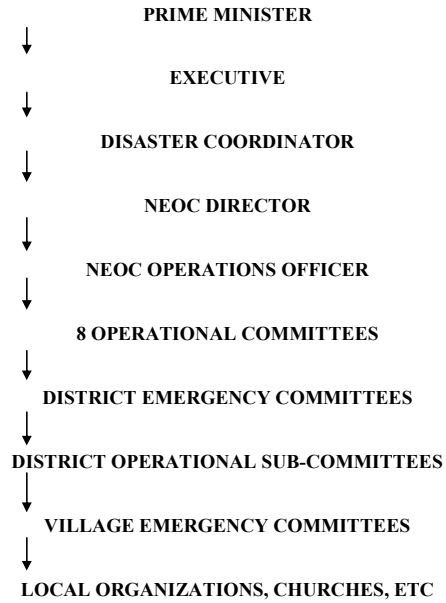
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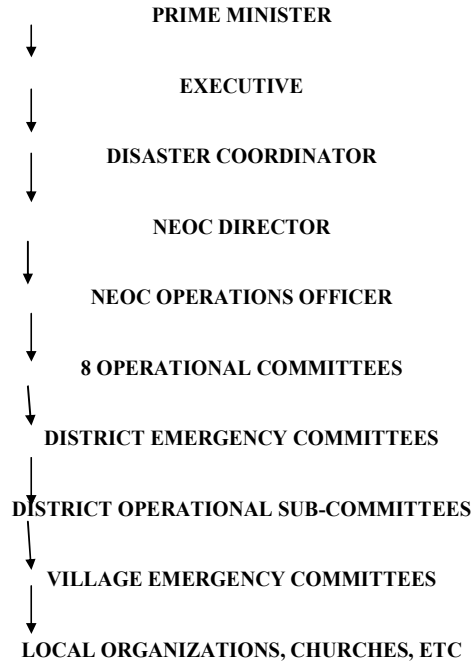
Appendix 2

Emergency Response Chain of Command

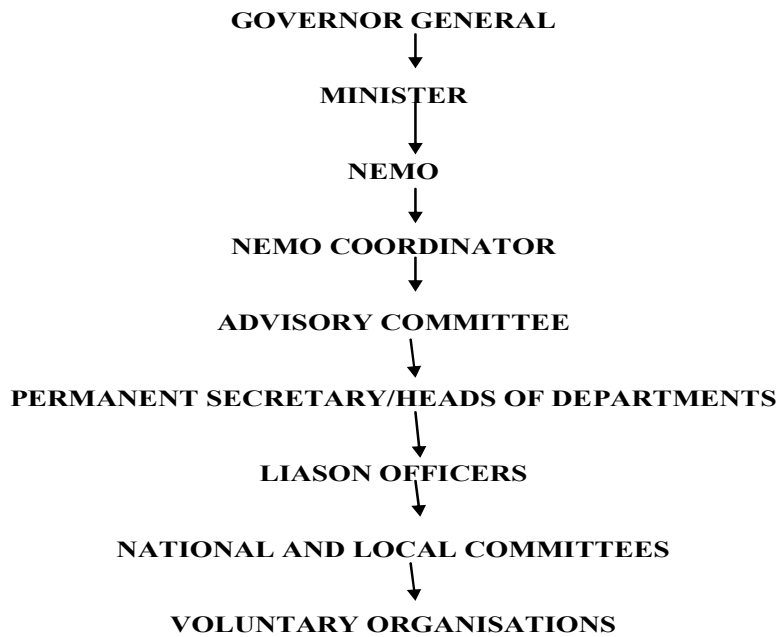
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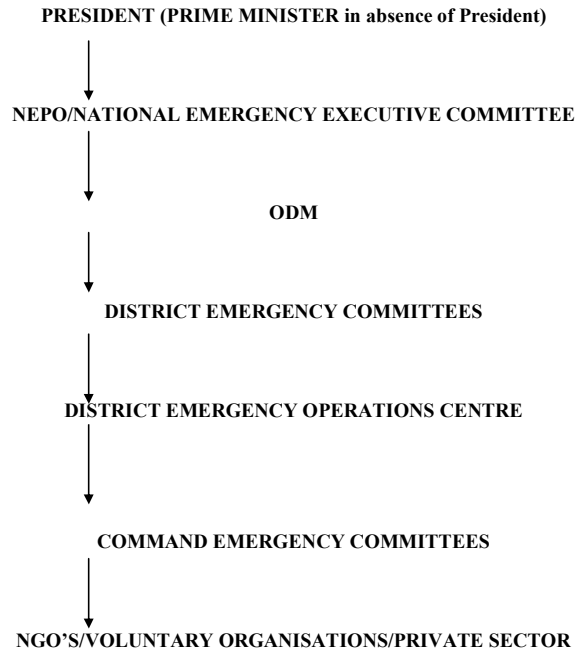
BARBADOS



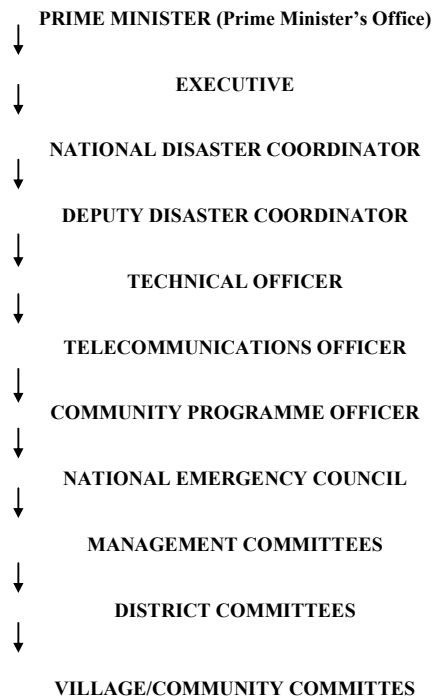
BELIZE



DOMINICA



GRENADA



JAMAICA

GOVERNOR GENERAL ↔ PRIME MINISTER (EXECUTIVE/NATIONAL DISASTER COMMITTEE)



MINISTRIES OF GOVERNMENT



OFFICE OF DISASTER PREPAREDNESS AND EMERGENCY MANAGEMENT



AGENCIES OF GOVERNMENT MINISTRIES



NON GOVERNMENTAL ORGANISATIONS



ST. KITTS AND NEVIS

GOVERNOR GENERAL



NATIONAL EMERGENCY MANAGEMENT AGENCY/NATIONAL EMERGENCY OFFICE/ NEVIS DISASTER MANAGEMENT DEPARTMENT/COMMITTEE (NDMC)



PERMANENT SECRETARIES/HEADS OF DEPARTMENTS



DISTRICT EMERGENCY COMMITTEES

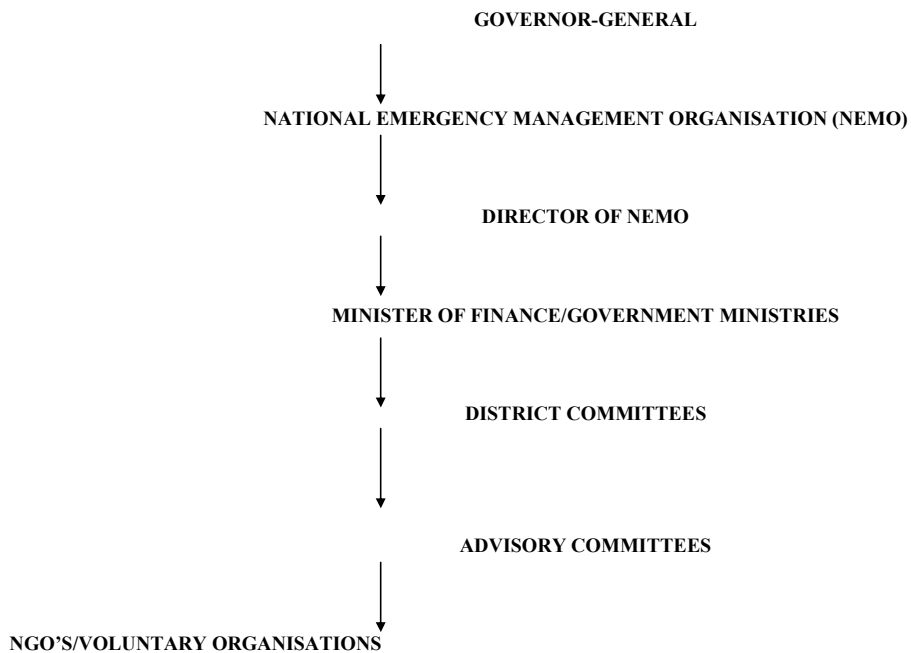


COMMUNITY EMERGENCY OPERATIONS CENTRE

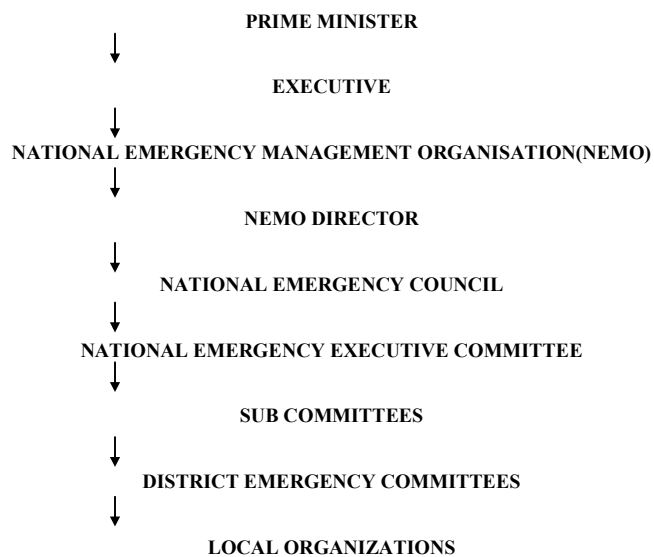


NGO'S/VOLUNTARY ORGANISATIONS/PRIVATE SECTOR

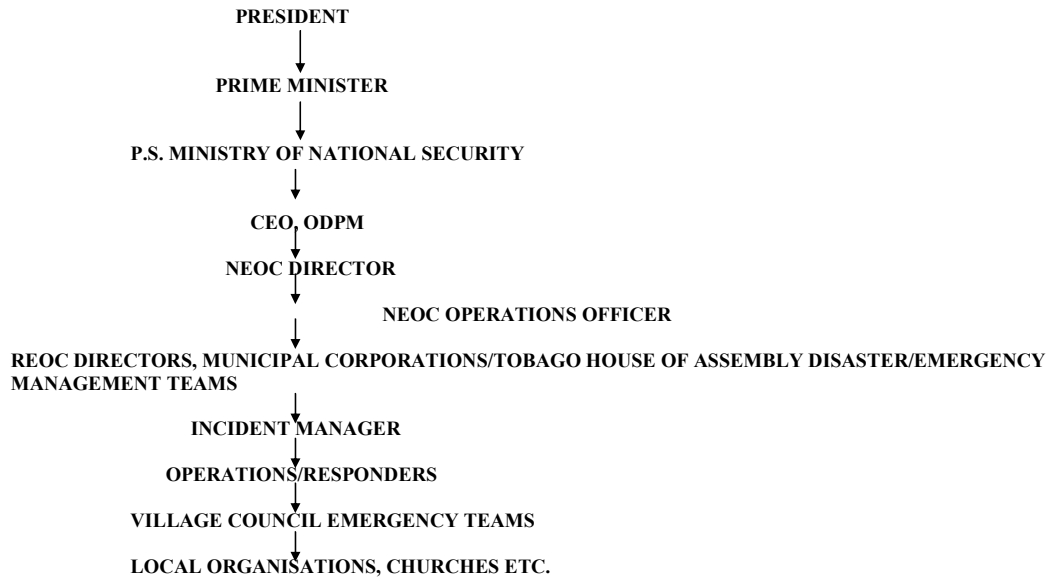
SAINT LUCIA



SAINT VINCENT AND THE GRENADINES



TRINIDAD AND TOBAGO



CHAPTER 2

**Comparative Analysis:
Key Legislative and Administrative Provisions at the Constitutional and Supplementary
Levels in Countries around the World**

EXECUTIVE SUMMARY

This chapter addresses worldwide experience with emergency/disaster lawmaking by gathering legislation from over sixty countries, and identifying those examples that appeared to have the greatest potential relevance for the twelve CELP Countries, whose legislation and institutional frameworks have been the subject of separate research. Additionally, in the examination of national constitutions that were available in English, French or Spanish, sixty-six contained specific clauses discussing emergency and/or disaster issues that would be useful to the project. A third avenue of inquiry relating to national legislation considered lawmaking with respect to financial dispensations and allocations in emergency situations, and various national approaches to funding emergency/disaster response and management. Finally, the analysis also considers a number of international instruments relevant to emergency/disaster issues.

One issue, for which a study was specifically requested, was the nature of national provisions authorizing and/or requiring official declaration or proclamation of a state of emergency, alert, disaster area or other legally recognized condition. In national legislation around the world, these provisions serve a variety of purposes, and are subject to requirements and procedures at various levels. The levels of these requirements and procedures depend on the purpose served by the declaration, the powers granted to government during the pendency of such a declaration, and many other factors. Although some countries link such declarations to emergency/disaster response authorities and funding, this was not the norm, and many countries do not specify a linkage. In many countries, national legislation authorizes or requires two or more emergency/disaster declarations – one in its constitution and others in other types of substantive disaster/emergency legislation. In many cases, the purposes of the various declarations may differ substantially – constitutional clauses relating to emergency declaration are generally thought to focus on governmental empowerment, while declarations contained in emergency/disaster legislation are thought to focus more directly on the substantive elements of emergency/disaster response.

The legislative methods of approach regarding other specific elements of disaster law are numerous, and demonstrate many variations in specific details. It is notable, however, that there were few significant divergences from the “standard” approaches to disaster legislation. Such divergences generally can be explained in terms of national characteristics, such as country size, level of development and size of national budgets. In examining the constitutional provisions relevant to emergency/disaster, apart from the empowerment of government to proclaim a state of emergency or disaster, one of the most important issues relates to the relationship between governmental emergency powers and the civil rights of persons within the country. This issue is specifically addressed in many national constitutions, and has been the subject of international negotiations as well.

Internationally, the development of financial mechanisms to address the particular needs that arise in disaster/emergency situations includes both public and private sector mechanisms. International study has identified relatively few options (mostly rather limited in coverage and potential impact) for streamlining public sector financial mechanisms, such as budgeted and extra-budgetary appropriations, multiple layers of financial clauses, in various legislative instruments, governmental borrowing and acceptance of external aid. One of the most strongly recommended of the disaster/emergency financial mechanisms is the use of a dedicated fund, to hold resources saved for the proverbial “rainy day.” A relatively broad spectrum of options may be relevant to such funds. Inquiry into particular examples indicated a variety of special issues to be considered. For example, the framing of national legislation creating the fund may either limit the use of the moneys to disaster response, or allow their use in pre-disaster programs for disaster risk reduction. Many of the older laws appear to set a clear requirement that the funds only be used for disaster response. This may have been a response to national financial practices that allowed agencies to re-allocate budgeted amounts at a specified point in the fiscal year. More recently, as noted below, international interest has changed, now focusing on “disaster risk reduction” (DRR) which is conceived as a process of identifying and eliminating specific vulnerabilities to disaster.

In the private sector, calls to create disaster/emergency insurance products and other mechanisms for distributed risk are increasing. As a result, many developing countries are attempting to promote these products. To date, relatively few fully functional examples are available. In general, insurance products that are narrowly focused on particular commercial and productive sectors may offer the best opportunities in the short run, especially if the risks and costs involved can be shared across a wider geographic area (at the regional level or by participating in international reinsurance networks.) In addition to insurance, private-sector-style mechanisms have been increasingly considered in several contexts, utilizing social funds, public guarantee mechanisms and microfinance corporations.

Relatively few international instruments address issues of national disaster response legislation and financial matters. At the global level, a primary instrument that is in-force is the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations, under which several countries have pre-agreed on mutual commitments with regard to telecommunications that will apply in disaster situations. Other instruments focus more directly on transportation and utility service agreements at bilateral and sub-regional levels, among countries which border directly on one another's territories. In addition, non-binding global guidelines and principles have been adopted addressing assistance workers, human rights and other commitments relating to those giving peacetime aid to countries suffering disasters and the concomitant commitments of recipient countries.

More commonly, international instruments at the regional and sub-regional levels address mutual commitments not only in times of disaster, but in coordination of pre-disaster readiness and disaster risk removal. In the Caribbean, the Agreement Creating CDERA (now relevant to CDEMA) fits in this category, and is one of the leading examples of this type of international legislation. Other international instruments of interest include the recently adopted ASEAN Agreement on Disaster Management and Emergency Response, and a suite of older sub-regional agreements adopted under the FAO umbrella directed at intergovernmental cooperation in preparation for and response to locust invasions. In the Americas, two key documents offer possible interest for the project countries: the OAS *Inter-American Strategic Plan for Policy on Vulnerability Reduction, Risk Management and Disaster Response* and the *Inter-American Convention to Facilitate Disaster Assistance*. Only the latter is a binding instrument. However, to date, it includes only one CELP country (Dominican Republic) as a member.

A number of global binding instruments reference emergency/disaster situations and recognize that these might affect the ability of Parties to the instrument to meet their commitments. Perhaps the most important global instrument in current disaster/emergency discussions at the global level is the UN Framework Convention on Climate Change, which recognizes that disaster response and reduction are integrally connected to the obligations of countries under that Convention and its Kyoto Protocol.

Another group of important discussions and contributions at the global level revolves around a document entitled the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (HFA). The HFA is designed to focus and support disaster/emergency actions at regional and national levels, with the goal of promoting "disaster risk reduction" (DRR), sometimes in preference to disaster response. Based on the perception that, internationally, disasters/emergencies are increasing in numbers, frequency and severity, the HFA is built around the idea that disasters/emergencies cause damage and injury in large measure as a result of human action or failure to act, which has created or enhanced the region's vulnerability to disaster risk. As a result, it focuses on identifying and eliminating or minimizing these vulnerabilities, and places less emphasis on disaster response.

Ultimately, the worldwide examination of examples and literature related to disaster/emergency legislation and practices has disclosed many clauses and concepts which may be of particular relevance to CELP countries' legislative processes, depending on the particular gaps and challenges they are seeking to address.

OVERALL SCOPE AND METHODOLOGY

The terms of reference for this study identified its general objectives as follows: “to conduct a study to improve the legal and institutional frameworks related to state of emergency and budget appropriation powers; and ... conduct national and regional outreach and validation of findings.” They note that “[t]he main output of [this study] will be a set of recommendations for the implementation of clear and transparent procedures triggered under a state of emergency. They will define government powers and responsibilities during these times, with particular emphasis on the emergency declaration and the governance aspects of emergency budget appropriation and budget execution.” The TORs also note that other factors may impact the relevance of this study to the CELP countries. These include national legal system (common law, various subsets of civil law, and many other variants³⁵), country size, level of development and other factors affecting both national capacity and national priorities. As a consequence, it is clear that this analysis should recognize a variety of factors impacting on the selection of the most practical and effective options for each country.

The TOR required the analysis to clearly address the following:

- key legislative and administrative provisions at the constitutional and supplementary levels in countries around the world, and in international legal instruments, related to state of emergency and budget appropriation and execution; and an assessment of their scope, operability, and success
- a comparison and contrast of the legal and institutional frameworks in countries around the world with the legal and institutional frameworks in the Caribbean, to ascertain the best approach for improving the legal and institutional framework in the Caribbean, considering current legislative and administrative gaps;
- assessment of the effectiveness of legal and administrative provisions in countries around the world, and in international legal instruments, related to channels of responsibility during a state of emergency; and an assessment of their replicability in the Caribbean
- best practices and recommendations for Caribbean legal and institutional frameworks.

The achievement of these objectives has been restricted by certain practical factors, as set forth in the next section.

The primary methods utilized in this research were:

- online internationally maintained databases of environmental and agricultural (and related) law, specifically FAOLEX (FAO database of all legislation relevant to food, agriculture, forests and fisheries, including a broad range of financing, institutional and constitutional laws) and ECOLEX (a joint FAO, UNEP and IUCN database of legislation relevant to environmental issues, also broadly inclusive of financing, institutional and constitutional laws), and other online sources (e.g., <http://www.constitution.org/cons/natlcons.htm>);

³⁵ Many treatises have sought to create more useful classifications, leading to a significant split in authority. See, generally, Reimann and Zimmermann, 2006, Introduction and Part I. In terms of national legislative systems, the most significant variation is between countries which operate on a “strict rule of law” approach (i.e., a legal framework in which law is perceived as the primary organising force within the country) and those that operate on a more “flexible” approach. See, generally, Reimann and Zimmermann, 2006, Introduction and Part I.

- Available libraries, located within the area in which the author is currently located (Bonn Germany) and has visited recently (Geneva, Switzerland and Montréal, Canada).
- Other online research looking for international and national legal databases of particularly relevant countries (especially small island developing states or “SIDS”) and regions³⁶
- To the extent possible, direct contact with national agencies and officials and use of information gathered in former consultancies and in reports provided by other agencies.

Over 200 national laws and regulations from 64 countries have been studied, as well as 53 international (global, regional and bilateral) instruments and 116 constitutions. Legislative instruments examined included full texts of laws and regulations in English, French, Spanish and (with assistance) Portuguese and German. Other relevant laws from 26 countries, which were only available only in less accessible languages (Arabic, Chinese, Hungarian, Italian, Norwegian, Russian, Serbian, Slovak, Turkish, Ukrainian, etc.), could not be reviewed directly, relying instead on legislative summaries and, where possible, contact with local lawyers.

Organization of Analysis

Based on the available information, and the large number of laws potentially applicable to emergency/disaster (described earlier as “*wide ranging and could form the subject of an independent treatise on the subject*”), this report has attempted to focus on specific subcategories of legislation. Legislative analysis in Part I presents in three basic subdivisions of national legislative measures:

- non-constitutional disaster/emergency laws and regulations;
- financial mechanisms; and
- constitutional provisions.

It begins by listing the “key” legislation and instruments identified, and discussing the standards used in selecting them. It then provides a basic overview of the legislative types and processes found in the national legislation described in the matrix, followed by a similar overview of the international instruments. In general, the legislation reviewed for Part II fell into the following primary categories of national legislation:

- (1) declaration of “state of emergency” or similar concepts, development and implementation of national frameworks for emergency/disaster management, and national laws addressing the allocation or disbursement of funds in emergency and/or disaster situations;
- (2) formal establishment of all relevant agencies in national legislation and inter agency coordination
- (3) the adoption of and consistency/updating of national and subnational disaster management plans and legislation;
- (4) building codes,
- (5) disaster funds and other financial mechanisms, and

³⁶ One challenge of international legislative research is the verification of the currency of developing countries’ laws. Available international databases (FAOLEX and ECOLEX) are mostly dependant on submissions from countries – a mechanism that is not a reliable for ensuring that data is always up-to-date. Thus, ECOLEX and FAOLEX may not include the most current provisions of any country’s relevant national legislation. National legislative databases, although a good idea, are often not dependable, where the original funding for creation of such tools runs out and further updating and other database maintenance drops in priority. Where the author has been unable to contact the appropriate person in a particular country, she cannot know if the legislation reviewed is in-force and unamended.

(6) community involvement.

Part III presents international instruments addressing emergency/disaster preparation, response and assistance, including current international programs for “disaster risk reduction” and the principles they espouse. As shown, the Caribbean region is generally ‘ahead of the curve’ in some respects, since the Agreement Establishing CDERA is the first of only two publicized regional binding instruments comprehensively addressing such matters.

Integrated into these discussions are the products of the literature review undertaken in connection with this study, which: (i) provided the only information systematic available on the “effectiveness” of national emergency/disaster legislation around the world; and (ii) helped to identify particular matters relating to national legal, policy and/or institutional situations which had been perceived either as obstacles to effective response or as enablers of prompt action.

Finally, Parts IV and V bring together the comparison and contrast between the legislative issues and approaches analyzed, and present the conclusions of this study. Following the conclusion, the annexes to this Report contain three “matrices” of legislative provisions (national disaster/emergency legislation (Appendix 1); national constitutional provisions relating to emergency/disaster (Appendix 2); and international instruments (Appendix 3).

PART I

1.0 Key Legislative and Administrative Provisions at the Constitutional and Supplementary Levels in Countries around the World

1.1 Introduction

In recent years the world has seen many examples of the variety of natural and other disasters that may strike, normally without advance warning, or with so little warning that widespread serious injury and damage cannot be prevented. Regions that have historically been considered low-risk have been completely surprised by the occurrence of disaster or by a level of disaster that was well beyond what their planners expected.³⁷ To address and/or respond to these problems, some countries and regional groups have developed new infrastructure and facilities, either in general, or directed at particular types of natural- or human-caused disasters.

The need to prepare for emergency situations and to enable prompt and effective response when disaster strikes is a major responsibility of government. In this connection, the nature of “disasters and emergencies” experienced around the world is very broad and widely inclusive. Countries have been forced to address the following: storms (hurricanes, tornadoes, etc.), tsunamis, earthquakes, volcanoes, floods, droughts, fires, food/hunger crises, insect infestations, diseases/epidemics, landslides, avalanches, industrial accidents with widespread impact, insurrections resulting in brigandage and violence, strikes and political activities, foreign invasion or attack, and terrorism.

The range of possible disasters is so great that most countries have prioritized certain disaster/emergency categories, undertaking their greatest levels of preparatory attention and planning with regard to those types of emergencies that they feel are most likely to occur. Particularly with regard to policy and legal provision for emergencies, this frequently results in an interesting situation. National laws and policies are clearest where they address the type of emergency that the country suffered most recently.³⁸ As a consequence, most countries’ disaster/emergency legislation has never yet been applied in practice.

In the Caribbean region, countries are thought to have a relatively frequent risk of natural disaster from storms, but recognize that, once such a disaster strikes, other disastrous consequences are almost unavoidably connected (especially diseases and food shortages).³⁹ Provisions for disaster management and funding mobilization thus focus on these commonly expected and consequent disasters. Most

³⁷ Thus, for example, Sri Lanka’s well established disaster response system was insufficient to the enormity of the impacts it suffered in the Indian Ocean Tsunami. *See* Bannon, V. 2006bc, p 42: “The scale of both the devastation caused by the tsunami and the domestic and international relief effort was unprecedented in Sri Lanka. Whilst it can be said that the tsunami disaster was an exceptional case and that even well-planned systems would have been placed under strain, it was nevertheless apparent that pre-existing institutions set up to deal with disasters in Sri Lanka were overwhelmed.”

³⁸ *See, e.g.,* UN/ISDR 2004b (Vietnam case study) “It is no accident that these most common hazards are associated with water, as historically water both on land and off-shore, has been a critical resource for centuries of Vietnamese society.” Thus, for example, environmental/disaster laws in countries that are periodically infested with locusts have generally focused on infestation and resulting domestic food shortages (Brader, *et al*, 2005); those that have suffered from nuclear or chemical releases from industrial facilities have directed their primary emergency/disaster legislation to controlling the causes of these and addressing transportation and utility limitations and their potential impacts (BIICL, 2010.; GPDRR. 2009e, *and see* Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency, both adopted in 1986, following the Chernobyl nuclear accident. Another such instrument, The 1992 Convention on the Transboundary Effects of Industrial Accidents, entered into force on 19 April 2000 and has 37 parties, including the EC.); and those that have suffer from tsunamis and/or storms have focused on minimizing direct damage/injury and addressing post-disaster transportation and supply problems (Bannon, V. 2006a , Bannon, V. 2006b, Bannon, V. 2006c.)

³⁹ *See* Corrales, W. and T. Miquilena. 2009. at part 1.6: “Disaster risk is now widely recognized as an integral part of a wider constellation of risks related to food and energy insecurity, financial and economic instability, global climate change, environmental degradation, disease and epidemics, conflict and extreme poverty.”

legislation also considers advance preparation for other less expected types of emergency/disaster or levels of severity, but only in relatively general terms.

1.1.1 Finding International Examples and Support

In undertaking international surveys of this type, the most essential challenges are that of marshalling information. For this analysis, the information needed was national legislation and international instruments. Following initial information-gathering exercises, it was clear that some kinds of analysis would not be possible solely on the basis of a paper study. Accordingly it was necessary to gather other international literature to enable, for example, competent assessment of “effectiveness” and “best practices,” both of which are situational, best analysed by seeing or studying the practical implementation of particular measures and determining how well they performed on a case-by-case basis.

1.1.2 National Legislation

The national legislation to be evaluated was specified in the TORs as follows: “legislative and administrative provisions at the constitutional and supplementary levels in countries around the world, and in international legal instruments, related to state of emergency and budget appropriation and execution.” This direction indicated a need to consider three types of national legislation: (i) national emergency/disaster legislation;⁴⁰ (ii) national constitutional clauses addressing powers, duties or options available in emergency/disaster situations; and (iii) national measures governing budgetary appropriation and execution. These three categories of information are relatively both in terms of the available sources from which they can be drawn and the utility of analyzing them without also considering a very broad range of other national factors (legal, political, economic and practical).

1.1.3 Emergency/Disaster legislation

The initial survey aimed at finding national legislation addressing emergency issues indicated that there were many laws and administrative instruments available for desk analysis. After broadening the search to include other terminology (e.g. “emergency,” “disaster,” “natural” vs. “human-caused” disasters “state of emergency,” “budget appropriation,” “*desastre*,” “*cataclismo*,” “*désastre*,” “*urgence*,” other terms more directly translated from ‘state of emergency’ and terms focused on particular types of natural disasters (hurricane, cyclone, earthquake, etc)), the body of material available seemed relatively large. All legislation was reviewed to identify clauses or approaches that might be of interest. In keeping with the goal of finding examples that would be of greatest use to the CELP countries, however, primary attention was given to legislation from Small Island Developing States as well as developing countries and other very small countries.

As an added measure in seeking new and innovative solutions or options, initial inquiries were sent to contacts in developing countries seeking both additional legislation and information on the

⁴⁰ For ease of writing and reading, this analysis makes no distinction between the terms “emergency” and “disaster” and the other terms used in relevant laws studied, and uses the phrase “emergency/disaster legislation and administrative measures” to refer to all such measures. As a caveat for those attempting to utilize the legislation and other documents cited in this analysis, however, it is important to recall that various legislators and other authors make distinctions between the two terms, and may also include sub-distinctions (e.g., “natural” vs “human-caused” disasters, etc.) Other terms sometimes used include “state of emergency” and “budget appropriation”, neither of which are not used consistently in legislative provisions around the world, where the term “disaster” (which conveys both the unforeseeability of an event and its environmental elements, as well as the scale of a “state of emergency”) is more generally used. Additional searches considered this terminology in Spanish and French as well, generally finding the most relevant statutes when searching “*desastre*”, “*cataclismo*”, “*désastre*” and sometimes “*urgence*”, as well as terms more directly translated from ‘state of emergency.’ Follow-up searches for instruments using the term “emergency” in a similar way, as well as those focused on particular types of natural disasters (hurricane, cyclone, earthquake, etc) were also undertaken.

performance or use to date of the country's national legal framework for disaster/emergency response. A few additional national laws were received in response to those inquiries; however, they mostly duplicated documents obtained from other sources. There can be no certainty, even after the efforts described above, that all of the most relevant national legislative instruments in existence have been obtained and reviewed.⁴¹

1.1.4 National Constitutional Provisions

Another important source of information relating to emergencies and disasters is national organic instruments – constitutions, constitution acts, national charters, etc (herein called “constitutions”). Although specific constitutions in their original languages are often difficult to obtain outside of the relevant country, the interest of academics and others in comparative study of national constitutions has meant that large collections of constitutions are available online, in unofficial translation. In an effort to ensure maximum availability and usability, constitutions referenced in this analysis are only those that are available in English, French or Spanish, including many in unofficial translation; most of which have been obtained from one such collective source.⁴² A total of 116 constitutions were reviewed for this analysis. Ninety-two of these include specific reference to emergency and/or disaster powers beyond political emergencies. These (with specific excerpts of all emergency/disaster text reviewed) have been included in the matrix of constitutions appended to this report.

1.1.5 Other Legislation: Budgetary and Financial Provisions

In most countries, the lengthiest and most complex national legislation is that which addresses governmental financial responsibilities, including budgetary allocations. Most national financial law is focused on or driven by issues of transparency and oversight. Like constitutions, it is often difficult to obtain a country's national financial legislation without visiting that country. Unlike constitutions and some sectoral laws, however, there has been, to date, little academic or other interest in comparative analysis of domestic-level governmental financial laws from around the globe. It is normally recognized that each country's particular structures and procedures are essentially unique, and that government finance laws, when taken out of the context of the general body of the country's organic laws and regulations, disclose relatively little about the country's procedures and purposes. As a consequence, there appear to be few readily available sources of national financial legislation apart from direct individual contact with government officials and/or harvesting national financial laws directly from national legislative websites, where available.

In this respect, budgetary legislation appears to fall into the same category as a great many other types of legislation for purposes of the CELP. That category could be called “*Other Legislation whose Operation May Affect or Be Affected By Emergency/Disaster Legislation.*” Many types of laws and administrative measures fall within this category, given that disaster response may be integrally connected to land-use planning, building codes, transportation laws, communication facilities laws, environmental laws, social

⁴¹ In general, national legislation is best obtained by visiting the legislating country. Available sources of national legislation from many countries are rare and normally focused on a single substantive or regional area. See, e.g., FAOLEX, ECOLEX, and the International Federation of Red Cross and Red Crescent Societies, note 10. Each of these databases freely admits to relying on national contributors to keep the data current. To date, the only database unearthed in this analysis that focuses on national emergency/disaster related legislation is the CELP's online database of national emergency legislation and constitutions of Antigua & Barbuda, Barbados, Belize, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, St Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, and Trinidad & Tobago http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster&StateEmergency/car_eme_leg_e.htm. Few developing countries post national legislation online, and those that do are not always dependable about updating that legislation. Often the legislation is posted in national language only, which is rarely English, French or Spanish and is often not summarized for foreign reviewers.

⁴² The FindLaw database, at <http://www.findlaw.com/01topics/06constitutional/03forconst/index.html>.

welfare laws, public assistance laws, and many other types of instruments. For purposes of Activity 1, all of these laws share one primary characteristic in common: they are relevant to the individuals involved in disaster response, but their primary focus is on some other important governmental and social objective(s).

For this study, financial legislation relevant to emergency/disaster situations was specifically sought in the “initial inquiries” mentioned above, sent to contacts in developing countries. Very few responses provided such legislation, and these provided extremely lengthy instruments which focused on the country’s entire governmental financing and budgeting procedures, transparency and oversight. Documents received did not separately address emergency/disaster situations, or provide special treatment for such appropriations. Most persons responding to the initial inquiry chose instead to reference the more specific financial clauses in national emergency/disaster legislation. In light of the large volume of material involved and the low probability of distilling accurate descriptions or a uniform list of provisions or approaches, review of national financial measures was limited to the following: (i) financial measures either contained in national emergency/disaster legislation or (ii) financial measures referenced in national emergency/disaster legislation and/or (iii) financial measures in national constitutions which specify emergency/disaster issues.⁴³ In addition, the analysis is bolstered by financial literature, particularly that in which individual financial clauses were identified as having created problems with regard to mid-year appropriation or midyear alteration of standing procurement orders.

1.1.6 International Instruments

The availability of international instruments is generally better than the availability of national laws, as there are many treatises that can be used in researching older instruments, and most global and regional instruments are available online. At the level of sub-regional and bilateral instruments, however, fewer resources are available. Often, such instruments can only be obtained by contacting the depository and/or the appropriate official in one of the party countries.

In all cases, however, it is necessary to know that a relevant instrument exists, before beginning to search for it, as there are no fully comprehensive databases of international law, and very few sectorally focused databases of this type.⁴⁴ There is, thus, no single source for identifying international instruments that address emergency/disaster measures, especially with regard to funding. Few formal international instruments specifically address emergency/disaster issues, although a larger number include some single reference to the effect on the parties’ obligations where an emergency or disaster strikes. Several “guidelines” have been developed, which are potentially relevant to emergency/disaster response. As further discussed below, in recent years the primary focus of international efforts with regard to emergency/disaster issues has been on *disaster reduction* and *prevention*, which is often considered to be distinct from disaster response and/management.⁴⁵

1.1.7 Literature on Emergency/Disaster Measures

⁴³ These decisions are consistent with other work under the project, which also determined to focus on “*financial laws that are of direct application to state of emergency in short those laws that provide the source of power and operational support upon which officials rely when disaster strikes, including both constitutional and statutory provisions.*” Draft Country Assessment Report at p. 12.

⁴⁴ Thus, for example, ECOLEX (www.ecolex.org) focuses on environmental instruments, FAOLEX (<http://faolex.fao.org/faolex>) examines the wider body of agricultural- and food-related legislation, and the legislative portions of the data collected by the International Federation of Red Cross and Red Crescent Societies (<http://www.ifrc.org/what/disasters/idrl/research/casestudies.asp>), although focused on disaster issues, is primarily concerned with the extent to which national law impacts on international assistance providers and relief efforts.)

⁴⁵ See part III.D, below.

Efforts to find information, evidence or opinions regarding the “effectiveness” of national disaster/emergency measures reviewed, and/or regarding the bases for identifying “best practices,” were generally unyielding. Initial inquiries were sent to contacts and colleagues in countries that have recently experienced emergency or disaster, however, responses indicated that there was little basis for evaluation of legislative effectiveness. Most emergency/disaster legislation has not been applied to practical situations (emergencies) since it was adopted or significantly revised. As further discussed in part III, this should be expected, given that legislation is frequently reactive. A country that has recently experienced a disaster or emergency will have significant knowledge about what would have enabled better response. Moreover, in the period immediately following a disaster, political will to adopt or revise disaster legislation and institutional measures may be much higher than normal. Without travelling to (or intensively interviewing people in) the countries and regional bodies whose legislation has been studied for this analysis, it was difficult to obtain reliable information on the “effectiveness” of each law or administrative measure examined for this analysis. Moreover, as noted, most emergency/disaster legislation is new or revised since the last emergency/disaster in the country, leading most interviewees to express optimism, based on no actual experience (*i.e.*, “...the law is excellent and effective, however, it has not been tested in an emergency or disaster, as yet.”)

The foregoing suggested that examination of the effectiveness of emergency/disaster legislation, and the search for “best practices” should be delinked from the study of specific national legislative instruments, focusing instead on emergency/disaster experiences. In particular, for this study, it was important to determine which particular obstacles have been caused or overcome by particular legislative or administrative measures. In general, information about experiences and case studies was found only in emergency/disaster literature, much of which has been compiled in the course of monitoring and evaluation of emergency/disaster response. This has not been the only input into effectiveness and best practice research – a combination of approaches were used – however, it did provide the most available and reliable sources of such information. A large volume of disaster literature and case studies is available, but relatively few documents mention or identify any impact (positive or negative) of legislative and administrative measures. This suggests a fruitful area for future and ongoing study.

1.1.8 Worldwide Experiences with Emergency/Disaster Legislation

The primary function of this analysis is to identify various legislative and administrative approaches to emergency/disaster preparedness and response from around the world. In general, on the basis of both legislation and literature review, it appears that, in general, most countries follow essentially similar practices. The objectives of disaster management and response mobilization are generally focused on integrating disaster preparedness and measures to minimize damage and injury through preplanning, adoption of building codes and institutional development, as well as measures to enable prompt action when an emergency or disaster is imminent and after it strikes. The differences among the instruments reviewed have generally arisen from each country’s attempt to accomplish these objectives within the framework of its own national law, governmental framework and social system.

Although recognizing that the Project countries and many of the other countries studied use varying definitions of “emergency,” “disaster” and similar terms,⁴⁶ this Report will focus on “natural disasters”, affording that term the following definition: “*For the purposes of this study ‘natural disaster’ includes earthquake, hurricane, flood, fire, outbreak of pestilence, or outbreak of infectious disease.*”⁴⁷ This choice has not excluded discussions of how various national laws define the terms “disaster” and “emergency” and the reasons underlying legislative use of different definitions.

⁴⁶ See footnote 6.

⁴⁷ This working definition was borrowed from footnote 1 to the draft Country Assessment Report, in an effort to help promote consistency among the three components of Activity 1.

1.1.9 National Disaster/Emergency Legislation in Countries Outside the Caribbean

This Part identifies a number of types of legislation addressing disaster relief, prevention and authority/empowerment focusing on the categories of provisions mentioned above. All of the Project countries described have reportedly adopted some legislation governing the declaration of a state of emergency and established practices relating to budgeting and fund mobilization, nearly all of which include special provisions for emergency situations. Based on national descriptions it appears that all except Trinidad and Tobago have legislative/regulatory provisions for disaster management planning.

1.2 Preliminary issues

The following sections discuss both the selection of non-Caribbean legislative examples and the manner in which they can be of greatest use to national legislative development in the CELP countries.

“Key Countries” as National Examples

One of the most significant challenges for this Report is the requirement to identify “key” examples from foreign legislation, which may be useful to the CELP Countries. In utilizing these examples, it is important to recall that the clauses of national legislation are not interchangeable parts. Each effective and implementable legislative provision (*i.e.* each individual act in a country that does not have a unified code of law, and/or each chapter or subchapter of a unified code) consists of a number of clauses that are carefully interlinked. For example, one clause may express very broad governmental powers in the event of an emergency; however, a further inquiry into the remaining clauses of that provision will indicate that the country defines “emergency” very narrowly, or that those powers are circumscribed by other requirements imposed on the official. Moreover, each country has an individual and specific legal framework of provisions that apply to all laws, and may (expressly or by implication) require every law in the country to develop particular measures or to assume particular types of interpretation. Thus, none of the key examples is necessarily recommended for (or may be effectively used in) all countries.

Hoping to provide a compact set of legislative examples, from countries similar to the CELP countries in size, geography and/or economic situation, the consultant has identified several laws as “key” for purpose of future analysis. The focus in selecting key instruments has been whether and how another country might find them useful or instructive as a “model” for their own legislative processes. Factors used in identifying “key instruments” include the following:

- *Language:* As a practical matter, key examples necessarily include only those that are potentially accessible to national legislative draftsmen in the Caribbean. Accordingly, the first criterion in this study for selection of “key national laws” has been a preference for documents in accessible languages (English, French or Spanish⁴⁸).
- *Coverage:* Only instruments specifically directed at emergency/disaster prevention, relief, management and/or funding mobilization are selected. Many other laws reviewed mentioned disaster/emergency issues in one sentence which contains a reference of or requires linkage with another agency or disaster framework. (I.e., a single sentence stating that “In case of emergency, Agency X shall coordinate with Agency Y, in order to ensure the safety of Z.”) Given the desire to limit “key” provisions to laws that contain substantive provisions on

⁴⁸ It has been difficult to obtain useful examples of disaster/emergency legislation in Spanish and French, given the importance of the other criteria (size, development classification, etc.) The author’s attempts to contact relevant officials in smaller, less developed *Hispano-hablante* and Francophone countries were not successful, apart from Nicaragua. The language groupings often also align with “legal system” issues, as noted in note 5.

disasters, most laws which contain such linking sentences have not been included among the “key” legislation. The sole exception is the Samoan Marine Pollution Prevention Act 2008 (Act No. 2 of 2008), which goes well beyond a single sentence approach. In particular, it identifies a role for and/or need to conduct designated emergency management authorities in several situations, and specifically discusses mechanisms for coordination between the marine agency and these bodies.

- *Country size:* The greatest challenge for most SIDS arises from their relatively small size, workforce and national budget, leading normally to governmental units that are very limited in size, and to operational dynamics that require each governmental employee at the professional level to cover a relatively broad brief. Larger and more populous countries have larger national bureaucracies, enabling higher levels of specialization. Hence, although not a firm “rule” of this analysis, most of the “key” legislation selected came from smaller countries and SIDS.
- *Development/Income Classification:* Sadly, the factor that has proven most determinative of the effectiveness of particular legislative structures is the development/income classification of the country involved. Less developed countries generally have less success in implementing key governmental functions.⁴⁹ In considering this factor, the author followed the example of most UN specialized agencies and programs, relying on the World Bank Human Development Index classifications.⁵⁰ Income classifications used in this index are Category 4 “low income” countries are those with a GNI of US\$905 or less; Category 3 “lower middle income”, US\$906 - US\$3,595; Category 2 “upper middle income”, US\$3,596 - US\$11,115; and category 1 “high-income,” US\$11,116 or more. (Many island nations and territories are not rated on this scale.) The author has attempted, to the extent available, to focus on legislation from countries in 2, 3, and 4. The key examples come from twenty-two countries: one in category 1 (provincial legislation from Canada); four from Category 2 (American Samoa, Botswana, Northern Mariana Islands, Seychelles), two from Category 4 (Ethiopia and Nicaragua) and one which is not included in the World Bank categories (Guam); the other thirteen (Fiji, India, Indonesia, Kiribati, Lesotho, Marshall Islands, Micronesia, Nigeria, Papua New Guinea, Samoa, South Africa, Thailand, Tonga, Vanuatu and Vietnam) are all in category 3. Most of the CELP countries are rated in either category 2 or 3.

On the basis of their content, coverage, quality and readability, as well as the factors described above, the original body of more than 250 laws reviewed for this project has been narrowed to the following list of 31 “key examples” for future work:

1. **American Samoa** Territorial Disaster Assistance Act of 1978 (Chap. 01, Title 26).
2. **Canada** Emergency Measures Act (S.N.B. 1978, c. E-7.1).
3. **Ethiopia** Proclamation to Establish a Relief and Rehabilitation Commission (Proclamation No. 173/1979)
4. **Ethiopia** Emergency Food Security Reserve Administration Establishment (No. 67/2000)
5. **Fiji** Natural Disaster Management Act, 1998 (No. 21 of 1998).
6. **Fiji** Emergency Powers Act (No. 28 of 1998).

⁴⁹ See, generally, FAO, Independent External Evaluation (available online at <http://www.fao.org/iee-follow-up-committee/home-iee/en/>) as it discusses national legislative and policy assistance.

⁵⁰ Available online at <http://siteresources.worldbank.org/INTRGEP2004/Resources/classification.pdf>

7. **Guam** Compensation to Farmers for Crop Damages (Title 8, Ch. 12: Guam Adm. Rules/Regs.)
8. **India** Disaster Management Act, 2005 (Act No. 53 of 2005).
9. **India** Gujarat State Disaster Management Act, 2003 (Gujarat Act No. 20 of 2003)
10. **India** Jammu and Kashmir Disaster Management Rules, 2007.
11. **Indonesia** Government Regulation ... on implementation of disaster control (No. 21/2008)
12. **Jordan** Protection of Environment Law (No. 12 of 1995)
13. **Kiribati** National Disaster Act 1993 (No. 12 of 1993).
14. **Lesotho** Disaster Management Act, 1997 (Act No. 2 of 1997).
15. **Marshall Islands** Disaster Assistance Act (Chap. 10)
16. **Micronesia** Disaster Relief Fund (Title 55, Chap. 6, Subch.II: Code of FSM)
17. **Micronesia** Disaster Relief Assistance Act of 1989 (Title 41, Chap.7: Code of the FSM)
18. **Micronesia** Economic Development Funds (Title 36, Chap. 4: Pohnpei State Code)
19. **Nicaragua** Ley creadora del sistema nacional para la prevencion, mitigacion y atencion de desastres (LEY No. 337; La Gaceta No. 70 del 7 de Abril del 2000)
20. **Nicaragua** Reglamento de sistema nacional para la prevención, mitigación y atención de desastres (Decreto N° 53/00)
21. **Nigeria** National Emergency Management Agency (Establishment) Decree 1999 (No. 12/1999)
22. **Northern Mariana Islands** Commonwealth Disaster Relief Act of 1979 (P.L. 1-023).
23. **Papua New Guinea** Disaster Management Act 1984.
24. **Samoa** Disaster and Emergency Management Act, 2007 (No. 13 of 2007).
25. **Samoa** Marine Pollution Prevention Act 2008 (Act No. 2 of 2008)
26. **Seychelles** National Emergency Foundation Notice (Cap. 188A, S.I. 20 of 2005)
27. **South Africa** Disaster Management Act, 2002 (No. 57 of 2002).
28. **Thailand** Disaster Prevention and Mitigation Act, B.E 2550 (2007).
29. **Tonga** Emergency Management Act (Act No. 14 of 2007)
30. **Vanuatu** National Disaster Act (Cap. 267, Act 31 of 2000). .
31. **Viet Nam** Decision ... approving the national strategy on natural disaster prevention, fighting and reduction till 2020. (Decision No. 172/2007/QD-TTg)

These laws demonstrate a relatively high level of variability in the development of effective disaster/emergency legislation. Each national legislative revision, adjustment or amendment process undertaken by CELP countries will face different particular needs and challenges, and be called on to address them under very different legislative approaches.

This analysis was further informed by review of literally hundreds of other national laws, including many that were ultimately deemed not to be potential “key” instruments due to several factors (*e.g.*, not available in English, French or Spanish; unduly complex, etc.)

1.3 Amending National Legislation and Institutional Arrangements

The “Key Legislative Provisions” provide a broad sampling of these differences, which may help countries that decide to undertake a sweeping revision of their national emergency/disaster legislation. For the legislative draftsman, review of other countries’ legislation can be particularly useful, where the draftsman is seeking to eliminate some obstacle or problem which has been inserted by legislators or agencies to address particular concerns or objectives of another sector or group. For the legislative draftsman, focused adjustments of national law are normally adjustments, rather than entire overhauls, of the current system. If the proposed change is narrow enough, the legislative adjustment may be relatively cut-and-dried – raising few controversies and being adopted promptly with no fuss. Most legislation, however, involves a balance between the desire of one agency or faction for an easier process, and that of another agency or faction to ensure that the new law should not harm or negatively affect them. Consequently, it is generally easiest, and most straightforward to revise legislation that is focused on a single, sector or agency.

Conversely, the challenge is much greater where the legislative change will to address legal or administrative obstacles created under another agency’s mandate or national organic laws and functions. In these cases, the draftsman may find it particularly useful to review relevant foreign legislation, to find out if other countries have approached a particular balance of concern in a unique way. In general, however, if more wide-ranging change is needed, or if the proposed change will alter the function/requirements under the country’s organic law, there is a greater possibility that the legislative process will be delayed. Even where a change seems small to the agency, sector or faction proposing it, others may find the change to have more serious consequences.

Thus, where a disaster/emergency-related amendment can be focused narrowly, this is normally recommended. Agencies will, in fact, try to find ways to achieve their objective without returning to the legislature at all. When legislative change is warranted, it is rare for the national legislative draftsman to model his law on an individual clause from a system quite different from his own.⁵¹

The CELP countries, although legislatively similar in many ways, appear to function through a wide variety of national approaches to emergency/disaster management and response. The key provisions (Annex I) offer examples of a variety of approaches. While these may prove useful, they should not be taken as “models.” It is possible that, now or in the future, some of the CELP countries may desire to adopt entirely new systems or to completely overhaul all or some part of their existing systems. This task may indeed call for consideration of other countries’ approaches to the same issue (examining the entire legislative measure (act or regulation) rather than simply an excerpt, to understand the interaction of clauses within that system) as part of the drafting process. A legislative draftsman who simply draws one clause (one definition, mandatory or interactive section of subsection) from another law and inserts it in his own will normally produce unsatisfactory results, unless the law he is amending is virtually identical to the law from which the provision is drawn. Even then, if the country’s organic and administrative laws differ from those of the country whose clause is used, the inserted provision may not function as expected in its new textual ‘home.’

⁵¹ Countries adopt “model” legislation where the goal is adoption of legislation, rather than achievement of the objective stated in the legislation. For example, in 2000, urged by international bodies, Jamaica (like numerous other countries) adopted legislation implementing the Convention on International Trade in Endangered Species of Fauna and Flora (CITES) modeled very closely on the CITES-implementing legislation of New Zealand. The result is a very complex body of legislation that is very difficult for a small country with a very small governmental structure to implement. The need in that year was to adopt legislation to prevent international bodies from singling Jamaica out as a non-compliant CITES Party. The country’s ability to implement the legislation had to be addressed in following years. (Note: Jamaica has before and since been very scrupulous in implementing international environmental instruments.)

The following analysis will key in on national disaster legislation and the provisions governing the each country's key agencies with general and specific mandates that address disaster and emergency management matters which comprise the institutional framework related to state of emergency and budget appropriation for each of the PCs are discussed.

1.3.1 Non-constitutional Disaster/Emergency Legislation

Within the framework of disaster/emergency management, the primary legislative instruments are not national constitutions, but 'ordinary' laws establishing, implementing, (or mandating the establishment of) the country's institutional and administrative framework for emergency/disaster prevention, response and recovery. Annex I identifies numerous legislative examples of this type, finding them to be generally similar to each other and to the disaster/emergency frameworks found in most of the CELP countries. As with all types of legislation, however, national systems differ in the details, in the in the level of detail they include, in the amount of flexibility given to the ministries and administrative agencies, and in the particular areas in which detailed statements of powers or limitation of powers are necessary.

Although focusing on specific legislative excerpts relating to the declaration of a *state of emergency*, this part also considers other critical elements of disaster/emergency legislation that are exemplified in the "key" legislation.

1.3.2 "State of Emergency," "Disaster," "Alert," etc.

In most countries, including apparently all of the CELP countries,⁵² a central element of the disaster/emergency legislative framework is the declaration that announces that a country is formally operating under a "State of Emergency," "Disaster Area," "Disaster Emergency," "Alert" or some other term. In most countries, national disaster/emergency legislation and national constitutions may create two or even several different clauses addressing such declarations. In nearly all countries that have adopted disaster/emergency legislation, that legislation includes some sort of formal declaration.⁵³ One issue that has been raised in this project seeks to clarify the role and relationship among these various declarations.

The "declaration" component of national disaster/emergency law is often twinned with similar-sounding provisions in national constitutions relating to the declaration of a state of emergency (see "*B. Constitutional Provisions*"). It is useful to consider the different roles served by constitutional provisions discussing the declaration of disaster/emergency as compared with the role of a similar provision in national disaster/emergency legislation. As noted there, many countries have adopted a variety of laws, each of which sets out procedures for some kind of declaration of emergency/disaster/alert/etc. As discussed in section B, below, it is common (but not universal) among non-Caribbean countries that the primary purpose of a constitutional declaration of State of Emergency is to address governance matters, while a declaration in national disaster-management legislation will normally be focused on disaster-management objectives. This is not a cut-and-dried distinction, however. Based on a review of both legislation and literature regarding such designations, it appears that the purpose behind any "declaration" provision in either type of legislation will usually be one or more of the following:

- (i) announcing special authority within the governance system regarding emergencies (presidential and other "emergency powers");
- (ii) triggering a special system for financial distributions and their approval and oversight;
- (iii) triggering the disaster management plan's operation; and/or
- (iv) informing the public.

⁵² Draft Country Assessment Report at 81-81.

⁵³ One such example is Thailand's Disaster Prevention and Mitigation Act, B.E 2550 (2007) §§27-28. Powers are given that do not seem to rely on such a declaration.

All of the emergency/disaster provisions examined in this study include some elements of two or more of these purposes. In countries with both a Constitutional disaster/emergency declaration and one or more substantive-law declarations, it is possible that each such law has a different legislative purpose. Thus, two or more such declarations may apply at the same time, where a country's law creates multiple separate declarations on emergency/distress. These overlaps are rarely mentioned in legislation; however, a few laws specifically discuss them, as discussed below.

For legislative drafting purposes, it is worthwhile to ask which declarations are relevant in which particular situations. Is it necessary for the President to issue a constitutional declaration of State of Emergency, before the national emergency plan under disaster-emergency legislation can be triggered? Must the national emergency plan be triggered by every state of emergency (e.g., where a major industrial union has gone on strike)?

1.3.3 Defining and Integrating “Emergency” and/or “Disaster” Declaration Clauses

One of the most important questions relating to declarations of “state of emergency” (or “state of disaster” or similar terms) is the coverage of each declaration. In many countries, the constitutional clauses relating to State of Emergency are designed to be very inclusive – applicable to most natural disasters and human-caused pollution, as well as war, political insurrection and even commercial strikes and work-stoppages. While this level of inclusiveness is understandable with regard to the “emergency powers” of the President or head of state, it may be problematical when applied to national disaster-management authorities.

Few, if any, disaster management plans include provisions that can be usefully applied to a national insurrection, for example. In fact, most of the activities required an insurrection, strike or act of war.⁵⁴ Consequently, many countries adopt definitions for “disaster” or “emergency” or other terms that are different from the definitions used in the national constitution. Given some countries' difficulty in changing their constitutions, such laws often focus on creating coordinated terms, and define them in detail. The following are a few examples from the Key Legislative instruments described in Annex I:

- The emergency legislation in Vanuatu specifically empowers declaration of both (constitutional) “State of Emergency” and “Disaster”. The laws make it clear that these concepts are different in scope, but may overlap. “Disaster” is limited to natural events and “human caused pollution threatening people and property.”⁵⁵ A “State of Emergency” will be appropriate in the event of a “serious disaster.”⁵⁶
- In Tonga, “disaster” specifically excludes “political emergencies,” although these are included in “emergency” as are disasters.⁵⁷
- In many countries, operative provisions relating to emergency/disaster declarations focus on natural and ecological disasters. In some, however, relevant definitions are not so restrictive, assuming that non-natural /non-pollution situations may also be benefited by the involvement of the country's disaster management authorities and plan, in some cases. For example, in Ethiopia,

⁵⁴ It is noted, however, that American Samoa's Territorial Disaster Assistance Act (Title 26, Chap. 1) includes among covered disasters, both natural and manmade occurrences, “including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action.”

⁵⁵ Vanuatu, National Disaster Act , Cap. 267 (Act 31 of 2000) §2.

⁵⁶ Vanuatu, National Disaster Act , Cap. 267 (Act 31 of 2000) §13.

⁵⁷ Tonga, Emergency Management Act 1997, Act No. 14 of 2007

the national relief and rehabilitation commission's role may extend to "war, and ...any other disaster."⁵⁸

- In Ghana, "disaster" means "any occurrence by which there is a serious disruption of general safety endangering the life and health of many people or large material interests which requires coordinated action by services of different disciplines and includes, floods, earthquakes, drought, rainstorm, war, civil strife, industrial accidents."⁵⁹ Similarly, Nigeria's law covers "any disaster arising from any crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents and mass deportation or repatriation of Nigerians from any other country."⁶⁰
- The law in American Samoa defines disaster primarily in terms of the action that it necessitates. Thus, "*disaster means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action.*"⁶¹ This definition is restated, in determining when the Governor may declare a "disaster emergency."⁶² The law recognizes a potential role for disaster authorities in other emergencies, noting that a "disaster" is essentially any situation that can be benefited by imposition of the emergency response plan, even if it includes aspects of political upheaval such as 'riot, or hostile military or paramilitary action.'
- While some disaster/emergency laws specifically exclude political disasters from their coverage (see below), other countries accomplish this result in other ways. Some legislation reserves the term "disaster" for natural events, by adopting a detailed definition that specifically omits any reference to political events (war, insurrection, strikes, etc.) One example is the law of Papua New Guinea, which defines "disaster" to mean "*an earthquake, volcanic eruption, storm, tempest, flood, fire or outbreak of pestilence or infectious disease, or any other natural calamity whether similar to any such occurrence or not, on such an extensive scale as to be likely to endanger the public safety or to deprive the community or any substantial proportion of the community of supplies or services essential to life.*"⁶³ National practice sometimes allows the disaster management authorities to step in when other kinds of emergencies arise that might benefit from their efforts; even where their general mandate is limited to natural disasters.⁶⁴
- In many countries where disaster laws and authorities generally focus on natural disasters, the definition of disaster for purposes of the application of the national disaster plan extends beyond natural events and human-caused pollution. One of the most common of these is the inclusion of major *accidents*.⁶⁵ Thai law goes even further, including "air threats and sabotage" within the law focused on natural disasters.⁶⁶

⁵⁸ Ethiopia, Proclamation to Establish a Relief and Rehabilitation Commission, §2

⁵⁹ Ghana, National Disaster Management Organization Act 517 of 1996

⁶⁰ Nigeria, National Emergency Management Decree, 1999

⁶¹ American Samoa, Territorial Disaster Assistance Act of 1978 (Chapter 01 of Title 26), 26.0104(a), *emphasis added*.

⁶² The law does not define "disaster emergency."

⁶³ Papua New Guinea, Disaster Management Act 1984, §2.

⁶⁴ *See*, India Disaster Management Act, Act No. 53 of 2005, §2 in which "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area."

⁶⁵ *See, e.g.*, Lesotho, Disaster Management Act, 1997, Act No. 2 of 1997, §2.

⁶⁶ Thailand, Disaster Prevention and Mitigation Act, B.E 2550 (2007) §2.

- In Kenya, a number of relatively different disaster definitions exist. National disaster policy covers “a serious disruption of the functioning of a society or community, causing widespread human, material or environmental loss, which exceed the ability of the affected society or community to cope without outside intervention.”⁶⁷ By contrast, its proposed disaster law defines disaster as “a natural or human caused occurrence whether actual or imminent (such as fire, flood, storm, earthquake, explosion or accident) which – (a) endangers or threatens to endanger the safety or health of persons or animals in the nation; or (b) destroys or damages or threatens to destroy or damage, property in the nation; being an event or occurrence which requires a significant and coordinated response.”⁶⁸

1.3.4 Defining the Relationship between types of Declarations

The easiest solution to the legislative quandary posed by multiple different “State of Emergency”, “Disaster”, etc clauses will be to rationalize the various provisions relating to these declarations. Some countries will be easily able to change both their national constitution and other legislation: for many others, however, constitutional amendment processes are very difficult.⁶⁹ Consequently, it will often be necessary to focus on changing the ordinary legislation to enable it to better dovetail with the Constitution, rather than to change both documents.

The key examples (Appendix I) include several laws that discuss very specifically the interrelationship between various disaster/emergency declarations and underlying concepts. The means of sculpting this relationship are extremely varied.

- Fiji, for example, specifically considers that the term “disaster” might include severe “*financial disasters*” as well as other “*major misfortune which disrupts the basic fabric and normal functioning of the society or community, or an event or series of events which give rise to casualties, and/or damage or loss of property, infra-structure, essential services or means of livelihood on a scale which is beyond the normal capacity of the affected communities to cope with unaided, but does not include man-made disasters*”⁷⁰ At the same time, its provisions for “state of emergency” also welcome overlap: “*If a state of emergency is proclaimed ... as a result of an actual or threatened natural disaster, and the proclamation so declares, the proclamation of a state of emergency is to be treated as also being a declaration of a natural disaster under section 17(1) of the Natural Disaster Management Act 1998*”⁷¹
- Samoan law includes a very direct and specific discussion of the two concepts and the differences between them:

“*‘disaster’ means a situation in any part of Samoa:*

(a) that arises from any happening, whether natural or otherwise, including -

- (i) any naturally occurring event affecting the whole or any part of Samoa; or*
 - (ii) any fire caused by any means; or*
 - (iii) any aspect of the safety of a ship or aircraft in Samoa’s territory;*
- or*

⁶⁷ Kenya, National Policy on Disaster Management (October, 2001)

⁶⁸ Kenya, Pending National Disaster Management Bill (2002). The last legislation available has been a 2003 draft law, which may have been adopted by now.

⁶⁹ Discussed in note 101, below. The U.S.A is an easy case in point, since it has taken many years or decades for most amendments to finally be adopted. At least one CELP country, Grenada, also imposes extra requirements on constitution amendment. See draft Country Assessment Report at footnote note 27.

⁷⁰ Fiji Natural Disaster Management Act, 1998 (No. 21 of 1998), §2.

⁷¹ Fiji Emergency Powers Act (No. 28 of 1998), § 6.

- (iv) any outbreak or spread of disease affecting humans, plants or animals; or
 - (v) any event, natural or otherwise, which threatens the supply of water or the quality of water resources in Samoa; or
 - (vi) the breakdown of telecommunications in Samoa or between Samoa and other countries; or
 - (vii) any other emergency event resulting from systems failure, infrastructure failure or human error; and
- (b) which involves threat or danger to human life or health, or to the environment; and
- (c) which might require response agencies to respond under this Act;

“emergency” means a situation:

- (a) which is more serious than a disaster;
- (b) which could result or has resulted in causing widespread human, property or environmental losses throughout Samoa or in any part of Samoa; and
- (c) which would require a substantial mobilisation and utilisation of Samoa’s resources or which would exceed the ability of Samoa to cope using its own resources.⁷²

- Micronesia takes a similar practical / response orientation, defining “State of Emergency” to mean “a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster.”⁷³ Another law in Micronesia clarifies the similarities and differences between “disaster” and “emergency”, by defining the two terms side-by-side:

As used in this subchapter:

(1) "Disaster" means any hurricane, typhoon, cyclone, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, civil disturbance, or other catastrophe in any part of the Federated States of Micronesia which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant disaster assistance under this subchapter, above and beyond emergency services by the National Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(2) "Emergency" means any hurricane, typhoon, cyclone, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, civil disturbance, or other catastrophe in any part of the Federated States of Micronesia which requires national emergency assistance to supplement State and local efforts to save lives

⁷² Samoa, Disaster and Emergency Management Act, 2007, No. 13 of 2007, §2.

⁷³ Micronesia, Disaster Relief Assistance Act of 1989, Title 41, Chap. 7 Code of the FSM, §703(5), Compare this to another Micronesian law, (Disaster Relief Assistance Act of 1989) which defines disaster as “the imminent threat or the occurrence of widespread injury or death to persons, or severe widespread injury to, or destruction of, property caused by a natural or man-made catastrophe.”

*and protect property, provide for public health and safety, or to avert or lessen the threat of disaster.*⁷⁴

These descriptions seek to provide clear dividing lines between situations in which the fund can be used and all other situations.

- One of the clauses that most directly explains the relationship between various designations is found in the law of the Republic of South Africa. That law specifically excludes certain events and conditions from the term “disaster”:
 - (1) *This Act does not apply to an occurrence falling within the definition of “disaster”⁷⁵ in section 1-*
 - (a) *if, and from the date on which, a state of emergency is declared to deal with that occurrence in terms of the State of Emergency Act, 1997 (Act No. 64 of 1997); or*
 - (b) *to the extent that that occurrence can be dealt with effectively in terms of other national legislation-*
 - (i) *aimed at reducing the risk, and addressing the consequences or occurrences of that nature; and*
 - (ii) *identified by the Minister by notice in the Gazette....*
 - (3) *Where provincial legislation regulating disaster management in a province is inconsistent with this Act, this Act prevails over the provincial legislation subject to section 146 of the Constitution.*⁷⁶
- Some systems develop a range of different categories. For example, Nicaraguan law creating the national disaster prevention, mitigation and response system (*Ley creadora del sistema nacional para la prevencion, mitigacion y atencion de desastres*)⁷⁷ carries the idea of multiple types of declaration much farther than any other developing/small-country law reviewed, creating a number of different classifications that can be declared, including “Disaster” (“*Desastre*”), which includes any situation that intensely alters the social, fiscal, ecological, economic, and cultural components of society, posing a threat to human life and wellbeing,⁷⁸ “Natural disaster” (“*Desastre Natural*”) which embodies all damage caused by listed types of natural phenomena and impacts on the population, infrastructure and economic sectors that exceeds the level of natural conditions which can be handled at the local level⁷⁹, “*State of Disaster*” (“*Estado de Desastre*”) an unusual condition, cause by an unexpected event that endangers people’s lives, health and

⁷⁴ Micronesia, Disaster Relief Fund, Title 55, Chap. 6, Subch. II: Code of FSM. § 608. Definitions.

⁷⁵ For this purpose the definition of disaster in RSA law is “*disaster*” means a progressive or sudden, widespread or localised natural or human-caused occurrence which-(a) causes or threatens to cause-(i) death, injury or disease; (ii) damage to property, infrastructure or the environment; or (iii) disruption of the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.”

⁷⁶ RSA, Disaster Management Act, 2002 (No. 57 of 2002), §2.

⁷⁷ Nicaragua, Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000

⁷⁸ Nicaragua, Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000, Artículo 3(7).: “*Desastre Es toda situación que causa alteraciones intensas en los componentes sociales, físicos, ecológicos, económicos y culturales de una sociedad, poniendo en inminente peligro la vida humana y los bienes ciudadanos y de la nación, sobrepasando la capacidad de respuesta local para atender eficazmente sus consecuencias, pueden ser de origen natural o provocado por el hombre.*”

⁷⁹ Nicaragua, Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000, Artículo 3(8) “*Desastre Natural: Es todo daño causado por cualquier fenómeno natural, sea este huracán, tornado, tormenta, pleamar, inundación, maremoto o tsunami, terremoto, erupción volcánica, deslizamiento de tierra, incendio forestal, epizootia, plagas agrícolas, sequías entre otros y cuyos resultados afectan a la población, a la infraestructura y a los sectores productivos de las diferentes actividades económicas, con tal severidad y magnitud que supere la capacidad de respuesta local y que requiere el auxilio regional, a solicitud de una o varias de las partes afectadas, para complementar los esfuerzos y los recursos disponibles en ellas, a fin de mitigar los daños y las pérdidas.*”

property (patrimonio⁸⁰),⁸¹ and “State of Alert” in three types “Red Alert” “Yellow Alert” and “Green Alert” (“Estado de Alerta - Rojo, verde y amarillo”) determined (based on intensity and type of response) by the designated officials at the time the disaster is identified, and triggering specified levels of response .⁸²

- In a similar vein, the law of the Northern Mariana Islands includes four distinct categories of disaster, depending on the nature of the relationship between the disaster area and the availability of external funds. Thus, a “disaster” means “an occurrence or imminent threat of a widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, or other wastes contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, or explosion, occurring in any part of the Commonwealth of the Northern Mariana Islands **which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth of the Northern Mariana Islands to supplement the efforts and available resources of the political subdivisions and relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.**

(b) “Emergency” means any typhoon, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, drought, fire, explosion, or other catastrophe in any part of the Commonwealth of the Northern Mariana Islands **which requires Federal emergency assistance to supplement the Commonwealth of the Northern Mariana Islands and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.**

(c) “Major Disaster” means any typhoon, tornado, storm, floods, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, fire or other catastrophe in any part of the Commonwealth of the Northern Mariana Islands **which, in the determination of the President of the United States, cause damage of sufficient severity and magnitude to warrant major disaster assistance under Public Law 93-288, above and beyond emergency services by the Federal Government to supplement the efforts and available resources of the Commonwealth of the Northern Mariana Islands and its political subdivisions.**

(d) “Local Disaster Emergency” means occurrence or imminent threat of a widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including, but not limited to, typhoons, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, fires, oil spills, water contamination **requiring emergency action to avert danger or damage, ... occurring in one particular political subdivision.**⁸³

⁸⁰ “Patrimonio” is a civil law concept that is closer to the English concepts of “individual holdings” than to either “patrimony” or “property”.

⁸¹ Nicaragua, Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000, Artículo 3(9) “Estado de Desastre: Es el estado excepcional colectivo provocado por un evento que pondría en peligro a las personas, afectándoles la vida, la salud y el patrimonio, sus obras o sus ambientes y que requiere de mecanismos administrativos, toma de decisiones y recursos extraordinarios para mitigar y controlar los efectos de un desastre.”

⁸² Nicaragua, Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000, Artículo 3(10) “Estado de Alerta: Es el que se determina considerando el tipo de alerta y se decreta según sea el caso y la necesidad, atendiendo a la gravedad e intensidad del desastre. [3 estados de alerta - Rojo, verde y amarillo.]” The three alert types are more completely defined in Artículo 3(1), (2) y (3).

⁸³ Northern Mariana Islands Disaster Relief Act, P.L. 1-023, §4, *emphasis added*.

Each of these approaches was selected by its country due to a combination of the country's expectations (the type of disaster they think is most likely to occur), staffing (whether they have or need technical ability to create detailed standards and procedures for response to different classifications of disaster/emergency), level of ingrained bureaucracy (whether detailed procedures help motivate and mobilize staff and bureaucracy to take action, or simply serve as a delaying factor preventing streamlined governmental response), etc. Thus, for example, in Indonesia, lengthy and detailed regulations actually promote quick action, since bureaucrats at all levels of government will be able to act without asking themselves if they are authorized or if they might be forgetting something that will lead to future chastisement. By contrast, in Kiribati and Micronesia and many African countries, detailed planning is done only by those agencies and officials who will implement the plan, whom the central government's laws generally empower quite broadly to do the best that they can, realizing that lack of communications and transportation may make it difficult to follow detailed regulatory mechanisms to the letter during a state of emergency or disaster.

1.3.5 Linking Declaration to specific Activities and Powers

A key question in relation to disaster/emergency legislation is whether some or all of the powers expressed in the law are linked to the declaration of disaster/emergency. This linkage is not difficult to express. Where the law gives certain emergency powers (such as the presidential "emergency power" to act without legislative approval), the statement of those powers will simply begin with the phrase "when a 'State of Emergency' has been declared in accordance with Article X..." before describing the powers that may only apply during a State of Emergency.⁸⁴ Similarly, where the law gives special privileges or creates special procedures (such as access to special sorts of funds, or streamlined processes for requisitioning funds and other supplies), those provisions, too may be tied to a formal declaration. For purposes of clear and prompt action in the face of a disaster/emergency, it may be essential that these relationships be clearly stated in separate clauses. Globally, such specific interlinkage is not always clear. The approach taken under the South African legislation quoted above, has been recommended as a means of avoiding potential overlapping mandates between structures established to deal with political unrest and non-conflict disasters respectively. This approach was specifically considered and rejected in other states, however, who expressed an ongoing desire to ensure that no tool will be unavailable when a disaster/emergency strikes.⁸⁵

Two of the clearest statements of this kind of linkage are found in Small Island Developing States (SIDS.)

- The Vanuatu National Disaster Act states that "*Upon a declaration of a state of emergency in relation to a disaster, the Director must as soon as possible cause the National Disaster Operations Center to become operational in relation to that disaster.*"⁸⁶
- The Fiji Emergency Powers Act provides that "*If a state of emergency is proclaimed under section 2(1) as a result of an actual or threatened natural disaster, and the proclamation so declares, the proclamation of a state of emergency is to be treated as*

⁸⁴ A relatively classic example is found in the Botswana Emergency Powers Act (Chapter 22:04), "*Whenever an emergency proclamation is in force, the President may make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the Republic, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community... Without prejudice to the generality of the powers conferred, ... emergency regulations may, so far as appears to the President to be necessary or expedient f... make provision for the detention of persons or the restriction of their movements, and for the deportation and exclusion from the Republic of persons who are not citizens of Botswana; (b) authorize... the taking of possession or control on behalf of the Republic of any property or undertaking... on behalf of the Republic*" See, also, Kiribati. National Disaster Act 1993, No. 12 of 1993, §18; Lesotho, Disaster Management Act, Act No. 2 of 1997 §4; Marshall Islands, Disaster Assistance Act, Chap. 10, §§1006-1007.

⁸⁵ Field, T-L, 2007.

⁸⁶ Vanuatu, Cap. 267 (Act 31 of 2000), §17.

also being a declaration of a natural disaster under section 17(1) of the Natural Disaster Management Act 1998 for the respective part of the Fiji Islands, and the provisions of that Act will apply accordingly in relation to that part.”⁸⁷

In some countries, disaster/emergency funds and authorities may apparently be utilized whenever a disaster or emergency exists, pursuant to statute, without reference to the need for any declaration or other formal decisional prerequisite.⁸⁸ This is one area in which the difference between the constitutional provision for declaration of a “state of emergency” and the ministerial, provincial or local determination that a disaster exists may be very different.

In some countries, financial matters and the need to control governmental abuses relating to funding hold very high importance. As a result, those countries provide that a decision from the central government (a constitutional declaration of the ‘state of emergency’ perhaps) will be necessary before special emergency financial provisions may be accessed. In others, as more fully discussed below, disaster funds are held by the ministry or agency responsible for disaster management. In those countries, a declaration under the ordinary legislation may be all that is required, and in some cases, even that will not be necessary.⁸⁹ Ultimately, there is no globally ‘standard’ view on this either, so the country’s own practices and approach will be the best guide to developing this relationship in law.

1.3.6 Other Legislative Procedures and Choices

With regard to the declaration of disaster, emergency, etc; however, the international community is quite varied in a few respects, although generally similar, in broad coverage.

- **Who makes the emergency/disaster declaration?**

One area of significant difference among countries relates to the person or office that holds the power to make such a declaration. While the majority of the constitutions give this power to the head of state, nearly all of these require that the legislature must be called (if not already in session) and ratify the decision within a few days.⁹⁰ If the legislature does not ratify the decision, the declaration terminates. Some laws give the declaration power to the Cabinet,⁹¹ or require that the President seek the Cabinet’s advice before making such a declaration.⁹²

- **Duration of disaster/emergency**

Another area of significant difference across the laws examined is the duration of a declaration of a disaster or emergency. Nearly all such declarations are time-bound,⁹³ with their duration being anywhere

⁸⁷ Fiji Act No. 28 of 1998, at §6.

⁸⁸ In Indonesia, for example, very many actions are required when a disaster exists, but those actions do not appear to be tied to the declaration of that disaster. Indonesia Government Regulation ... on implementation of disaster control, No. 21/2008. Similarly, as noted in footnote 20, powers established under Thailand’s Disaster Prevention and Mitigation Act, B.E 2550 (2007) do not seem to rely on such a declaration. *See also* Ethiopia, Emergency Food Security Reserve Administration Establishment (No. 67/2000).

⁸⁹ In Vanuatu’s National Disaster Act, Cap. 267 (Act 31 of 2000), the law makes it clear that a separate declaration of disaster under the act, is all that is needed to trigger relevant powers.

⁹⁰ *See, e.g.*, Micronesia, Disaster Relief Assistance Act of 1989. Title 41, Chap. 7 Code of the FSM, § 705. This issue is discussed in greater detail in part II.B of this report, below.

⁹¹ *See, e.g.*, Fiji, Natural Disaster Management Act, No. 21 of 1998, §17; Marshall Islands, Disaster Assistance Act, Chap. 10, §1005

⁹² *See, e.g.*, Kiribati. National Disaster Act 1993, No. 12 of 1993, §17; Lesotho, Disaster Management Act, No. 2 of 1997 §3.

⁹³ That is certainly not true of all such provisions, some of which simply state that they may set the duration in the declaration itself. Lesotho, Disaster Management Act, No. 2 of 1997 §3(2); Marshall Islands, Disaster Assistance Act, Chap. 10, §1005.

from a few days (Samoa)⁹⁴ to as long as 2 years (Guyana, Constitution). Often, in order to ensure that action is taken quickly, the law allows a fairly simple process by which the designated person or committee makes the declaration; however, the declaration will normally have a shorter duration where emergency powers triggered by the declaration are more extensive and/or less controlled, or in countries that place a high level of national and/or legislative focus on preventing abuses.

- **Disaster Management Plans and their Implementation**

Another area of variety relates to national legislative frameworks for disaster/emergency. Among the variations in this element are the following:

- Whether formal (parliamentary) establishment of all relevant agencies is necessary;
- What requirements are imposed relating to the adoption of and consistency/updating of national and subnational disaster management plans and legislation;
- How key disaster prevention measures are established, especially building codes and other laws that operate before a disaster occurs; and
- Community involvement.

The review of non-Caribbean legislation relating to these measures discloses a high level of variability, offering many options.⁹⁵ As noted in many international legislative discussions, however, this variability is directly related to the unique functioning of each country's national administrative system. Such systems vary greatly on these and related points, which apply to virtually all national legislation and plan development/implementation in all sectors.

1.4 Integrated Legislative/Administrative Disaster Systems and Frameworks

As discussed below, the term “national disaster management framework” has been co-opted in international discussions of emergency/disaster issues, to imply a focus on “disaster risk reduction” or “DRR” issues (*i.e.*, activities undertaken when no disaster is affecting the country, directed at minimizing the country's vulnerability to significant injury or damage from disaster.) It is sometimes difficult to distinguish such frameworks from “disaster response” (actions taken when disaster strikes) simply by looking at the legislation, itself. Whether a country's disaster legislation operates primarily as “disaster reduction” or “disaster response” can only be seen by what the country *does* in implementation of those laws. In addition, in countries such as the CELP countries, where periodic and frequent disasters are expected, the conversion from disaster response to DRR must be gradual, and strong response focus must exist unless and until the country achieves a significant decrease in its vulnerability.

In this research, the most numerous group of laws identified are those which specifically create integrated systems (institutions, planning schemes and powers for disaster management and/or response.) Many of the “Key” legislative instruments in Annex I provide relatively comprehensive examples of such integrated legislative systems. In addition to those, many other laws that create such frameworks are publicly available to be examined by legislative draftsmen looking for ideas. The most accessible of these include: *Australia* (Northern Territory) Disasters Act; *Australia* (Queensland) Disaster Management Act 2003; *Brunei Darussalam*; Disaster Management Order, 2006; and *Estonia*, Emergency Situation Act (1996). Virtually all of these create and/or empower at least one standing body (such as a “National Disaster Management Committee”) to serve as the focal point for pre-disaster planning and other activities prior to the occurrence of a natural or other disaster.

⁹⁴ In Samoa's Disaster and Emergency Management Act, No.13 of 2007 §19, the declaration of a disaster lasts only 48 hours, unless the government declares a State of Emergency.

⁹⁵ See Key Legislation (Annex I).

Countries have various approaches to administrative frameworks for disaster preparation and response. While most national disaster/emergency legislation focuses on the establishment of specific agencies for disaster management, many also considered the specific duties to develop national disaster management plans and/or clarified specific governmental responsibilities when disaster strikes. There are several options:

1. Creation of a single unified body charged with disaster management, either (as in American Samoa, Brunei Darussalam; Estonia, Ethiopia, Fiji, Indonesia, Lesotho, Northern Mariana Islands, Papua New Guinea, Samoa; and Vanuatu) creating a new institution or (as in Nigeria) merging several existing bodies into a single one.
2. Creation of multiple bodies and authorities, including (i) a standing agency charged with disaster management, awareness and preparation, (ii) a commission of agency heads and parliamentarians to advise the standing agency, (iii) ad-hoc entities created at the time of any emergency, etc. (*see variously*, American Samoa; Brunei Darussalam; Canada (New Brunswick); Estonia; Ethiopia; Fiji; Gujarat; Jammu and Kashmir; Kiribati; Lesotho; Nigeria; Northern Mariana Islands; Papua New Guinea; Philippines; Samoa; South Africa; Thailand; and Vanuatu.)
3. Creation of a staged system of disaster management within the country, by requiring all sub-national (state, district and local) governments to create frameworks for emergency management at those levels. (See, *e.g.*, India, Disaster Management Act, 2005, with India, Gujarat State Disaster Management Act, Gujarat Act No. 20 of 2003; as well as Lesotho, Disaster Management Act, No. 2 of 1997; Tonga, Emergency Management Act, No. 14 of 2007 and Republic of South Africa, Disaster Management Act, No. 57 of 2002.)
4. Integrating the work of various ministries, government agencies, and/or private entities to create their own frameworks for emergency management within their entity or sector of responsibility. (*See*, Samoa, Disaster and Emergency Management Act;⁹⁶ *and, e.g.*, India, Gujarat State Disaster Management Act.⁹⁷)

The apparent key to any national disaster framework is the planning process by which the country's agencies and institutions develop advance responses to various types of disasters and disaster impacts. Disaster management planning enables countries to have a more immediate response when disasters strike, by identifying each agency's and official's most immediate responsibilities and developing the most effective and streamlined chains of responsibility and action to apply in those cases. The legislative review encountered primary legislative provisions calling for national disaster management planning (under various names) in the many countries, including American Samoa; Brunei Darussalam; Canada (New Brunswick); Estonia; Ethiopia; Fiji; India; Kiribati; Lesotho; Nicaragua; Nigeria; Northern Mariana Islands; Papua New Guinea; Philippines; Samoa; South Africa; Thailand; Vanuatu and Vietnam.

1.4.1 Legislative provisions for disaster/emergency management and planning

National legislation addressing disaster/emergency management planning takes many forms, depending on the country's legal practices. The call for planning may be relatively brief, in countries which give their planning agencies or ministries a broad power to determine what a plan should include and to formally develop the plan, or it may be particularly detailed providing the equivalent of a check-list for the agency or ministry that will be required to prepare a plan.

Appendix 1 includes national legislation from countries representing all levels of legislative detail. For example, the legislation from India, Indonesia and South Africa demonstrate a very high level of detail,

⁹⁶ Samoa Act No. 13 of 2007 §§11-17.

⁹⁷ India (Gujarat), Gujarat Act No. 20 of 2003.

listing powers and obligations of various agencies and specific planning and operational requirements in great detail. By contrast, the legislation of Kiribati and Micronesia are examples of much less detailed laws which leave it to each entity created or empowered under the law to decide on the best and most necessary contents of the practical frameworks they are obligated to create or manage. A medium level of detail is found in the legislation from Vanuatu, American Samoa, and Northern Mariana Islands.

One important type of variability relates to formal legislation creating specific administrative bodies. Most of the key-legislation countries have focused most of their national legislation on specifying the composition, procedures, and other aspects of each disaster-related body (Commission, Committee, Board, etc) in detail, with some focusing almost entirely on these matters.⁹⁸ In some cases, the legislation includes detailed meeting and voting procedures and other elements. In contrast, some laws are much less detailed when establishing commissions, merely naming the commission and outlining its basic objectives and duties, but leaving other matters to be settled by the agency or ministry creating the new Commission or other body.⁹⁹ In some cases, the lack of express provision in national disaster emergency law simply means that, the legislators have assumed that those matters will be dealt with under general principles of operation established under the country's other laws or national practice. The choice between these options is generally one of national custom, suggesting that choosing to follow another country's law on these elements can have potentially negative consequences. In some countries, the inclusion of a detailed list of powers duties and operative procedures in primary disaster/emergency law is generally interpreted as an "exclusive list", preventing the new entity from taking any action beyond the listed measures.¹⁰⁰ In others, a detailed list is needed in order to give the new entity any authority, and may be thought to be an open list, designed to give the agency a general idea of the types of activities that it needs to consider, without limiting the specific actions it may take.¹⁰¹

Many countries find it necessary to leave specific assignments rather ambiguous, in light of the fact that Ministerial assignments are regularly revised by the central government, which may combine agencies to conserve manpower and other resources.¹⁰² In these countries, while declaration of a new entity is part of the national approach, it is important to avoid the need for regular legislative amendment, when entities change or are adjusted administratively for practical reasons.¹⁰³

In addition, as noted above, many countries emphasize decentralized approaches, devolving some disaster management responsibilities to sub-national levels (state, province, district, municipality, etc.) In some federalized structures, this devolution will still be focused around unified disaster management (i.e., creating specific disaster management institutions at each level, all generally comprised under the central government's unified disaster management entity), while in others the integration approach is used,

⁹⁸ See, e.g., Canada, New Brunswick, Emergency Measures Act, S.N.B. 1978, c. E-7.1; Ethiopia, Relief and Rehabilitation Commission Establishment Proclamation ..., Proclamation No. 173/1979; India, Disaster Management Act, Act No. 53 of 2005; Kiribati, National Disaster Act 1993, (No. 12 of 1993); Lesotho, Disaster Management Act, 1997 ,(Act No. 2 of 1997); Marshall Islands, Disaster Assistance Act, Chap. 10; Nicaragua, *Ley creadora del sistema nacional para la prevencion, Mitigacion y atencion de desastres*, Ley No. 337; *La Gaceta No. 70 del 7 de Abril del 2000 y Reglamento de Sistema Nacional para la Prevención, Mitigación y Atención de Desastres*, Decreto N° 53/00; Northern Mariana Islands, Disaster Relief Act of 1979 ,(P.L. 1-023); Papua New Guinea, Disaster Management Act 1984; RSA, Disaster Management Act, 2002 ,(No. 57 of 2002); Thailand, Disaster Prevention and Mitigation Act, B.E 2550 (2007); Tonga, Emergency Management Act 2007,Act No. 14 of 2007, and Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000); and see Seychelles, National Emergency Foundation Notice, 2005, (Cap. 188A, S.I. 20 of 2005).

⁹⁹ American Samoa, Territorial Disaster Assistance Act of 1978, (Chapter 01 of Title 26); Samoa, Disaster and Emergency Management Act, No. 13 of 2007; Fiji Natural Disaster Management Act, No. 21 of 1998.

¹⁰⁰ See, e.g., Young, 1992-1993, Young, 1994, Young, 1994, Young, 1996.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ See, e.g., draft Country Assessment Report at p 76, discussing Grenada and St. Kitts & Nevis.

placing specific disaster-management obligations on a wide range of existing agencies at all levels (operating essentially on an agency-by-agency basis).

CELP countries are apparently expected to include a high level of legislative detail regarding the disaster-management plan mandate and processes. Although it is not unheard of that this responsibility might be assigned without legislation (by Cabinet decision, for example) or by an agency extrapolating such a need from its evaluation of its other mandates,¹⁰⁴ a disaster management planning structure, which is critically dependent on broadly recognized duties of inter-agency and inter-district coordination, may find it difficult to be effective on the basis of informal assignment.

1.4.2 Penalties

A number of the laws included in Appendix I specify penalties under national disaster legislation.¹⁰⁵ These provisions generally focus on penalizing individuals who violate or interfere with the disaster laws, plans and actions under the legislation and in its implementation. As such they may not address the most critical issue in countries where administrative mandates are controversial – especially the possibility of “non-compliance by response agencies.”¹⁰⁶ None of the laws reviewed for this Activity included penalties directed against agencies for failure of implementation.

1.4.3 Communications

The category of “communications” is clearly an important area of concern in many disaster/emergency situations. Although communications issues are not always considered to require legislative creation, a number of the laws do specify the communication mandates of responsible agencies,¹⁰⁷ and a few specify the creation of public awareness and national alert systems to be used in the event of emergency/disaster.¹⁰⁸

1.4.4 Building codes

The adoption of modern building codes is critically important, as major contributors to the prevention or minimization of damage from disasters/emergencies. In most countries, coordination between building and zoning agencies is presumed or included in general discussions of disaster/emergency commissions and other coordination tools. Consequently, few of the laws, constitutions and other documents reviewed for this Report refer to these issues.

One exception is found in the Marshall Islands. There the law, while not specifically mandating building code coordination, requires direct emergency participation of the disaster/emergency management authorities and processes in national zoning processes.¹⁰⁹ In Indonesia, the draft regulations approach this

¹⁰⁴ See, e.g., Young 1991, Young, 1995-1996; Young, 1994-1995; Young, 1994; Young, 1992-1993; Young, 1991.

¹⁰⁵ See, e.g., Botswana, Essential Supplies and Services Act., Chapter 22:05, §4; Canada, New Brunswick, Emergency Measures Act, S.N.B. 1978, c. E-7.1, §§22-24; India, Disaster Management Act, No. 53 of 2005, §§51-60; India, Gujarat State Disaster Management Act, Gujarat Act No. 20 of 2003 §§38-40; Kiribati, National Disaster Act 1993 (No. 12 of 1993), §§19-23; Thailand, Disaster Prevention and Mitigation Act, B.E 2550 (2007), §§49-55; Tonga, Emergency Management Act 2007, Act No. 14 of 2007, §§38-40; and Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000), §19.

¹⁰⁶ Draft Country Assessment Report, at page 75.

¹⁰⁷ See, e.g., Fiji, Natural Disaster Management Act, No. 21 of 1998; Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, §§47-50

¹⁰⁸ India, Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996, G.S.R.347(E) 1 Aug 1996, §§4, 12; Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, §§22-24; and Nicaragua, *Ley creadora del sistema nacional para la prevencion, Mitigacion y atencion de desastres*, Ley No. 337; *La Gaceta* No. 70 del 7 de Abril del 2000, Art. 26-30, y *Reglamento de Sistema Nacional para la Prevención, Mitigación y Atención de Desastres*, Decreto N° 53/00, Art. 22-24

¹⁰⁹ Marshall Islands, Disaster Assistance Act, Chap. 10, §1011(3)

issue differently, by requiring the disaster management agency to identify areas and activities with high disaster risk, and specifically preventing any agency from permitting high-disaster-risk activities or any activities in high-disaster risk areas without first conducting a special “analysis of disaster risk.”¹¹⁰

1.5 Institutional Provisions

One skill which each country’s legislators have in abundance is the ability to create institutions and other bodies, empowered and required to implement legislation. Accordingly, it is probably more useful to simply identify examples of various countries’ institutional provisions than to attempt to draw out particular pros and cons. The following instruments include significant provisions for the establishment, empowerment, and or mandating of national disaster/emergency authorities:

- *American Samoa*, Territorial Disaster Assistance Act, (adopts a single oversight “council” and a single government agency. Specifically addresses intergovernmental interactions relevant to disasters);
- *Canada*, New Brunswick, Emergency Measures Act, (establishes a provincial Emergency Measures Organization, as well as an Executive Council, but also empowers the establishment of other committees as needed);
- *Ethiopia*, Relief and Rehabilitation Commission Establishment Proclamation (establishes in detail the central Relief and Rehabilitation Commission, as well as the Advisory Council within that Commission);
- *Fiji*, Natural Disaster Management Act, (establishes four committees (National Disaster Management Council, Emergency Committee, Preparedness Committee and Mitigation and Prevention Committee (all in detail), as well as a staff framework consisting of the National Disaster Management Office and the National Disaster Management Operations Centre, with provisions regarding staffing of these two agencies);
- *India*, Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, (response provisions focused narrowly on the possibility of chemical accident, establishes commissions at all levels of government: Central Crisis Group, State Crisis Groups, District and Local Crisis Groups);
- *India*, Disaster Management Act, (establishes institutional framework at all levels in detail: National Disaster Management Authority, National Advisory Committee, National Executive Committee, National subcommittees (specified); State Disaster Management Authorities, State Executive Committee, District Disaster Management Authority, National Institute of Disaster Management, National Disaster Response Force);
- *India*, Gujarat State Disaster Management Act, (state and lower level implementation of national act, designates and/or establishes new and existing state and local authorities, including those focused on Communities, Private Sector Enterprises and Other Agencies or Persons; specifically identifies and authorises the creation of key staff positions (Chief Executive Officer, State Relief Commissioner, Collector, and Local Authorities));
- *Kiribati*, National Disaster Act, (establishes a National Disaster Council, Central Operations Group, National Disaster Management Office; calls for establishment of local Disaster Committees and allows the creation of other committees);
- *Lesotho*, Disaster Management Act, (establishes and empowers the central Disaster Management Authority, specifying its Board of Directors, with similar authorities at the district and village levels; specifically addresses inter-agency interaction including through the creation of a National Disaster Relief Task Force);
- *Marshall Islands*, Disaster Assistance Act , (Establishes a Disaster Committee and authorises its staffing);

¹¹⁰ Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, Art 12.

- *Nicaragua, Ley creadora del sistema nacional para la prevencion, Mitigacion y atencion de desastres*, (establishes a national committee and executive secretary to have responsibility over the national system for prevention, mitigation and response to disasters);
- *Nigeria, National Emergency Management Agency (Establishment, etc.)* (unifies disaster management responsibilities through the establishment of a new National Emergency Management Agency, as well as its Management Council, and State Emergency Management Agencies);
- *Northern Mariana Islands, Disaster Relief Act*, (establishes a central Disaster Control Office and local disaster agencies and services);
- *Papua New Guinea, Disaster Management Act 1984* (establishes National Disaster Committee, Provincial Disaster Committee, and National Disaster Center);
- *Samoa, Disaster and Emergency Management Act*, (establishes in detail a National Disaster Council, Disaster Advisory Committee, National Emergency Operation Centres, as well as specifically enumerating the role of the ministry and of Response agencies);
- *Republic of South Africa, Disaster Management Act*, (establishes in detail an Intergovernmental Committee on Disaster Management, a National Disaster Management Advisory Forum, a National Disaster Management Centre, Provincial disaster management centres, Provincial disaster management advisory forums, Municipal disaster management centres, Municipal disaster management advisory forums, and a programme of Disaster Management Volunteers);
- *Thailand, Disaster Prevention and Mitigation Act, B* (establishes National Disaster Prevention and Mitigation Committee, Department of Disaster Prevention, Committees for development of Provincial Disaster Prevention Plans, enumerates powers of Provincial and Local officials, with separate rules for Bangkok officials, and a Volunteer Unit);
- *Tonga, Emergency Management Act*, (establishes in detail, a National Emergency Management Office (specifying Staff component), National Emergency Operations Committee, National Emergency Recovery Committee, District Emergency Management Committees, and Village Emergency Committees. Includes detailed regarding meeting procedure for all committees); and
- *Vanuatu, National Disaster Act*, (establishes National Disaster Management Office (including discussion of some necessary staff), National Disaster Committee, and National Disaster Operations Center).

1.6 Other measures

The review of international legislation identified a number of other types of measures not mentioned or recommended for the CELP countries, which may be of interest in future legislative action on disaster. For example, a few provisions specifically impose a direct legal responsibility on citizens to take disaster protective measures.¹¹¹ Others either set or require the regulatory agency to set disaster management standards and requirements.¹¹² Both of these approaches are more common in sector-specific legislation (such as the laws on fire, flood, food shortage, epidemics, pollution and hazardous-substance emergencies) than in general laws on disaster/emergency management or response.

Additionally, a number of laws call for regular reporting and/or the development and use of monitoring and evaluation systems, especially in two situations:

- where the greatest perceived danger relates to fire, landslide, food shortages, waters and marine

¹¹¹ See, e.g., Northern Mariana Islands, Disaster Relief Act of 1979, (P.L. 1-023), § 510(a). In Indonesia, sectoral law relating to fire prevention, suppression and rehabilitation includes similar provisions, imposing duties on citizens both to take certain prevention measures, and to participate in fire suppression activities when a fire breaks out; FAO Report, Indonesia, 1996, Young, Assisting National Legislators in Developing the Ability to Address Legal Issues Relating to Strengthening National Forest Fire Management Capacity.

¹¹² See, e.g., Key legislation from Canada, Ethiopia, Fiji, Guam, India, Indonesia, and Nicaragua, and others.

- and other sectors or events in which disastrous outcomes are thought to be fully or nearly preventable by preparatory action; and
- where the law permits or requires the assessment of damages or of the value of properties involved in disaster remediation.¹¹³

Where legislation does not specifically call for reports, monitoring or evaluation, that omission is more likely to mean that these matters are addressed by overarching laws, rather than indicating that the agency is not supervised or overseen. Another potentially interesting group of clauses are those which specifically discuss and mandate inter-agency cooperation, in some cases going to the extreme of authorizing the disaster management agenc[ies] to appropriate equipment, manpower or other resources from other ministries or agencies, when needed to respond to an ongoing emergency.¹¹⁴

In many countries, the strongest disaster/emergency concerns relate to a particular *type* of emergency or disaster. Many disaster/emergency instruments in Eastern European countries, for example, focus on those countries' general need to respond to national concerns and experiences arising out of the Chernobyl nuclear disaster (industrial events posing risks of harm), and many of the relevant laws in African nations focus on food shortages, flood and infrastructure emergencies (power and transportation shut downs.) Some of the laws reviewed include either or both standing disaster-management agencies and ad-hoc bodies or centers, to be created at the time the disaster occurs or is declared.¹¹⁵

1.7 Constitutional Provisions

The second prong of the examination of national legislation for this study considers national constitutions of countries outside of the project area, looking at the nature and application of constitutional clauses relating to emergencies and disasters. To this end, Annex II provides a matrix of disaster-related provisions found in 92 national constitutions.¹¹⁶ Another twenty-four constitutions were reviewed, but contained no mention of emergency or disaster.¹¹⁷ In these countries, emergency and disaster situations

¹¹³ Specific reporting and monitoring provisions are found in the following from among the Key legislation (Annex I): India, Disaster Management Act, 2005, (Act No. 53 of 2005), §70; India, Gujarat State Disaster Management Act, 2003, (Gujarat Act No. 20 of 2003); Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, §93; Lesotho, Disaster Management Act, 1997, No. 2 of 1997; Nigeria, National Emergency Management Agency (Establishment, etc.) Decree, No. 12 of 1999, §19; Papua New Guinea, Disaster Management Act 1984, §§8,14; RSA, Disaster Management Act, No. 57 of 2002, §§24, 35, 50; Tonga, Emergency Management Act, No. 14 of 2007, §§12, 20. In many other countries, duties of reporting and monitoring, like auditing requirements are generally expected from all agencies or ministries. (Note, however, that several of the Key legislative documents include specific provisions regarding budgeting and auditing processes, suggesting either that the particular entities or activities governed by that law will be held to different budgeting/auditing requirements, (e.g., Ethiopia, Emergency Food Security Reserve Administration Establishment, No. 67/2000, §§18-19 and Relief and Rehabilitation Commission Establishment Proclamation ..., No. 173/1979, §16; Fiji, Natural Disaster Management Act, No. 21 of 1998, §16; India, Disaster Management Act, No. 53 of 2005, §49; India (Gujarat) State Disaster Management Act, No. 20 of 2003; Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, §§91-92, 94; Lesotho, Disaster Management Act, No. 2 of 1997) or that such requirements are always included in any national law creating a new entity or an action that will require the amendment of existing budget lines or the establishment of a new budget line.)

¹¹⁴ See, e.g., Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000), §§2, 16; American Samoa, Territorial Disaster Assistance Act of 1978, Chapter 01 of Title 26, §26.010; Samoa, Disaster and Emergency Management Act, 2007, No. 13 of 2007, §20; and RSA, Disaster Management Act, No. 57 of 2002, §§16-18.

¹¹⁵ See, e.g., American Samoa's Territorial Disaster Assistance Act (Title 26, Chap. 1), which encompasses both.

¹¹⁶ It is not necessary for a country to address disaster or emergency issues in its national constitution. Selection of the pool of 116 constitutions (from which the 92 listed in Annex II were selected) was not systematic, because the author could find no systematic research addressing constitutional clauses on disaster/emergency matters, nor any searchable database of constitutions. The final selection included only those available in English, French or Spanish, which contained one or more clauses directly referring to emergencies or disasters.

¹¹⁷ Specifically, the national constitutions of Afghanistan, Australia, Armenia, Belgium, Bosnia & Herzegovina, Canada, Czech Republic, Egypt, Iceland, Iran, Iraq (interim), Libya, Lithuania, Luxembourg, New Zealand, Philippines, Panama, United States

are presumably dealt with under the country's basic framework, or regulated under other legislation. Annex II's matrix of constitutions excerpts the text of the disaster-related provisions found in these constitutions. The following analysis does not recopy those excerpts. Following on the discussion found in part II.A.3.a, above, this section considers the many countries whose constitutions include provisions for declaration of a state of emergency or disaster and that have also adopted separate, non-constitutional legislation for declaring "disaster areas," to enable more specific measures for dealing with natural calamities.

It is difficult to use other countries' constitutions as models for addressing disaster / emergency concerns, owing to differences in national perceptions, practices and situations relating to their constitutions. For example, some countries view their national constitutions as a special type of instrument, which may be altered only through a difficult and time-consuming process.¹¹⁸ In others, one may alter or amend the constitution with the same parliamentary requirements that apply to any other legislative instrument.¹¹⁹ Most countries fall somewhere between these two. Countries in the former category tend to focus on *interpretation* of specific provisions, keeping constitutional elements relatively spare, and using other types of legislation (laws, regulations, etc.) to implement constitutional requirements in practice. Some such countries adopt separate organic laws (interpretation acts, judiciary acts, finance acts, etc.) to clarify the current interpretations and practices used by government. Suggestions relating to constitutional alteration will vary according to how the country perceives and uses its constitution.

1.7.1 Constitutional Declaration of Emergency/Disaster

Upon first examination, many countries address disaster issues (especially the declaration of a disaster or state of emergency) in different and potentially inconsistent ways in their national constitutions and other emergency/disaster laws. These varying provisions, however, may have different sources and purposes, depending on the country's constitutional approach, as shown above. In addition, the concepts of emergency and disaster are widely different among countries, especially when used in national constitutions. In seven of the constitutions reviewed¹²⁰, for example, provisions for "state of emergency" may include war, industrial strikes and insurrection, and in some cases, may not include natural disasters, which are addressed in other legislation in the country. Most of the constitutions included in Annex II, merge both natural disasters and political ones (including both war and internal governmental upheavals) within their clauses discussing "state of emergency" or disaster.

1.7.2 Eliminating Confusion in Emergency/Disaster Declarations

While it is clearly necessary to eliminate any specific confusion relating to the two categories of emergency/disaster declaration, it is also important to draft the legislation addressing these matters very carefully. In efforts to clarify the relationship between constitutional and non-constitutional provisions for emergency/disaster declaration, the most essential task will be to determine the particular purpose of each declaration, and determine whether it will be best to retain multiple declarations (possibly renaming them to make the distinctions clearer) or to combine them into a single omnibus provision that meets all four of the legislative purposes listed above.

and Zimbabwe do not address emergency and disaster issues. Other documents were not accessible or were not available in one of the CELP languages.

¹¹⁸ The US Constitution is an example of this type of constitution, having been amended only 17 times in more than 200 years. (There are 27 amendments to the US Constitution, however 10 of them were adopted contemporaneously with the original Constitution.)

¹¹⁹ Annex II includes several constitutions which have been amended or completely revised several times in the past 2-3 decades. For example Brazil's Constitution has been altered or replaced 4 times since 1988, as has Chile's. Fiji's constitution has been replaced twice since the 1970s, was suspended in 2000, and abrogated completely in 2008.

¹²⁰ India, Ireland, Hong Kong, Liberia, Libya, Lithuania, Poland.

In national laws outside the Caribbean, while multiple provisions for emergency/disaster declarations may create confusion in some cases, each declaration may also have a particularly important purpose and consequence. In general, a country's constitutional clauses concerning emergency/disaster declarations are directed at a wider range of emergency situations, including declaration of war, industrial strikes, and/or domestic insurrection. The constitution allows a process by which the Governor-General or head of state, by declaring a state of emergency, may obtain the power to use extraordinary measures to address or avert the emergency/disaster.

1.7.3 Civil Rights in Emergency/Disaster

In many constitutions, clauses are included that allow some types of civil-rights infractions during emergency/disaster, which would not be permitted otherwise. Most democratic governments are leery of such clause and include other provisions designed to mitigate their severity. Serious questions of this type arise in many countries. In fifty-nine of the Constitutions reviewed, for example, basic civil rights may be suspended in times of emergency or disaster.¹²¹ These provisions generally focus on property issues, allowing officials to enter and destroy or damage property, if necessary during an emergency. Other civil rights are also sometimes abrogated by constitutional emergencies, including rights that prevent discrimination, allow peaceful protest and assembly, and require that those who are jailed be informed of the charges against them and formally charged (habeas corpus) within a specific time. In natural disaster situations, the most common civil rights issues relate to people forced to leave their homes, whether temporarily or permanently.

The prevalence of these civil rights issues has led to international action, in the form of specific guidelines, such as the IASC's *Operational Guidelines on Human Rights and Natural Disasters*.¹²² These resources offer a basis for ensuring that the exercise of broad governmental emergency powers will not result in human rights abuses or be perceived to do so.

1.7.4 Constitutional Controls on Emergency Powers

A constitutional declaration of a state of emergency is perceived in many countries as potentially creating a serious risk of abuses, allowing the President, Governor-General or similar figure to take action that is free of "checks and balances" including current legislative and judicial oversight. To avoid these fears, in many constitutions, the power to declare a state of emergency or disaster includes specific controls and limitations.

Seventy-six of the non-Caribbean nations whose constitutions were reviewed for this project require a very specific action by the legislative arm of government, in order to declare or proclaim a disaster/emergency, and authorize the use of emergency powers. In some countries, these provisions are relatively strict. Most commonly, the law will state that the legislature must make a specific decision,

¹²¹ See, e.g., Belarus, Belize, Bolivia, Bulgaria, Chile, Colombia, Croatia, Cyprus, El Salvador, Estonia, Ethiopia, Fiji, Guatemala, Hungary, Israel, Italy, Macedonia, Malta, Mongolia, Namibia, Poland, Andorra, Angola, Azerbaijan, Chechnya, Cuba, Ecuador, Finland, Greece, Grenada, Honduras, Jordan, Kuwait, Latvia, Liberia, Netherlands, Nigeria, Oman, Paraguay, Peru, Portugal. Apparently, similar potential concerns have been noted in Antigua & Barbuda: "Once a public emergency is declared it may invariably result in the infringement of the fundamental rights and freedoms of the citizens of Antigua and Barbuda." Draft Country Assessment Report at p. 12. See also Article 8 of Belize's constitution, which makes exceptions to the restriction on forced labor (quoted in footnote 101.)

¹²² IASC, 2006. See also the *Principles of Humanitarian Aid and Recommended Code of Behaviour for Military and Civil Defence Personnel in International Disaster Relief Assistance in Times Of Peace*, prepared by the International Federation of Red Cross and Red Crescent Societies. IFRCRCS, 2008a.

ratifying the initial decision to issue such a declaration.¹²³ In fifty-four of them, the national legislative body (parliament, assembly, senate, etc.) must take an immediate, ongoing and direct role in oversight of government officials operating under emergency provisions.¹²⁴ Such measures include extending parliamentary terms, requiring special sittings, suspending elections and shortening the time for laws to enter into force. Seven countries' constitutions impose some specific restrictions on actions during emergencies.¹²⁵ For example, they impose limits on types of laws that may be changed, prevent dissolution of parliament or state that emergency provisions cannot be changed by referendum. Five countries specifically call for or provide a mechanism for compensation to individuals whose property was lost or damaged by emergency takings under constitutional emergency provisions.¹²⁶

1.7.5 Linkage and Distinction between Declaration Clauses

Consistency between constitutional declarations and administrative ones may not be necessary in all natural disaster situations, in all countries. For this reason, many countries non-constitutional laws may create other types of declarations that are clearly different from the Constitutional declaration. The legislative challenge, then, is to make certain that the government has all the necessary powers to fulfill its responsibilities. In this connection, there are four general purposes that may be addressed by a declarations or proclamation of emergency/disaster:

1. constitutional objectives discussed in Part II.B.i, above, such as triggering “emergency powers” at the highest level of government to deal with emergencies - a concept that may include war, industrial strike and insurrection, in addition to national natural disasters;
2. accessing and using of funds and other resources, made available only for disaster/emergency response;
3. triggering the application of the country's (or local area's) disaster management plan as the primary governance tool during the disaster; or
4. informing the public.

Some declaration laws seek to accomplish more than one of these objectives; however, it is not uncommon to find a particular declaration designed to address only one of the four. As noted above, in many countries, a constitutional declaration is the trigger of certain special governmental powers.¹²⁷ Although it is normally necessary to gazette¹²⁸ an emergency/disaster declaration made under the constitution, it may not be necessary to publish that decisions in public media (in newspapers and by posting). This is quite different from non-constitutional provisions (described in part II.A.3.a, above) in

¹²³ See, e.g., Chile, Colombia, Cyprus, Fiji, Guatemala, Hungary, Israel, Malta, Mongolia, Grenada, Kuwait, Latvia, Congo (Brazzaville), Guyana, Madagascar, Mauritania, Mexico, Nepal, Denmark, Lebanon, Bolivia, Croatia, El Salvador, Estonia, Italy, Poland, Azerbaijan, Chechnya, Liberia, Netherlands, Paraguay, Albania, China, Costa Rica, Ireland, Nicaragua, Panama, Belize, Bulgaria, Ethiopia, Macedonia, Namibia, Andorra, Angola, Cuba, Ecuador, Nigeria, Oman, Peru, Algeria, Cambodia, France, Dominican Republic, Hong Kong. In twenty of these (Bolivia, Croatia, El Salvador, Estonia, Italy, Poland, Azerbaijan, Chechnya, Liberia, Netherlands, Paraguay, Albania, China, Costa Rica, Ireland, Nicaragua, Panama, Belize, Bulgaria, Ethiopia, Macedonia, Namibia, Andorra, Angola, Cuba, Ecuador, Nigeria, Oman, Peru, Algeria, Cambodia, France, Dominican Republic, Hong Kong), a role of the President is specified, either to take action when parliament is not in session (for later ratification), or to announce the state of emergency (etc), once declared.

¹²⁴ See e.g., Albania, Algeria, Belarus, Belize, Bolivia, Bulgaria, Cambodia, Chile, Colombia, Congo (Brazzaville), Croatia, Cyprus, El Salvador, Estonia, Ethiopia, Fiji, France, Guatemala, Guyana, Hungary, Israel, Italy, Japan, Macedonia, Madagascar, Malta, Mauritania, Mexico, Mongolia, Namibia, Nepal and Poland.

¹²⁵ See, e.g., Argentina, Cambodia, Colombia, Estonia, Fiji, Hungary and Oman

¹²⁶ See, e.g., Poland, Andora, Ecuador, Bahrain, and Haiti.

¹²⁷ In some of the reviewed constitutions (those of Iceland, Iran, Libya, USA), only the concepts of political emergency (war, insurrection, etc.) are relevant to the exercise of the emergency powers of the head of state.

¹²⁸ Of the constitutions reviewed, every one that contained some provision for the declaration of a state of emergency/disaster also called for publication in the official gazette, whether directly or by calling for special sitting of parliamentary bodies. A few of countries' constitutional declarations (those which appear to be primarily focused on natural disasters and social welfare disasters (drought, famine, etc)) allow urgent action to be taken during or before publication.

which the declaration or proclamation of a disaster/emergency is an important communication tool. These laws tend to focus on emergency actions and special emergency processes, (including access to emergency funds, etc.).¹²⁹ As such, these laws normally call for broader types of communications with the affected public.¹³⁰

In interpreting these elements, it is normally assumed that proclamations under the national constitution focus on governance powers, while those found in other legislation are focused on substantive elements (e.g., a disaster proclamation clause in national disaster legislation focuses on disaster issues, rather than on general issues of governmental power.) This “general rule” is relatively consistent across the range of constitutions reviewed in this study, but is definitely not universal. The CELP countries appear to be a case in point. It appears that, for many of the CELP countries, the main purpose of constitutional clauses on emergency proclamation is to initiate disaster response actions and enable fund transfers with regard to natural disasters. Internationally, however, some countries merge this objective with governance/political purposes, while in other countries constitutional powers to declare or proclaim an emergency/disaster are entirely focused on political/financial issue concerns. The most effective mechanism for undertaking such statutory and constitutional revision is to focus on the purpose of the declaration.

One important question to be addressed in any legislative effort to alter or unify national declarations of emergency/disaster, etc. relates to the impacts of that unification. It is important to determine whether the constitutional declaration of a state of emergency is inexorably tied to ministerial or agency declarations of emergency or disaster. In other words, the draftsman should consider whether it is mandatory to first obtain the constitutional declaration of a “state of emergency”, before adopting a ministerial or agency declaration regarding a natural disaster. This may be different for each country, especially where “disaster declarations” may be localized, not requiring nation-wide suspension of constitutional rights and financial protections.

1.7.6. Direct guarantee Against Citizen Losses and Damages

A few of the constitutions listed in Annex II include clauses specifically addressing the governments role in guaranteeing the welfare of its citizens. Saudi Arabia’s Constitution for example, states that

*The state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age; it supports the system of social security and encourages institutions and individuals to contribute in acts of charity.*¹³¹

A comparable provision in Taiwan states that

*The Central Government shall be competent to legislate and execute the following matters, which, however, may also be delegated to the provincial or county government to execute:... Disaster relief, pension for the deceased's family, and unemployment relief.*¹³²

South Korea’s constitution includes a more modest statement that

*The State endeavors to prevent disasters and to protect citizens from harm therefrom.*¹³³

¹²⁹ Financial controls and requirements at the ministerial level are often not directly addressed in national constitutions, and natural disaster legislation must focus on meeting the requirements for utilization of special allocation measures or gaining access to special funds.

¹³⁰ See for example Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008. Nearly all of the national laws identified in Annex III include direct requirements for communication with the public, as well as for formal reporting to higher levels of government.

¹³¹ Saudi Arabia, Constitution, Art.27 (unofficial translation).

¹³² Taiwan, Constitution, Art. 108 (unofficial translation).

¹³³ South Korea, Constitution, Art. 34 (unofficial translation).

1.7.7 Other constitutional clauses relating to Emergency/Disaster

Several other provisions of interest were found in the constitutions. For example, three of the reviewed constitutions include specific provisions for emergencies that threaten agriculture and food security.¹³⁴ In eight, the scope of the constitution extends well beyond governmental structure and civil rights. These constitutions include detailed provisions comparable to other countries non-constitutional national emergency legislation.¹³⁵

In a few countries, the constitution specifically discuss the duties of all citizens in times of emergency or other need. Four of these include provisions stating that citizens have a duty to take action during fires, floods and following the declaration of a state of emergency.¹³⁶ Such provisions make it a constitutional offense for any citizen to fail to participate in emergency measures.

1.8 Relevant Financial Mechanisms

The final prong of this analysis of national legislation relates to the manner in which disaster/emergency response is funded. This is a critical element of any discussion of disaster-management and response. Unfortunately, as noted above, national financial legislation has not generally been a subject of comparative legal analysis and, as a result, is not generally available in international libraries and databases.¹³⁷ While some national constitutions contain detailed provisions for budgeting, auditing and other financial tasks, reliance only on constitutions would provide a relatively lopsided view of the manner in which national financial mechanisms operate. Requests for copies of national financial legislation applicable to emergency/disaster management and response activities generally yielded 50-500 pages of material per country that responded, and the responses did not produce a good selection of options available.¹³⁸ For these reasons, this study has focused on financial and fund-mobilizing provisions that have been included or directly referenced in national disaster/emergency legislation, supplemented by in depth research and examination of this issue as addressed in disaster/emergency related literature.

In general, emergency appropriations and other financial mechanisms for mobilizing funding to address emergency/disaster issues have been addressed in two contexts:

- Mobilization of funds in response to a disaster or emergency situation; and
- Funding/budgeting for “disaster reduction” activities, which occur during time when no disaster has occurred or is imminent.

¹³⁴ In Bolivia’s Constitution, , this provision is found in "*Artículo 407. Son objetivos de la política de desarrollo rural integral del Estado, en coordinación con las entidades territoriales autónomas y descentralizadas: ... 4. Proteger la producción agropecuaria y agroindustrial ante desastres naturales e inclemencias climáticas, geológicas y siniestros. La ley preverá la creación del seguro agrario....*" In Belize: it is contained in Article 8, but expressed as a weakening of normal restrictions on the infringement of human rights: “For the purposes of this section, the expression ‘forced labour’ does not include- ... d. any labour required during any period of public emergency or in the event of any accident or natural calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that accident or natural calamity, for the purpose of dealing with that situation.” In Ecuador’s constitution, provisions of this type are found in Art. 281.

¹³⁵ See, e.g., Constitutional provisions of Columbia (also includes provisions for emergency management and planning) Ecuador, El Salvador, Ethiopia, Guyana, Hungary, India, and Poland contain provision, reproduced in the Constitutional pages of the matrix, setting administrative processes for declaration and management of state of emergency etc.

¹³⁶ Bolivia, Bulgaria, Honduras and Indonesia.

¹³⁷ National organic instruments relating to financial matters are thought to be of interest only within the country involved, given that they address specific and somewhat unique circumstances of each country.

¹³⁸ The most available financial and organic laws to be studied are usually those of highly developed countries whose governmental and financial systems are quite different and less appropriate as models for SIDS and other small and/or less developed countries.

Each of these has its own specific financial concerns. The relevance of a “disaster reduction” focus is explained in greater detail in part II.B (“international instruments and programs”), below. The following discussion assumes that all CELP countries are equally concerned about both prevention and response activities, and both contexts are addressed in each of the following sections.

1.8.1 Public Funding for Emergency/Disaster Issues

In most countries, the first approach to emergency funding is through public sources, *i.e.*, governmental funding. In general, the extent to which a country’s public funds can be easily available to address emergency/disaster situations and issues is a function of two factors: The existence of sufficient funding in national coffers, and the extent and nature of national financial requirements imposed on those seeking emergency/disaster appropriations.

a. Normal Administrative Appropriation

Every country’s basic government finance system must normally be very concrete, specific and transparent, both as a foundation for oversight and as a means of preventing abuses. In some countries, this need has been answered by the adoption of detailed and time-consuming measures and requirements both at the time national budgets are set and whenever an agency or other entity seeks funds beyond those specifically predicted and allocated for in the national budget.¹³⁹

In ordinary situations, national budgeting processes are intended to streamline intra-governmental funding processes, by making the necessary concrete and transparent decisions at the beginning of the fiscal year. When emergency/disaster strikes, however, countries must find a difficult balance between fast-tracking fund mobilization and preventing abuses. Internationally, the balance between tight controls and emergency needs varies from country to country. Each country’s particular choices in this regard depend on many factors, including past experience, confidence in its auditing ability, and the nature of the special financial demands that arise in emergencies.

In technical assistance projects relating to national legislation and in ministry-led and agency-led legislative development, it is common to seek ways of fixing and/or mandating a specified level of national budgetary allocation to a particular activity. This is also common in national disaster legislation efforts.

It is relatively simple to insert a provision in draft legislation stating that the government budgetary process will prioritize emergency/disaster response authorities in the budgeting process or automatically allocate specified sums or percentages to disaster-related budget lines. It is less common, but not unheard of, for such provisions to remain in the legislation as finally enacted.

- Thus, for example, the law in American Samoa specifically addresses the availability of funds, stating clearly that “[i]t is the intent of the Legislature and declared to be the policy of the territory that funds to meet disaster emergencies must always be available.”¹⁴⁰
- Another such example is Costa Rica, where the law clearly stipulates that 3% of residual municipal funds must be allocated to disaster preparedness activities and outlines how additional emergency funds can be accessed.¹⁴¹ These provisions aim to give locally mandated government authorities immediate access to funds when they are needed in the

¹³⁹ Marsh, 1994.

¹⁴⁰ American Samoa, Territorial Disaster Assistance Act of 1978 ,(Chapter 01 of Title 26) §26.0107(a).

¹⁴¹ Costa Rica, National Disaster Management Law, 2006 (reviewed in officially provided English translation)

face of a hazard event, and can also fund a number of priority preparedness activities directly.

- In the Marshall Islands, legislation attempts to pre-empt the cutting of disaster funds in the national budget process, providing that “(2) *In the event that at all or any part of the Account is utilized for any of the purposes under this Chapter during any financial year, the amount so utilized shall be appropriated in the Annual Appropriation Act for the next financial year in order to maintain a continuous balance of \$200, 000 in the Account at the commencement of each fiscal year.*”¹⁴²

Ultimately, the extent to which such clauses will be effective varies according to many factors in the country, but is especially dependent on the nature of the powers of the legislature and financial ministry in the country. In many cases, no matter how firmly legislation states that funds shall be appropriated in a certain way or that such appropriation may not be altered once decided, the existing financial process may be seen to “trump” other enactments, giving financial officials the power to appropriate funds in accordance with general financial legislation. In the context of emergency/disaster funding, this situation raises two types of concerns. First, when disaster strikes, there will be an urgent need to mobilize resources quickly and efficiently. Unless the country’s law enables special procedures in situations of urgency, critical actions may be hampered or delayed. Second, the critically important elements of disaster reduction, discussed in Part II.B, below, are often not perceived in the same way as disaster response. As a result, those actions may receive short shrift in annual governmental budgeting processes.

b. Extra-budgetary allocation

The first avenue for addressing shortfalls in emergency/disaster allocations is to return to the financial institutions and request additional allocations. In some countries, this option is both difficult and uncertain.¹⁴³ Moreover, many countries, particularly those with highly-centralized intergovernmental fiscal systems are particularly unlikely to fully fund emergency allocation budgetary requests, in the expectation of emergency assistance from the central budget.¹⁴⁴ As a consequence disaster/emergency agencies and ministries, as well as external sources of assistance find a need to consider and develop other types of funding approaches.

In some countries, the level of bureaucracy is intense. In Central Asia, for instance, “*due to the limited national budget funding for emergencies, in most cases of emergency countries have to increase their original budgetary allocations to a disaster fund by passing special emergency legislation.*”¹⁴⁵

c. Finance Provisions in Emergency Legislation

Many different approaches have been identified to address financial concerns in emergency/disaster legislation. Some of these may include minimization of particular checks and balances that normally apply. In general, countries with strong concerns about financial controls, and those whose financial processes are relatively streamlined closely limit the financial exceptions allowed during times of emergency or disaster, whether by limiting the duration of the emergency/disaster declaration,¹⁴⁶ requiring prompt ratification of emergency-related orders and decisions, or limiting the use of emergency powers.¹⁴⁷ Review of national disaster/emergency related mechanisms indicate that the challenges of financing disaster prevention, response and rehabilitation have been matters of concern in most countries,

¹⁴² Marshall Islands, Disaster Assistance Act, Chap. 10, §1010 (2).

¹⁴³ This factor is the basic concern underpinning many situations in which special legislative programs are needed. *See, e.g.,* Young, 1991.

¹⁴⁴ Gurenko and Dumitru, 2009, especially, table 11. *And see,* Rwanda, Constitution, Art 76(3): “Any budgetary transfer must be authorized by law.”

¹⁴⁵ Gurenko and Dumitru, 2009, at p 26.

¹⁴⁶ Marsh, 1994.

¹⁴⁷ Reimann and Zimmerman, 2006.

whose efforts to fund future emergencies/disasters on a contingency basis have been unsuccessful.¹⁴⁸ Examination of relevant legislation has provided a relatively predictable list of funding approaches, although several of the national laws reviewed in this analysis did not address financial powers and fund mobilization at all.¹⁴⁹

One of the most significant concerns addressed in disaster/emergency literature is the relevance of these special provisions to disaster reduction activities. In some cases, national legislation relating to mobilization of funds in disaster/emergency is specifically limited to situations in which a disaster is imminent or has struck. As a consequence, even in countries with strong emergency/disaster finance legislation and special powers, it may be difficult or impossible to fund much needed disaster reduction activities. A “catch-22” often arises in which, on one hand disaster/emergency financial allocations appear to be so substantial that no further funds are offered for disaster reduction, but at the same time, those existing disaster/emergency allocations cannot be used.

A few countries have specifically legislated regarding the allocation of payment responsibilities, where public funds must address disaster/emergency issues. In agricultural emergency legislation in Guam, the costs of disaster relief are specifically shared among the various governmental levels, specifically stating that “the first K15,000.00 shall be borne by the Provincial Government concerned,” while any amounts from K15,000.00 and up to K100,000.00 are borne equally between the National Government and the Provincial Government, and the “excess over K100,000.00 shall be borne by the National Government....subject to such conditions as [it chooses to] impose.”¹⁵⁰

d. Disaster/ Emergency Funds

In many analyses, the preferred funding mechanism for disaster/emergency situations seems to be the establishment of a specially delineated “Fund” for disaster-related expenses. A number of the national laws reviewed either create or authorize the creation of a formally established fund, to hold moneys earmarked for disaster-prevention and response. Such funds vary widely, in terms of their flexibility, source, and usage.

Regarding flexibility, some laws do not actually create or mandate such a fund, but instead provide an authorization to create a fund in future to address particular needs (the fund may be either “standing” or “ad-hoc”).¹⁵¹ Many of the fund-creating or -enabling clauses include specific provisions regarding the sources of moneys that may be included in the fund. To some extent, these provisions’ effectiveness depends on the purposes for which the fund is created. Thus, the Disaster Relief Fund established under the Emergency Measures Act in New Brunswick Province in Canada is very narrow in terms of both the source of funds (contributions from public) and the fund’s purpose (distribution as “relief” to persons

¹⁴⁸ The Governments of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan all reportedly make substantial annual budgetary allocations for disaster/emergency, but those amounts are regularly found to be insufficient to cover actual costs and requirements. Gurenko and Dumitru, 2009.

¹⁴⁹ Northern Mariana Islands, Disaster Relief Act, P.L. 1-023; Samoa, Disaster and Emergency Management Act, 2007, No. 13 of 2007; Thailand, Disaster Prevention and Mitigation Act, B.E 2550 (2007); Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000). This may mean that these mechanisms are governed by other law as to financial measures. The consultant has not been able to undertake the comprehensive study necessary to determine the precise legal/financial framework that applies to each of these laws. Although many administrative officials and legislative developers assume that enactment of a law establishing a new agency, department, institute or center, indicates a legislative commitment to make the necessary budgetary subventions to cover the operations and other activities mandated in the law. In practice, this assumption is not always justified. In many countries, governmental budgeting, auditing, borrowing, lending and fund mobilization in national organic legislation (constitutions and similar levels of legislative instruments), constitute a separate process for determining whether the government will adequately fund (and therefore address) each new legal provision. Marsh, P., 1994.

¹⁵⁰ Guam, Compensation to Farmers for Crop Damages, Title 8, Chap. 12: Guam Administrative Rules and Regulations.

¹⁵¹ See, e.g., India, Disaster Management Act, No. 53 of 2005, 46-48.

affected by disaster).¹⁵² In Indonesia, disaster control regulations state that “[the Authority] *shall apply a ready-for-use fund that shall be established in the Authority, for procurement of goods and/or services in the event of a disaster emergency alert.*”¹⁵³

In this area, as well, the dichotomy between disaster reduction and disaster response is generally important. Several such funds are specifically created for emergency response only. In these cases, the fund cannot be accessed by disaster agencies unless or until disaster strikes. Even for disaster-response activities, however, these funds are not generally seen to be dependable. The primary factor affecting their dependability is legislative power. In some countries, the legislature or financial agencies may have the power to override mandatory provisions regarding annual contributions to such emergency/disaster funds, or they may have a lower priority than other expenditures, in cases in which the country’s annual governmental budget is less than needed to meet all of its needs and commitments.

A number of such mechanisms have been developed around the world.¹⁵⁴ The FAO has recently noted that such funds, even where not sufficient alone to fund the entire response, may provide a useful “quick response” resource. In locust-infestation emergencies, it was noted that countries with such funds were able to begin response actions more quickly and thus avert a large percentage of the harm caused by the infestation.¹⁵⁵ In most developing countries studied, however, national emergency funds are “annual non-accruing funds”, meaning that they maintain the same statutory size in budget percentage terms and cannot be accumulated or carried forward from one year to another. As a consequence, such funds may not be attractive options for donors assisting a country in developing an ongoing capability for such quick response.

In some countries, special funds have been set aside for reconstruction and other post-disaster response activities. For example, In Germany, a special disaster relief and reconstruction fund, *Sonderfonds Aufbauhilfe*, was set up after the Elbe floods of 2002. It is a large endowment, funded by tax revenues, and regulated by a special flood solidarity law.¹⁵⁶ In 1996, the government of Mexico established a Fund for Natural Disasters (*Fondo Nacional para Desastres Naturales*, aka FONDEN) composed of three separate funds, including an infrastructure fund that provides for the repair of uninsured infrastructure and an agriculture fund provides immediate assistance to restore the productivity of low-income farmers. The assistance fund provides relief to low-income victims of disasters. FONDEN has, however, not been capitalized sufficiently to cover all of its obligations. In the past, the shortfall has been met in part by the World Bank.¹⁵⁷

In some countries, however, the disaster/emergency fund is also expected to cover normal operations of the disaster/emergency authority.¹⁵⁸ In these situations, the fund is essentially an operating account for the agency. Other countries’ laws are written in a way that indicates that the fund may never be used for agency operations. In the Marshall Islands,¹⁵⁹ for example, provisions establishing the Disaster Assistance Account expressly discuss what will happen “*in the event that at all or any part of the Account is utilized for any of the purposes.*” This suggests the expectation that the Account will not be drawn in some years – a result that cannot happen if the Account is used to pay normal operating expenses. Use restrictions

¹⁵² New Brunswick, (Canada), Emergency Measures Act, (S.N.B. 1978, c. E-7.1), §§20-21.

¹⁵³ In Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008, §41. Seychelles, National Emergency Foundation Notice, 2005, (Cap. 188A, S.I. 20 of 2005) §5(1).

¹⁵⁴ UN/ISDR, 2004b, at p 124 (heading “calamity funds”)

¹⁵⁵ Brader, *et al.* 2006

¹⁵⁶ *Fluthilfesolidaritätsgesetz.*

¹⁵⁷ UN/ISDR, 2004b.

¹⁵⁸ New Brunswick, (Canada), Emergency Measures Act, (S.N.B. 1978, c. E-7.1), §§20-21; Ethiopia, Relief and Rehabilitation Commission Establishment Proclamation, No. 173/1979; Lesotho, Disaster Management Act, No. 2 of 1997, §§35-36; Nigeria, National Emergency Management Agency (Establishment, etc.) Decree 1999, No. 12 of 1999, §§13-15, 17-18.

¹⁵⁹ Marshall Islands, Disaster Assistance Act, Chap. 10, §1010(2).

also often apply in disaster-related fund frameworks.¹⁶⁰ These provisions may restrict expenditures to specific activities in the event that a disaster/emergency is actually occurring.

A few of the funds researched combine all of the above purposes and mechanisms into a single fund. One example is the fund established under Ethiopia's Relief and Rehabilitation Commission Establishment Proclamation, which provides that

(1) The budget of the Commission shall be drawn from the following sources: (a) proceeds received by the Commission in the form of aid and donations; (b) proceeds from sales of property; (c) government subsidy.

*(2) the fund....shall be lodged in the National Bank of Ethiopia... in a separate account in the name of the Commission and shall be expended to give effect to the purposes of the Commission.*¹⁶¹

Ultimately, the various options described above for the establishment of funds are each potentially effective functional and replicable. The selection among them depends on particular needs and concerns, and national practices, including whether and how national budgeting practices respond to urgent needs and other factors.

Another key final point relating to public funding in disaster/emergency situations is the relation between the declaration of a state of emergency/disaster and the availability/mobilization of funds. Based on review of national legislation and conversations with legislative draftsmen, it is clear that national funding and budgeting processes in most countries are relatively stiff and complex, for a reason – to ensure that the use of governmental funds is transparent and that protections and controls ensure their proper use. This is the standard understanding expressed by non-Caribbean countries that address financial matters in their national constitutions.¹⁶²

As noted above, emergency provisions must preserve a delicate balance between protection against financial abuses and rapid deployment of funds, materials and services to address the emergency condition. In some countries, this concern is addressed constitutionally. Eight of the constitutions reviewed included specific provisions linking emergency financial mechanisms to emergency declaration or proclamation.¹⁶³ The majority of the countries and legislative instruments studied, however, address such special financial processes only under non-constitutional law.

e. Governmental Borrowing and Other Public Funds

Direct borrowing by government is another primary source of disaster/emergency financing, but in some cases the proper authority's power to initiate such a loan may need to be enabled (or streamlined) by legislation. Relatively few of the legislative documents reviewed directly address this, however, literature sources emphasized that “to finance losses ...caused by natural hazards, countries typically make additional emergency budgetary appropriations, which are funded ... by increasing budget deficits through borrowing.”¹⁶⁴ Several clauses examined address the power of the authority to obtain funds through commercial lending.

¹⁶⁰ See, e.g., Micronesia, Emergency Relief Funds, Title 36, Chap. 4: Pohnpei State Code, (uses allowed are “to assist developmental endeavors within the state to overcome physical and economic losses sustained from storm, flood, fire or other natural disaster”).

¹⁶¹ Ethiopia, Relief and Rehabilitation Commission Establishment Proclamation, No. 173/1979, §15. Another example of this omnibus approach is found in Lesotho, Disaster Management Act, No. 2 of 1997, §§35-36.

¹⁶² [Personal communications: Wahab Owadally (Mauritius), Carl Jones (Mauritius), N.J. Shah (Seychelles).]

¹⁶³ Brazil, Colombia, Germany, India, Iran, Lebanon, Malta, and Nepal.

¹⁶⁴ Gurenko & Dumitru, 2009.

In some countries, this power is assumed to exist; however, national organic law on financial matters will frequently limit the ability of any other government agency to borrow money without special permission from other officials.¹⁶⁵ If the disaster-management authority is to be given borrowing powers, it may be important to ensure that appropriate controls are imposed to prevent the authority from taking inappropriate actions that are binding on the country.

As a consequence of the nature and potential urgency of emergency/disaster response actions, however, some countries have specifically adopted legislation regarding the power to lend. For example in the Indian State of Gujarat, the law states that the disaster management authority “*may, with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of carrying out its functions under this Act.*”¹⁶⁶ One similar provision specifically empowers the authority to sell property, as necessary to finance its operation.¹⁶⁷

f. Enabling External Aid

Another financial issue addressed in a number of clauses reviewed specifically discusses the extent to which the disaster/emergency authority is authorized to seek financial assistance from foreign bilateral assistance agencies and/or NGOs. Unlike borrowing, it is not uncommon for national agencies and ministries to be generally authorised to contact these bodies for assistance.

In countries where such contracts are restricted or channeled through some specific official, financial clauses in national disaster/emergency legislation may specifically set out the nature and extent of the authority’s ability to seek foreign assistance directly.¹⁶⁸ Other countries do not have this type of problems – their disaster/emergency legislation focuses fully or partially on the processing of claims submitted by other governmental units or levels,¹⁶⁹ and to individuals or businesses.¹⁷⁰ Some of the legislation reviewed specifically authorizes the authority to disburse funds through NGOs as direct providers of assistance.¹⁷¹

An essential part of national disaster/emergency legislation in many countries is assurance that in-kind providers of external aid (e.g., the Red Cross/Crescent and other NGOs, as well as foreign government agencies, churches and other entities) are fully enabled to take action. As noted in detail in the legislative literature on this topic, a wide variety of different types of legislation may be relevant and sometimes necessary, to ensure that such assistance providers are able to act effectively, and also to ensure that various national interests and concerns are not impaired. Among the legislative issues that have arisen in recent emergency/disaster situations are the following: legal recognition and registration of various types of “relief actors,” entry of relief personnel, responsibility and accountability of organizations with legal

¹⁶⁵ Marsh, P. *Comparative Financial Laws* (Gower, 1993).

¹⁶⁶ India (Gujarat) State Disaster Management Act, Gujarat Act No. 20 of 2003, §34.

¹⁶⁷ See, e.g., Ethiopia , Relief and Rehabilitation Commission Establishment Proclamation ..., No. 173/1979., §15 (specifically includes power to request foreign assistance, utilise resources of other government units, sell property to obtain needed funds.)

¹⁶⁸ Marshall Islands, Disaster Assistance Act , Chap. 10, §1010(3) (“In any event where the sum available in the Account is not sufficient to meet the demand in case of disaster, the Cabinet may: (a) make available monies from the national Contingencies Fund or by reprogramming; and (b) seek assistance from international and other sources. Money made available and received under this Subsection shall be credited to the Account.”) That act goes on to note in sub-clause 5 that “Nothing contained in this Section shall be construed to limit the authority of the Cabinet to apply for administer, and expend any grants, gifts, or payments or pass-through funds in aid of disaster prevention, preparedness response or recovery.” See also, Seychelles, National Emergency Foundation Notice, 2005 ,(Cap. 188A, S.I. 20 of 2005), §3 (authorizing the authority “to raise funds from Governments, private individuals, corporations, associations and other institutions or bodies in Seychelles and elsewhere.”)

¹⁶⁹ Papua New Guinea, Disaster Management Act 1984, §§19-21

¹⁷⁰ See also, Seychelles, National Emergency Foundation Notice, 2005 ,(Cap. 188A, S.I. 20 of 2005), §3 (authorizing the authority “to use the funds to assist persons in cases of emergencies, such as floods, fires, tsds, land slides and other natural causes [and] to provide temporary relief to small businesses which have suffered significantly through above causes by extending short term loans for purchase of equipment, raw materials or related products”)

¹⁷¹ See also, Seychelles, National Emergency Foundation Notice, 2005 ,(Cap. 188A, S.I. 20 of 2005), §3 (authorizing the authority “to assist other charitable organisations in achieving the above objectives”)

personality, local bank accounts, taxation, importation of humanitarian relief goods and equipment, transport of relief goods and equipment; re-exportation, recognition of professional qualifications, and controls on the quality and nature of goods imported and transported in the country.¹⁷² In some countries, particularly least developed countries, these issues have been accorded a higher legislative priority than other emergency/disaster and financing legislation.

1.8.2 Private Sector: Insurance and Distributed Risk

Beyond the availability of government funding, however, significant attention has been given to the possibility of using private sector methods of financing disaster reduction and response. The primary focus of these discussions has been the possibility of insuring against disaster losses and injuries. These mechanisms have also been addressed through a hybrid approach, by which the government undertakes some role in such an insurance system or other mechanism for distributing the risk of loss among all those affected by these risks. Both must generally address the same issues and concerns. In addition, however, some governments have generally adopted legislative measures designed to provide elements of insurance or guarantee to particular activities or industries within the country.¹⁷³ These measures may be quite different from insurance both in function and duration.

a. Insurance

One of the first comments made by most officials and negotiators when asked about financial measures for emergency/disasters relates to insurance. The reasons for this focus on the private-sector are relatively obvious. In the words of one analysis, “*Disasters caused by natural hazards are increasingly affecting the ability of countries to satisfactorily implement national fiscal programmes.*” Insurance mechanisms are seen as a potentially useful means of compensating injury and damage caused by both natural and human-caused disasters. Immediately, however, the limited availability of insurance options must be noted:

*Insurance is a well-established mechanism for risk transfer, but less than one fourth of all losses resulting from natural disasters around the world are insured. The distribution of natural disaster insurance is heavily in favour of developed countries. The United States, United Kingdom and Japan amount to about 55% of the total coverage. By contrast, Asia, with many developing countries, and which represented half of all the damages caused by natural catastrophes and two thirds of all the casualties from catastrophic events in the last years, accounted for only 8% of the insurance coverage for catastrophes purchased in the world market. This lack of insurance coverage and more limited social safety nets in countries implies a high level of vulnerability, which is only exacerbated by risks of natural disasters’.*¹⁷⁴

Upon inquiry, the reasons underlying this unequal distribution may also provide the reasons that insurance mechanisms should not be relied on as a major component of national disaster response.

Legally, the issue of insurance is very detailed, and subject to a variety of different levels of scrutiny, including both national law and sectoral practices which condition each insurer’s ability to link to other

¹⁷² See, e.g., Picard, 2007; Bannon, 2006a,b and c; Bannon 2005; BIICL, 2010; Costa 2008b; Field, 2007; International Federation of Red Cross and Red Crescent Societies. 2008a; İsbir and Genç. 2006;

¹⁷³ Notably, in France, Spain and New Zealand, catastrophic risk insurance is subsidized by public sector-owned insurance companies. See, generally UN/ISDR 2004b.

¹⁷⁴ UN/ISDR, 2004b.

insurers and re-insurers (*i.e.*, to spread the risk more effectively) on meeting internationally recognized standards of the industry.¹⁷⁵ Proposals for disaster/emergency insurance have included both programs based on particular types of risks and insurance for particular types of assets. To date, relatively few programs for disaster/emergency insurance have been fully functional in developing countries, due to a number of factors, primarily economic issues and confidence within those countries.

Disaster/emergency insurance systems are sometimes developed through private insurers and at other times directly created within government. In order for them to function, however, all insurance systems, whether privately or governmentally created, must address similar concerns.

Discussions of insurance for disaster/emergency losses often neglects to focus on a critical fact – these mechanisms are generally market-based – that is, they function where an both insurer and insured are confident that the insurance product can achieve both a “steady state” (outflow of funds generally matched by income) and an appropriate return for its investors. The primary source of income to cover the “outflow of funds” is the purchase of insurance. Where the insurer is governmental, this need is slightly different, as it may not have the same level of concern for investors (whose investment is often derived from government bonds and other indirect sources.) Although the costs to the insured persons are less where the insurer is a governmental insurance mechanism, these costs appear to form the primary reason that many types of disaster/emergency insurance have been found to be impractical in developing countries.

In the industrialized world, insurance is a standard practice of transferring risk from one entity or individual to a collective. Although many types of insurance are available in other countries, relatively few disaster/emergency insurance products are available. This is apparently a result of a low level of willingness of those persons and activities that are most vulnerable to disaster/emergency losses to pay the premiums necessary to obtain coverage. In addition, locally available disaster/emergency insurance systems that are broad in coverage are widely perceived to be uncertain with regard to recovery. Widespread publicity concerning the low percentage of insured hurricane Katrina victims in the US that actually received compensation under FEMA’s National Flood Insurance Program, and the low levels of compensation received have contributed to the general view that such insurance may not provide adequate protection.

Several recent studies have examined the potential for private and government-sponsored insurance programs to address disaster/emergency risks and losses. The most comprehensive have been two studies – one by the World Bank and the other by the UN International Strategy for Disaster Reduction (UNISDR).¹⁷⁶ These studies noted a relatively low level of receptiveness in developing countries to disaster/emergency insurance, indicating a very low likelihood that sufficient numbers of people would be willing to purchase a policy.¹⁷⁷

¹⁷⁵ This brief discussion will not provide any analysis of those standards and/or the contractual principles of reinsurance and other insurance industry concepts that generally define good practices in the industry. A large body of information on the various mechanisms for insuring and funding disaster response can be found at http://www.acs-aec.org/disasters/disaster_financing_eng.htm.

¹⁷⁶ Gurenko and Dumitru, 2009; and UN/ISDR, 2004b. The former study (Gurenko) “comprises a review of government post-disaster safety nets as well as those provided by the private insurance market.” It provides a case study of 5 countries in central Asia (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan), where the primary emergency/disaster risk of concern is earthquakes. *See also*, Harmer, Taylor, *et al.*, 2009.

¹⁷⁷ “In poor countries, the coverage of catastrophic risk insurance is limited by conditions of both demand and supply. On the demand side, the major obstacle is that governments tend to bail out uninsured parties in the aftermath of a disaster for legal and political reasons, while on the supply side the risk pool is often too small to make insurance viable. Premiums for property insurance are most often unaffordable for households. Catastrophic risk insurance has become expensive.” UN/ISDR, 2004b, at 132.

In addition, in island nations and other geographically small countries, the chances are relatively high that a large percentage of policy-holders would present claims at the same time (in a single disaster), limiting the effectiveness of insurance as a risk-sharing tool. By contrast, in developed countries where insurance systems are well established, insurers are able to spread their risk further, by transferring their catastrophic risk from the national insurance systems into worldwide risk-sharing pools. These pools are managed by international reinsurance companies and backed by substantial capital resources. In countries attempting to foster new insurance industries, much of the catastrophic risk remains to be borne within the country. This suggests that, for example, insurance regimes in the Caribbean, such as the Caribbean Catastrophe Risk Insurance Facility (CCRIF),¹⁷⁸ will be most effective to the extent that they operate at the regional level.

Reportedly, in other areas, several regional bodies are considering the possible development of private sector risk-spreading systems, including disaster/emergency insurance, however, the information available on the legal and administrative elements of such systems are not currently available for review,¹⁷⁹ including Korea¹⁸⁰ and Turkey.¹⁸¹ Other possibilities reportedly under consideration include agriculture insurance programs, such as index-based livestock insurance and weather-based crop insurance programs. In both cases, inquiries of private insurers have not produced detailed legal/legislative material. In both, however, it is clear that these measures are closely joined with programs for reducing risks. In essence, these two concepts (risk insurance and risk reduction) are tightly interlinked. Normally, in order for an insurer to provide a financially viable insurance product to address disaster/emergency risks, the insurance policy must contain strict provisions regarding risk-reduction activities that each policy-holder must undertake and prove, in order to present a claim. A simple example may be found in home-owner's fire insurance policies – the policy will only pay off if the homeowner can show that he met certain policy conditions, such as the control of weeds and brush within a specified radius of his home. In this way, lenders and other service providers may directly contribute to disaster reduction by requiring disaster/emergency insurance. In order to obtain that insurance, the homeowner may be required to show that he is in compliance with building codes and has taken appropriate measures to address flood and other risks.

The viability of insurance as a primary tool for emergency/disaster response or management may be limited. A recent case study in Central Asia concluded that

[I]nsurance regulators in the region lack the necessary tools and expertise in understanding the true risk exposures of regulated companies to catastrophe risk, [and] most insurance companies do not have the necessary underwriting, actuarial and reinsurance skills to offer coverage against natural hazards. The majority of companies do not buy any reinsurance protection for their risk accumulations, while those which do buy reinsurance end up placing their covers with nonrated carriers.¹⁸²

Having said this much, however, it is notable that the private sector is resurgent in virtually all countries, and quick to see opportunities. As a consequence, national insurance industrial groups are very active in disaster reduction discussions. Recognizing not only the role of insurance in improving the situation of individuals by compensation, the industry also is keenly aware of how the process of spreading the risk of disaster across society benefits commerce and industry. For example, in Mozambique insurance

¹⁷⁸ Considered in GPDRR, 2007b.

¹⁷⁹ Pilon, 2004. Requests and inquiries into the legal needs and operations of property catastrophe insurance programs, such as the Turkish Catastrophe Insurance Pool (TCIP); and agriculture insurance programs, such as index-based livestock insurance and weather-based crop insurance programs have not produced information, except with regard to programs in highly developed countries.

¹⁸⁰ UN/ISDR 2004b.

¹⁸¹ The Turkish Catastrophe Insurance Pool (TCIP) has been identified as one such program, but documents and details are so far not forthcoming.

¹⁸² Gurenko and Dumitru, 2009.

companies and banks are active participants in the national disaster management system. They are joined by lending institutions, which are keen to rely on insurance mechanisms and mitigation measures to minimize their own risks by protecting against future potential losses.¹⁸³

b. Public Guarantees and Microfinance Mechanisms

Recent projects and studies in a number of developing countries, although noting that private insurance may not be an appropriate mechanism for disaster/emergency protection at the current time, have identified other types of “social safety nets” of potential value. A number of these are frequently linked to government incentive programs. For example, the Chinese government offered guaranteed minimum returns on certain types of forestry and agricultural expenditures, as a way to encourage the resurgence of these activities following a season of widespread flooding and landslides.¹⁸⁴

Recent experiences in Mongolia may be instructive of both the innovation and the impact of “revaluing livelihood characteristics and existing risk management practices” in developing successful index-based programs for livestock insurance.¹⁸⁵ There, traditional livestock insurance, based on individual losses was found to be ineffective to deal appropriately with a problem locally referred to as “moral hazards” i.e. failure of insured herders to take all effective measures to protect their stock against calamities or falsely reported animal deaths. In addition, the monitoring of individual herders in the vast territory of Mongolia is a nearly impossible task. To address this problem, the World Bank developed a combination of self-insurance by herders, market-based insurance and social insurance. The insurance program relies on a mortality rate index by species in a given local region (sum). Herders pay a premium based on the value of their animals reported and the relative risk in the sum that they choose. The sum is selected based on herder’s knowledge of where his/her animals are most exposed during the year. Each insured is able to insure between 25 and 100 percent of the estimated value of his animals. Upon evaluation, the UN/ISDR-Asia concluded that

*‘The index provides strong incentives to individual herders to take maximum care of their livestock, since insurance payouts are based on local mortality, not on individual losses. That means those who increase the care for their animals during a major event would likely be compensated for this effort since payments begin once the predetermined threshold of mortality for the sum and species is exceeded. Herders retain small losses, larger losses are transferred to the private insurance industry, and extreme or catastrophic losses are transferred to the GoM using a public safety net program’.*¹⁸⁶

Another concept which has received recent attention with regard to disaster/emergency financing is the potential application of “microfinance services” through programs such as the Grameen Bank, initiated in Bangladesh but subsequently expanded to a number of countries with different institutional models.¹⁸⁷ Lending programs at all levels offer promise with regard to reduction of risk and vulnerability, including relative to disasters. Microfinance institutions can provide both financial and institutional support to their client households – assisting them in reducing vulnerability, and tying the availability of assistance to the borrower’s willingness to take vulnerability-reducing action. Financially, the income diversification offered by Grameen and similar institutions may be critical in helping poor households to cope with disasters better. At present, however, hopes for microfinance and its application to disaster-related

¹⁸³ Pilon, 2004.

¹⁸⁴ Young, 1998.

¹⁸⁵ Galperin, 2009, at box 10, p 12.

¹⁸⁶ Ibid.

¹⁸⁷ Yunnus, 2008.

services are difficult to evaluate. Many of the most often-repeated success stories in this area have not been replicated yet. It remains to be determined the extent to which investment in these products and services will be mutually beneficial to the well-being of client households and to the strength and solvency of microfinance initiatives.

c. Finance as DRR Incentive Mechanisms

Significant discussions in relation to hazard reduction have considered the role of financing measures as incentive tools, particularly where the funds involved will be used to compensate for losses and damage. “Compensation as part of disaster assistance should always have as a goal the reduction of future flood damages. Rather than simply paying for damages, the funds should be focused on flood proofing, buyout, relocation and public education on the risks and consequences of living on flood-prone lands.”¹⁸⁸ Other discussions of incentives of this type recommend the use of “cost-shared programs,” which provide graduated percentages of funding, depending on the “benefits to various levels of government of not having to compensate for future flood damages.” Thus, compensation will be at minimum percentages for replacement of lost facilities, but at much higher percentages where the replacement facility will include disaster remediating elements.

1.9 International Instruments Addressing Emergencies and Disasters

This section identifies and summarizes research into key legislative and administrative provisions -- international legal instruments related to state of emergency and budget appropriation -- and their execution; as well as, where possible an assessment of their scope, operability and success. To this end, the consultant examined electronic and print collections of international instruments at global, regional and bilateral levels, finding only two concrete examples of binding international instruments directly focused on emergency/disaster management and response as their primary topic and one of these is a Caribbean instrument.¹⁸⁹ This research also identified a large body of other types of international work related to emergencies and disasters, which is not, at present embodied in binding or formally accepted international law.

1.9.1 Global and Hemispheric Level: Hard and Soft Instruments Governing Foreign Actions in Emergency/Disaster Situations

The international community, although generally operating on bilateral or sub-regional levels when addressing disaster/emergency issues, has not allowed these issues to pass by without global and multiregional attention as well. A number of instruments exist at this level, relating to key matters such as human rights and communications.

Among existing international initiatives in this area, one formal hard-law instrument is the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations has been formally adopted (in 1998) with the goal of strengthening the application of international principles and guidelines relating emergency telecommunications. The Tampere Convention seeks to create an integrated framework for reducing regulatory and other barriers to the use of telecommunications in disaster mitigation and relief. Like much other international attention to disaster issues, its focus is strongly on pre-disaster issues – especially the use of telecommunications as a tool for disaster prediction and information-sharing, as well as the needs of telecommunications companies, when serving as assistance providers in the event of disaster. Specifically, it calls on States Parties to

¹⁸⁸ Pilon, 2004.

¹⁸⁹ A list of international instruments reviewed that include some reference to disaster or emergency is Annex III to this report. Few of these instruments include provisions of specific relevance to this Report. All of these, the most useful instruments identified, are described in some detail below.

*‘Cooperate among themselves and with non-State entities and intergovernmental organizations ... to facilitate the use of telecommunication resources for disaster mitigation and relief,... [including] the deployment of terrestrial and satellite telecommunication equipment to predict, monitor and provide information concerning natural hazards, health hazards and disasters;... the sharing of information about [such] hazards... and the dissemination of such information to the public, particularly to at-risk communities; ...the provision of prompt telecommunication assistance to mitigate the impact of a disaster; and ... the installation and operation of reliable, flexible telecommunication resources to be used by humanitarian relief and assistance organizations’.*¹⁹⁰

A significant proportion of the Tampere Convention consists of calling on the UN to take a variety of actions, including to

‘Develop [and make available] ... model agreements ... facilitating the provision of telecommunication resources for disaster mitigation and relief [in individual situations]; ... develop, operate, and maintain information collection and dissemination procedures and systems necessary for the implementation of the Convention; and ... facilitate and support the cooperation among States Parties provided for herein.’

Most of the Convention’s remaining provisions focus on authorizing the parties to take actions they are already authorized to take, from the developing country perspective, it authorizes member states to request communications support, only for disaster awareness, mitigation and relief assistance from other countries, as well as help in training responders in communications technical matters. From the perspective of assistance providers, the Convention empowers them to decide whether to provide the requested assistance, coupled with a statement that they will not provide assistance of this type unless requested.¹⁹¹ They are also called upon to “reduce or remove regulatory barriers to the use of telecommunication resources for disaster mitigation and relief” including import/export regulations, radio frequency restrictions and controls on the movement of equipment and personnel, but only “when possible, and in conformity with their national law.”¹⁹² Most importantly, from the perspective of the assistance provider, the assistance recipients who are members of the Tampere Convention commit to grant “privileges and immunities” to assistance providers from member countries, including immunity from criminal laws, from tax obligations, and from seizures, also calling on the recipient party to provide administrative support and protection. This provision is relatively broad given that the Convention addresses disaster mitigation actions undertaken in non-disaster periods, as well as disaster relief.¹⁹³ The assistance-providing country may, *‘condition the provision of telecommunication assistance for disaster mitigation and relief upon agreement to pay or reimburse specified costs or fees.’*¹⁹⁴

All member States are also committed not to restrict the transit through of equipment or personnel en route to another country for purposes described in the Convention.¹⁹⁵ Despite the Convention’s focus on the potentially urgent problems of a disaster/emergency, it contains a detailed dispute resolution process.¹⁹⁶

¹⁹⁰ Tampere Convention, Art.3.

¹⁹¹ Tampere Convention, Art. 4 (and see Article 5.5 stating that the equipment provided may not be used for other (non-disaster-related) purposes.)

¹⁹² Tampere Convention, Art. 9.

¹⁹³ Tampere Convention, Art. 5

¹⁹⁴ Tampere Convention, Art. 7(1). Such payment is to be made “promptly after the assisting State Party has presented its request for payment or reimbursement” (Art. 7(6).)

¹⁹⁵ Tampere Convention, Art. 9(4).

¹⁹⁶ Tampere Convention, Art. 11.

The Tampere Convention entered into force in 2005, and currently has 41 Parties. Presently, among the CELP countries, only three (Barbados, Dominica and St. Vincent & the Grenadine) are Parties to the Convention. Haiti and St. Lucia have also signed but not ratified the instrument.¹⁹⁷

Beyond this, the primary legislative development at the global level has been in the form of guidelines and enunciated principles. Perhaps the most important of these instruments are the “Oslo Guidelines” (Principles of Humanitarian Aid and Recommended Code of Behaviour for Military and Civil Defence Personnel in International Disaster Relief Assistance in Times of Peace), as prepared by the International Federation of Red Cross and Red Crescent Societies (IFRC). In addition, the IFRC has been active in a broader project to promote International Disaster Response Law, Rules and Principles (IDRL), which has produced Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, which were unanimously adopted by state parties to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement in November 2007. Issues covered include visas for humanitarian personnel, work permits, customs clearances and duties, over flight and landing rights, taxation and domestic legal personality. States should consider using these guidelines in the development of their national legislation.¹⁹⁸ Although none of these instruments is directly addressed to disaster response institutions and activities, they offer useful insights into key issues recognized by countries – both providers and recipients of assistance. A number of other international instruments, centered in Europe and adopted in the wake of the Chernobyl disaster, address additional issues of access to service sectors, and are primarily relevant with regard to activities at or involving terrestrial boundaries between States.¹⁹⁹

1.9.2 Instruments Directly focused on Emergency/Disaster Activities

International research generally indicates that regional instruments have been the most effective international tools for addressing substantive elements of emergency/disaster management and cooperation. This may not be surprising given that there is usually a higher level of similarity at the regional level, with regard to each country’s priorities, identified risks and emergency needs,. As such, countries within the same region may find it easier to come to agreement at the regional level than at the global.

1.9.3 Regional Disaster Coordination (CDEMA and the ASEAN Agreement)

The only two international instruments unearthed by this search that specifically focus on disaster response activities are regional in scope. One of these, of course, is the Agreement Establishing CDERA (1991, Georgetown), which appears to be still in force as the instrument governing to the Caribbean Disaster and Emergency Management Agency (CDEMA), established by CARICOM in 2008, as successor to CDERA. As further discussed in Activity 1.1 and at the Project workshop in Saint Lucia,²⁰⁰ this instrument’s primary contents focus on the creation of the regional coordination mechanism, and the means by which each Party participates (through national focal point organizations. CDEMA has become an important element of Caribbean disaster/emergency governance and response.

¹⁹⁷ Information on treaty status was confirmed on the Convention’s website, on 6 May. (The USA, too, has signed but not ratified)

¹⁹⁸ The best source of these documents is the IFRCCS website: <http://www.ifrc.org/what/disasters/idrl/>.

¹⁹⁹ See, e.g., *Convention on Early Notification of a Nuclear Accident* (1986); the *Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency* (1986); the *Convention on the Transboundary Effects of Industrial Accidents* (1992), which entered into force in 2000; the *Vienna Convention on Road Traffic* (1968)

²⁰⁰ 21 May 2010.

The focus of the current analysis, however, was instruments from outside of the Caribbean. In that respect, it appears that there is only one other such instrument currently in force – the ASEAN (Association of South East Asian Nations) Agreement on Disaster Management and Emergency Response (2005, Vientiane).²⁰¹ The ASEAN Agreement is built on a combination of

1. the Parties' commitment to take measures for identification of risks and for prevention or reduction of losses and to undertake advance preparations to enable rapid deployment to minimize or mitigate harm once the disaster strikes;
2. the Parties' general commitments to respond to requests from other Parties for assistance; and
3. the Parties' voluntary commitments to contribute an *ASEAN Disaster Management and Emergency Relief Fund*, and to earmark other assets and capacities, "on a voluntary basis,... for regional standby arrangements for disaster relief and emergency response."

Adopted in the wake of the Indian Ocean tsunami of 26 December 2004, the ASEAN Agreement has not been tested in practice. It can be expected, however, that this instrument is built on the ASEAN Members' national experiences in the follow-up to that disaster. Its goal has been described by ASEAN as follows:

*[The Agreement] provides a comprehensive regional platform to strengthen preventive, monitoring and mitigation measures to reduce disaster losses in the region. It indicates as one of its principles that ASEAN Member Countries shall, to the extent possible, mainstream disaster risk reduction efforts into sustainable development policies, planning and programming at all levels.*²⁰²

As such, it strongly parallels the Agreement Establishing CDERA, apart from the fact that the ASEAN Agreement is focused on particular actions and commitments of Parties, rather than the creation of an agency to manage these issues.²⁰³

Regarding the key focus issues of the present report, the ASEAN Agreement contains no specific provisions regarding national declarations of "state of emergency" and similar concepts, which remain within the sovereign and administrative powers of the Member countries. It does, however, include many provisions relating to the provision of inter-governmental notifications when one country has suffered a disaster and especially in the case in which a country has identified factors indicating that a disaster is imminent, creating the "ASEAN Coordinating Centre for Humanitarian Assistance on disaster management, ("AHA Centre") to facilitate this interaction.²⁰⁴

Financial matters are only indirectly addressed in the ASEAN Agreement, which does not interfere in the sovereign powers of each country to regulate its own budget appropriation and execution. In this connection, however, the ASEAN Agreement does include

- commitments of each Party to respond promptly to disasters within its own borders;²⁰⁵

²⁰¹ Available online at <http://www.aseansec.org/17579.htm>.

²⁰² Statement of the Secretary General of ASEAN, dated 15 August 2006

²⁰³ Since adoption of the ASEAN Agreement, such an institution has been developed by the ASEAN Secretariat, in the form of the ASEAN Regional Programme on Disaster Management (ARPDM), which focuses on, *inter alia*, "(i) Establishment of the ASEAN Response Action Plan; (ii) Refresher Courses/ Expertise Development; (iii) ASEAN Disaster Information Sharing and Communication Network (ASEAN DISCNet), i.e. Development of ACDM Website and NDMO Websites; and Publication of ASEAN Disaster Management Information Network (ADMIN) Newsletter; (iv) Partnerships with Relevant Organisations and NGOs; and Mobilising Financial Support and Resources; and (v) ASEAN Day for Disaster Management; and Enhancing Disaster Management Public Education and Awareness Programmes."

²⁰⁴ ASEAN Agreement, especially Articles 5-7, 20 *et passim*.

²⁰⁵ ASEAN Agreement, especially Articles 3, 10

- strong voluntary commitments by all Parties to provide assistance upon request to other countries within ASEAN in the event of disaster;²⁰⁶ and
- strong voluntary commitments to participate fully (through the mobilization of both financial and in-kind contributions) in ASEAN programme of Standby Arrangements for Disaster Relief and Emergency Response, to be provided only upon request of the Member country experiencing the disaster. In addition, noted above, the Agreement creates a fund, to be activated by voluntary donations from the Member countries and others, to assist Member countries in the event of disaster.²⁰⁷

Given the relative new-ness of the ASEAN Agreement, it is too early to fully assess its operability or to come to any conclusions regarding its success. Its scope is clear, however. Geographically, the Agreement is limited to ASEAN Members and South East Asia. Substantively, its scope covers disasters (sometimes called “disaster emergencies”) within this region. For this purpose, “disaster” is specially defined to include any “serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses.” The ASEAN Agreement and ASEAN’s commitment to regional approaches to disaster management and preparedness, suggest that this Agreement and its Secretariat’s activities may be of interest to Caribbean countries.

Beyond these two instruments, there is little available international legislation addressing disaster/emergency issues. Numerous studies have noted the efforts of the various regional and sub-regional organizations and processes in Africa (AU, NEPAD, ECCAS, ECOWAS, IGAD, IOC, SADC, etc.) to address disaster/emergency cooperation. In the end, all such efforts have been unavailing (i.e., have not produced final or binding instruments) so far,²⁰⁸ although the AU has adopted a commitment to reduce disaster risk and develop the resilience of its nations and peoples – a commitment rooted in the AU’s Constitutive Act.²⁰⁹

1.9.4 Other Emergencies: International Coordination of Locust Infestation Disasters

Another body of instruments that is useful for purposes of examining the functionality of international instruments addressing disasters/emergencies – the FAO locust conventions – also were negotiated and operate at regional and sub-regional levels. These instruments, in particular, may have great value to the study of intergovernmental cooperation in addressing particular natural disasters. Beginning in the 1970’s, FAO coordinated the negotiations for a series of sub-regional “locust conventions” among developing centres, promoting coordination and inter-governmental cooperation in areas subject to periodic locust infestations causing food shortages, flooding and related emergencies.²¹⁰ Unlike the other international instruments identified in this study,²¹¹ the FAO locust conventions have been in force long enough that

²⁰⁶ ASEAN Agreement, especially Article 4, 11-16, *et passim*.

²⁰⁷ ASEAN Agreement, especially Articles 9 and 24.

²⁰⁸ Field, 2007: “Neither the AU, nor any of the [regional coordinating organizations in Africa] considered in the study has concluded a legal agreement pertaining specifically to disasters.”

²⁰⁹ Agreed in 2000. See http://www.africa-union.org/root/au/AboutAu/Constitutive_Act_en.htm

²¹⁰ Agreement for the establishment of an FAO Commission for controlling the desert locust in South-West Asia (1963); Agreement for the establishment of a Commission for controlling the desert locust in the Central Region (1965); Agreement for the establishment of a Commission for controlling the desert locust in North-West Africa (1970); Agreement for the establishment of a Commission for controlling the desert locust in the Western Region (2000); Convention for the Establishment of the Desert Locust Control Organization for Eastern Africa (2003).. Complete copies of the locust conventions, which are each unique to the regional needs and legal frameworks within their geographic scope, are difficult to obtain. The consultant has only a full set of paper copies of these instruments, and is a slow typist, unable to transcribe relevant provisions into the matrix.

²¹¹ Another body of instruments that has been in existence for a relatively long period (25-55 years) among those listed in Annex III are various global and European instruments that focus on nuclear issues. A significant number of them, however, were developed in response to the Chernobyl nuclear incident in 1986. As that which was the last major nuclear incident discussed in international law, there is (again) little basis or experience on which to base conclusions regarding their effectiveness and functionality.

they have been applied to locust-related disasters, thereby producing experience regarding their functionality and effectiveness. More important, evaluation of that experience has been intensive, detailed and well publicized.²¹²

The primary commitments within these Conventions focus on on-the-ground action rather than on matters such as “declaration of disaster/emergency” or consistency in budgeting and the mobilization of funds. Like the ASEAN and CDERA Agreements, they emphasize cooperation and joint endeavours. The experiences of the various sub-regional groups involved in the Locust Conventions have indicated areas of success and challenge, providing particular information regarding national financial measures. Primarily, they indicate financial and capacity issues to be matters of greatest concern in the desert locust campaigns.

1.9.5 Disaster Issues at the “Hemispheric Level”

In addition to these, the OAS Inter-American Strategic Plan for Policy on Vulnerability Reduction, Risk Management and Disaster Response has been cited as “a milestone in the Americas, in the quest towards an ex-ante approach and a change of paradigm from Disaster Response to Disaster Risk Reduction.”²¹³

Another potentially important instrument within the region is the Inter-American Convention to Facilitate Disaster Assistance, which entered into force in 1996. This instrument is intended to streamline the provision of international assistance, where the countries involved are members of the Convention. It sets forth specific rights and duties of the assistance provider and recipient with regard to a number of key issues. At present, however, only one CELP country – Dominican Republic is a party to this convention, having ratified it in March 2009. None of the other CELP countries were signatories to the Convention. Currently, the Convention has four parties (Panama, Peru, Uruguay, and Dominican Republic.) Two additional countries (Nicaragua and Colombia) have signed the convention, but not yet ratified.

1.9.6 Other International Instruments containing Emergency Provisions

At present, no online database or publication available to the consultant provides comprehensive search capabilities of international instruments for clauses addressing general issues of emergencies and disaster. To be consistent with the definitions used in Activity 1.1, and in light of the lack of other sources of material, research into international instruments addressing environmental, food and health issues. These instruments include few disaster/emergency-related clauses. Those that exist generally focus on emergencies and disasters involving specific sectoral features (agricultural pests, epidemics, pollution, etc.).

Some regional provisions, such as the UNEP Regional Seas Conventions are similarly focused on the particular impact of natural disasters on a particular biome. Thus, for example, the East Asia Regional Seas program considered its view of the December 2004 tsunami, focusing its concern on the impact on oceans and intertidal resources (such as corals, rubbish from run off), as well as its toll in human lives and livelihoods. One of its realizations was the important role that of building codes and other planning, in connection with the

²¹² .A useful resource relating to these conventions is the FAO evaluation of the desert locust conventions (Brader, *et al.* 2005). It normally takes several years before an international instrument is operational, and more years for its Secretariat and Member countries to the build up a sufficient level of experience on which to base evaluation. *See*, Young, Amador, *et al.* 2009. FAO’s locust conventions thus provide useful insight of a type not available with regard to other instruments in Annex I into effectiveness and success of those instruments.

²¹³ European Commission, 2009a.

*'enormous rebuilding effort now under way [which] offers an opportunity to plan the placement of roads, walls, resorts, hotels, houses and aquaculture installations more wisely. The replanting of mangroves is essential: coastal mangrove forests proved their worth by protecting thousands of people from the tsunami. Fishing fleets, instead of being rebuilt to former unsustainable levels, can be regulated and restricted to save the region's endangered fish stocks. The urgent need for an early warning system and improved disaster management to reduce the loss of human lives and property is now clear. But just as important to the long-term future of the region's coastal communities is the rehabilitation of their damaged marine ecosystems'*²¹⁴

This approach aligns with international interest in DRR, as described below.

Other provisions relating to emergency response are found in the statutory mandates of international bodies, such as FAO, the World Food Programme and WHO, all of which have specific mandates to take emergency actions within their substantive scope, in cases of disaster or emergency.²¹⁵ According to sources in WHO and FAO, many shorter-term and time-bound instruments address emergency situations on bilateral scale, with regard to disaster assistance. In addition, as noted in more detail below, the UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol are generally perceived to be integrally connected to many kinds of disaster issues and actions.

Beyond these, global-level instruments rarely address disaster responses and the mobilization of funds for these activities. That result is predictable, given the reticence of most sovereign governments to bind themselves to particular actions (and especially to fixed financial commitments) under international law. For the most part, where global instruments address emergency and disaster situations, they do so very narrowly and specifically. Most commonly, these provisions reference actions to be taken in emergency situations that threaten the environment of other countries, and often are limited to certain types of emergencies (e.g., those that cause release of hazardous materials, those that threaten marine ecosystems, etc.) None of the global instruments identified in this study is substantively focused on disaster and/or emergency response, prevention or management. Still, however, global instruments often provide other types of value for their Parties. For example, they may maintain or generate useful information and offer it through information-sharing processes. A few international instruments provide direct assistance in emergencies. Thus, the World Heritage Convention provides a fund and other financial assistance which is particularly directed at World Heritage sites affected by natural disaster.²¹⁶

Many regional and bilateral instruments include minimal emergency and disaster clauses. Two such examples are found in the South Pacific²¹⁷ – the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (the Waigani Convention) and the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Noumea Convention).²¹⁸ In both Conventions, disaster concerns are addressed on a substantively narrowed basis, limiting coverage to a specific type of disasters. Thus, the Waigani Convention, which is

²¹⁴ Discussed in the Agreement's website at <http://www.unep.org/regionalseas/programmes/unpro/eastasian/default.asp>.

²¹⁵ See FAO Constitution and Basic Texts (generally allowing FAO to take action to address specific needs relating to health, hunger and food security); Constitution of the World Health Organisation (similar general authority, relating to human health and medicine).

²¹⁶ Convention Concerning the Protection of the World Cultural and Natural Heritage (1972, Paris), Art. 21.

²¹⁷ The following conventions were developed, under the Pacific Regional Environment Programme (SPREP), Formerly, the South Pacific Regional Environmental Program. As other Pacific nations have joined SPREP, its official name has changed, although the acronym was kept, but now frequently refers to the *Secretariat* of the Pacific Regional Environmental Program

²¹⁸ Available online at <http://www.sprep.org/legal/regional.htm>.

based on the (global) Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel, 1989), limits its emergency provision to the Parties' commitment to cooperate (take action and/or notify other Parties in the event of an emergency) relating to hazardous pollution or waste disposal in the Convention Area. Similarly, the Noumea Convention arose out of the (global) Convention on Biological Diversity (Rio, 1992). It condenses disaster/emergency issues into a single clause calling for prompt action and notification of other countries, in the event of an emergency caused by pollution or waste discharge that threatens marine / coastal environments.

Another instrument that specifically mentions the Parties' collaboration in the event of a disaster is the SADC (Southern African Development Community) Protocol on Politics, Defence and Security Co-operation.²¹⁹ This instrument includes disaster management and mutual assistance only as an added matter in its statement of objectives, which calls on the Parties "[to] enhance regional capacity in respect of disaster management and co-ordination of international humanitarian assistance."²²⁰ The remainder of the document, which is primarily focused on war and political conflict, does not include any mention of 'disaster.'

The Fourth ACP-EEC Convention – an international commitment between the European Community and the various countries that receive technical or financial assistance under EU authority – also addresses emergency/disaster situations. Its provisions focus generally on when and how a national or sub-national disaster or emergency in a country may qualify for special assistance from the European Community.

In sum, the following types of disaster-related provisions have been addressed in a variety of international, regional and bilateral instruments.²²¹

1. *Information-sharing*: One international concern relating to natural or other disasters and emergencies relates to the collection and sharing of information. In some international instruments, a specific data-base is established or mandated, while in others information-sharing duties are directly owed from each party to the others.
2. *Notification*: A common emergency-related commitment of Parties in international instruments is the duty to notify one another of the occurrence of any emergency or any action or condition known to one country that might have impact on the other.
3. *Disaster Centers*: Some international instruments reviewed specifically require parties to establish and contribute to the operation of a disaster management, early warning, or oversight center.²²²
4. *Costs and support to other Countries*: In two instruments mentioned above, the ASEAN Agreement and the Agreement Establishing CDERA, the Parties agree to provide or consider providing assistance to other countries when requested, as to some types of emergency and disaster response measures. In some instruments, these cost-sharing measures are less specific, often either non-mandatory or entirely absent. As noted in Annex III, a few sectoral instruments also call for post-disaster remediation activities, where a disaster, accident or emergency causes harm to particular ecosystems or resources of concern.

²¹⁹ Available online at <http://www.sadc.int/> -- menu "legal instruments / protocols"

²²⁰ SADC Protocol on Politics, Defence and Security Co-operation, at article 2.2.

²²¹ Cartagena Protocol on Biosafety (2000 Cartagena de Indies), Art 17.1; Similar provisions are found in the Basel and Rotterdam Conventions, the Cartagena Protocol, and virtually all of the documents shown on Annex III as "regional instruments."

²²² The most relevant examples of this approach are found in the Agreement Establishing CDERA, and the ASEAN Agreement on Disaster Management and Emergency Response, discussed above. Their value is been strongly supported by Brader. *et al.* 2005, evaluating this approach to international cooperation on disaster/emergency issues, in the context of locust infestations. See footnote 179.

1.10 International Programs for Disaster Reduction

Within the international community, despite the lack of a single binding instrument on disaster issues, a high level of activity is currently ongoing regarding disasters, which are perceived to be on the rise, both in frequency and in severity. Although most participants in these processes recognize a close interlinkage between international disaster reduction processes and the current international attention to climate change issues, this work is entirely distinct from (but frequently coordinated with) the UNFCCC and associated programs. Undoubtedly, this connection is beneficial for the disaster/emergency processes, in light of current high levels of international attention to climate issues.

In general, the UN's International Strategy for Disaster Reduction (UN/ISDR) has been the central nexus of these activities, sometimes appearing as a partner in the Global Facility for Disaster Reduction and Recovery (GFDRR). Since its establishment in September 2006, the GFDRR has evolved into a partnership of 25 countries and international organizations²²³ "committed to helping developing countries reduce their vulnerability to natural hazards and adapt to climate change."

International focus on disaster issues and disaster relief has been of much longer standing, however. Its initiation appears to have been the first World Conference on Natural Disaster Reduction, in 1994, which produced the Yokohama Strategy and Plan of Action for a Safer World, providing a basis for focused attention to the particular contribution that countries could make to improving safety in disasters and emergencies. This was followed in 2005 by the World Conference on Disaster Reduction in Kobe, Hyogo, Japan, and which adopted the so-called Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (referred to as the "Hyogo Framework for Action" or HFA).²²⁴

Central to all of these activities is a strong commitment to promoting "disaster risk reduction" (DRR) as well as (and often in preference to) disaster response. This distinction can be described as an approach geared to action before any disaster has occurred. Specifically, it refers to identifying and eliminating vulnerabilities, and, in the words of the framework, "building the resilience of nations and communities to disasters" As stated in the International Strategy for Disaster Risk Reduction of the United Nations,

*'Natural hazards by themselves do not cause disasters; it is the combination of an exposed, vulnerable and ill-prepared population or community with a hazard event that results in a disaster. Therefore, we should put our efforts on the mitigation of the impact of natural disasters, and on the strengthening of the preparedness of the societies, including the most vulnerable and the poor among them.'*²²⁵

DRR's goal is to ensure that when a natural event occurs, it will be less likely to result in "disaster." One consequence of this focus is an apparent tendency to divide national disaster issues into two categories – DRR and "disaster response" – giving decided preference for the former. For regions and some countries, which are forced to expect at least one natural disaster per year, this distinction may be off-putting, suggesting that their disaster/emergency-response needs will get short shrift in comparison to the spotlight on disaster prevention.

²²³ Including the ACP Secretariat, Australia, Belgium, Brazil, Canada, Denmark, European Commission, Finland, France, Germany, India, Ireland, Italy, Japan, Luxembourg, The Netherlands, Norway, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States, UN/ISDR and The World Bank.

²²⁴ UNGA Res/61/198, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/506/25/PDF/N0650625>. See also Report of the World Conference on Disaster Reduction Kobe, Hyogo, Japan, 18-22 January 2005 (UN Document A/CONF.206/6)

²²⁵ UN. 2005.

The fact remains, however, that international DRR discussions have generally increased the availability of resources (informational, financial and others) and provided a useful and potentially high-profile impetus for political commitment to addressing disaster/emergency issues at the national level. Many of the issues addressed in the current analysis and report are receiving significant attention in the DRR discussions, including particularly the importance of

- expanding regional and sub-regional cooperation; and
- harnessing the potential and innovative capabilities of the private sector (especially insurance and other risk-related finance mechanisms).

At base, however, the primary international legislative mention within DRR discussions is set out as item 1 in the Hyogo Framework: “Ensure that DRR is a national and local priority with a strong institutional basis for implementation.” In this connection, although most DRR discussion focuses on activities, it also recognizes the need for a “national framework.” This concept is so frequently mentioned that, in discussions with experts who are active in these international processes, the term “national framework” is sometimes thought to refer only to DRR activities, and not to the legislative and administrative structures necessary to prepare for and respond to the disaster/emergency situation itself.

PART II

2.0 Comparison and Contrast of the Legal and Institutional Frameworks

In this part, this study provides

- a comparison and contrast of the legal and institutional frameworks in countries around the world with the legal and institutional frameworks in the Caribbean, to the extent that they are generally known, to consider how the instruments studied for this analysis can be identified as best practices for purposes of legal and institutional disaster/emergency frameworks in the Caribbean, once each CELP country has identified and considered current legislative and administrative gaps;
- an assessment of the effectiveness of legal and administrative provisions in countries around the world, and in international legal instruments, related to channels of responsibility during a state of emergency; and an assessment of their replicability in the Caribbean,²²⁶ and
- some suggestions regarding best practices and recommendations for Caribbean legal and institutional frameworks.

The discussion of “best practices and recommendations” in this part is derived from a combination of all of the above, and focuses primarily on legislative practices relating to the use of other countries’ law in national legislative drafting.

The legal frameworks examined include both national and international instruments. The following discussion begins with national examples (the “key provisions”) and the factors determining their effectiveness and replicability, and then turns to brief consideration of international instruments and processes studied, followed by certain conclusions and recommendations regarding the value and effectiveness of these instruments, in enabling particular national approaches presented to disaster/emergency prevention and management in the CELP countries.²²⁷

2.1 National Disaster/Emergency Instruments and Frameworks

The Terms of Reference call for an “assessment of the effectiveness of legal and administrative provisions in countries around the world ... related to channels of responsibility during a state of emergency; and an assessment of their replicability in the Caribbean.” Accordingly, the following discussion begins by presenting what could be known or discovered regarding the “effectiveness” of the national legislation “in countries around the world,” focusing on those identified in Appendix 1, considering the particular legislative issues. It will then consider the factors that will determine various clauses potential “replicability in the Caribbean”, in the event of national legislative development in CELP countries.

2.2 Legislative Development

²²⁶ For ease of reviewing this document, the consultant has reversed the first two bullets above, and considers the effectiveness question before undertaking a formal comparison and contrast.

²²⁷ A significant number of the laws and regulations directly focused on emergency or disaster that have been examined in this Activity are relatively new instruments, most of which have not been applied in emergency situations to any great extent. As such, discussion of their effectiveness cannot rely on standard concepts of “effectiveness” evaluation as defined in the field of monitoring and evaluation, which focus on outcomes and impacts. These more standard concepts are fleshed out in Epstein, 1977. *See also, e.g.,* Kusak, and R. Rist, 2004; Lushaus, C. Lacking bases or baselines for a traditional analysis of “effectiveness”, this analysis focuses on the potential usefulness of international instruments to countries and agencies addressing disaster/emergency issues on-the-ground.

The CELP countries have all reportedly adopted some type of measures within the general heading of “disaster/emergency legislation,” generally using two approaches. First, some appear to be committed to a unified management by a designated emergency agency (e.g., Trinidad and Tobago). Others, however, appear to envision a coordinated response by a large number of agencies, offices and officials from many different ministries, each of which may have its own specified disaster/emergency legislation and powers (Grenada, St Kitts & Nevis, and perhaps Jamaica).²²⁸ Internationally, both approaches are common, and the primary recommendation and best practices indicate that each country should consider its own unique economic, governmental and social factors, in formally (and as publicly as possible) adopting some national platform for disaster reduction, which clarifies the country’s “hazard map” – to help all participants identify the best or most appropriate administrative responsibilities and pathways within the disaster framework, no matter which of the two approaches the country has chosen.²²⁹ While many countries’ disaster/emergency officials are particularly pleased with their own frameworks, there is not clear “best practice”. Individual needs are clearly paramount.

Normally, approaches calling for coordination of many agencies with separate mandates in emergencies are found in two situations, (i) where national agencies have been proven to operate effectively and selflessly in situations of urgency; and (ii) where turf battles prevent agencies from surrendering any part of their respective mandates. Practical lessons are best learned from countries in the first category, which have demonstrated the value of the creation of coordinating committees composed of high-level officials from each relevant ministry, agency or other body (for example, inter-agency coordination on biosafety in Mexico, and on conservation in Seychelles and Norway). Unfortunately, those lessons are frequently not particularly valuable when applied by the second group of countries. Thus, although in common use around the world, the multi-agency coordination approach has varying levels of effectiveness.²³⁰ The level of latitude given each agency or ministry varies from country to country. In some, a general statement of authorization or mandate will not be sufficient to authorize particular necessary actions; while in others, a very detailed statement of duties may be unnecessary and possibly limiting.

Nearly all significant or overarching legislative/administrative development relating to emergency/disaster law occurs in countries recently after they have suffered major disaster or emergency events. This factor is closely related to the alignment of political will within the country, to avoid suffering such significant injury or damage in the future. As expressed in the context of the UN International Strategy for Disaster Reduction,

“The post-disaster reconstruction period provides the best time to introduce disaster reduction into sustainable development planning. When perceived as a distinct set of activities, risk management initiatives are placed in competition with other environmental and developmental objectives, rather than being seen as integral parts of the same whole. Therefore, political commitment and social acceptance of the value of risk reduction are necessary to increase the sustainability of communities.”²³¹

²²⁸ These descriptions are based on an early deliverable from Activity 1.1, as well as discussions in the May 21, 2010 CELP workshop in St. Lucia. In gratitude.

²²⁹ See, e.g., UN, 2004, at para. 94.

²³⁰ Discussions of this type of mechanisms, in meetings national officials in Mauritius, Seychelles, Tonga, Malaysia, and Zambia indicated that the effectiveness of the mechanism is greatest where high-level officials actually attend the meeting or are fully briefed by their designee at an equally high level. At the same time, all agreed that very high-level membership virtually guarantees that the committee will meet rarely. Commonly, such meetings are hosted by one agency, which is presumed to be the “lead” on the issue at hand. As a result, it is common that the representation at the meeting will involve a high percentage of representatives of that lead agency and its ministry.

²³¹ UN/ISDR (2004) at page 20

Similar responses were noted in many different countries, often focused on re-assigning disaster focal point responsibilities to agencies better able to promote intra-governmental coordination.²³² Thus, in Central America, legislative development has focused on institution development, with the goal of centralizing or decentralizing, according to the country's perception of the needs, and aligning the primary disaster/emergency responsibilities with the ministry responsible for the sector of greatest concern.²³³ National legislation in Nicaragua has been particularly praised as "considered by some commentators to be the most advanced examples for disaster reduction in the region at the present time, drawing as they do on both the administrative authorities of the national civil defence organization as well as the more analytical and technical capabilities of the professionally-regarded Nicaraguan Institute for Territorial Studies."²³⁴

Finally, analysis of national legislation around the world indicates that countries generally move from the use of system-models that are relatively similar to other countries (adopted as initial legislative approaches) to increasingly individual systems that are effective within their own unique national governmental, social, political and environmental situations. Disaster/emergency officials around the world suggest taking some action as soon as possible, and realizing that initial choices will be revised and refined in light of each successive experience. They note the common fear of making a mistake often holds legislators or agencies back, but should not be allowed to. ("The perfect is the enemy of the good.") In essence, experience appears to be the teacher that enables each country to fine-tune its emergency-disaster legislation, to address and adjust to challenges identified and obstacles encountered in the country's most recent emergency or disaster.

For example, following the 2007 floods in Bolivia, the Bolivian government was highly motivated to take legislative action on

*'suggestions for improvement which were put forward by the various actors focused on the same aspects of the system: first, plainly and exactly defining the roles, responsibilities and tasks of every organ and institution in SISRADE [the country's disaster framework] – from the president's office, all the way down to the municipal and most local level; and second, clearly and explicitly mandating coordination and cooperation procedures, as well as information exchange between all actors'.*²³⁵

Similarly, in Indonesia, following the Asian tsunami,

'Many of the laws and regulations applicable to the entry of foreign organisations did not support a relief situation, and were overwhelmed or ignored altogether, particularly at the start of relief operations. The Indonesian government was reasonably quick to recognise the limitations of its pre-existing legal and policy framework. Consequently, ad hoc legislation

²³² See, UN/ISDR, 2004 at page 84: "For example, in India, the national authority for disaster management had been with the Ministry of Agriculture for many years, reflecting that country's historical concerns with flood, drought and famine. Elsewhere other government institutions tended to concentrate on the emergency services associated with post-disaster rescue, relief, reconstruction and rehabilitation, as well as maintaining public law and order during times of crisis. Broader concepts of risk management have begun to take hold more recently in some Asian countries at national levels. Thailand has revamped its disaster management system in 2002 and set up a new department of disaster management in the Ministry of Interior. In addition to Viet Nam, discussed below, elsewhere in South-East Asia both Cambodia and Lao People's Democratic Republic have established or reconfigured their national disaster management offices with support from the UNDP. Cambodia particularly has made considerable progress in structuring national policies increasingly focused on disaster risk awareness and management, with accompanying national training programmes led by the Cambodian Red Cross Society. The Philippines is considering new legislation to widen the scope of its Office of Civil Defense and the National Disaster Coordinating Council."

²³³ UN/ISDR, 2004 at pages 92-9.

²³⁴ UN/ISDR, 2004 at pages 92-3.

²³⁵ Costa, D., 2008b, at p 27.

was passed, new institutions created, and policies amended in response to the disaster. The Indonesian Government also introduced harmonising legislation and modified the disaster response mechanisms to better support both local NGOs and the international humanitarian community in Aceh and Nias.²³⁶

In Thailand, following the same disaster, officials were quick to state that “*the Civil Defense Act of 1979 will soon be ‘superseded’ by a new act.*”²³⁷ Similar experiences were noted in Sri Lanka,²³⁸ Turkey,²³⁹ and Vietnam,²⁴⁰ in the wake of particularly injurious disasters.

While, as noted above, the basic frameworks of national disaster law and administration are essentially the same, each country’s own experiences with disaster/emergency situations causes it to identify particular characteristics of their own system that can or should be adjusted. Thus, in Korea, following the devastation of Typhoon Rusa,

*‘[T]he government ... amended the Natural Disaster Countermeasures Act within a matter of days to provide the basis for the declaration of a special disaster area [to address the challenges of “reckless development” areas]. Subsequently, the government has drawn on the experience of Typhoon Rusa to make several improvements in its disaster management system. Significantly, a task force was established under the office of the prime minister to undertake the planning of comprehensive flood mitigation countermeasures.’*²⁴¹

²³⁶ Bannon, V., 2006a.

²³⁷ Bannon, V. 2006b. Further in the work, the study notes some of the proposed changes: “This act will, in part, try to consolidate the national capacity to respond to disaster emergencies by improving the role of the DDPM as the central coordinator. This would involve bringing together the National Civil Defense Committee (within the Interior Department) and the National Safety Council (within the Prime Minister's Office) to form a single “national disaster committee” facilitated by the DDPM. In addition, the new Act will try to improve the capacity of local government (progressively to the sub-district level) to plan, prepare and respond to emergencies. The DDPM is also currently facilitating the drafting a new, updated, National Disaster Management Plan. Following the tsunami, and to guide the GoSL in developing its regulatory framework for disaster management, the GoSL also formed the Parliamentary Select Committee to Recommend Steps to Minimize the Damages from Natural Disasters.” See *Report of the Sri Lankan Parliament Select Committee to Recommend Steps to Minimize the Damages from Natural Disasters* available at <http://www.srilankanparliamentonnaturaldisasters.org>.

²³⁸ Bannon, V, 2006c. “Prior to the tsunami, legislation for disaster management had been drafted but not yet approved by Parliament. Immediately after the tsunami, it was expeditiously taken up for parliamentary discussion and numerous drafts were tabled. The resulting Disaster Management Act no. 13 of 2005 was passed on 13 May 2005 with the NCDM and the NDMC formally established on 29 September 2005. The GoSL has also demonstrated a financial commitment to this process by specifying disaster management as a specific sector in the 2006 National budget.”

²³⁹ İsbir, E.G. and F.N. Genç, 2006. New legislative development included a “*new Code on Special Provincial Administration, the Code on Metropolitan Municipalities and the Code for Municipalities, ...Plans for the cooperation of the civilian authority and the military authority ..., the Code for the Strengthening of Buildings and the construction control system ..., Housing standards ..., [establishment of], Search and rescue teams ... in 11 provinces, ... and Reception centers ...at the airports.*” In addition, the Ministry of Health initiated restructuring while “[c]ertain coordination problems were resolved damage determination criteria was developed... and relevant legislation was taken so that crisis centers were regulated on 24- hours basis.... The Central Administration brought a new dimension to the Decrees no: 583 and 600, but its infrastructure and regulation has still not been prepared.”

²⁴⁰ UN/ISDR, 2004b. (Vietnam case study) “*Since 1993, it has pursued a methodical strategy of enlarging its consideration of hazard and risk factors in relationship to national development objectives. At the same time it has proceeded to expand its institutional capabilities. ...[T]he country has done an admirable job of creating and continually expanding the capabilities of a national Disaster Management Unit (DMU). While the DMU is entrusted with the responsibilities of emergency warning and management, the overall strategy is motivated by a foremost consideration of identifying, preparing for, and managing hazardous risks. ...The country has more recently ... embarked on a strategy for inhabitants of the Mekong River delta to ‘live with the floods.’ A series of measures has been employed that range from relocating particularly vulnerable communities to safer ground, to altering the cropping calendar. An innovative programme that is possibly unique in the world introduced the concept of opening temporary “emergency kindergartens” where parents can leave their children under supervision at the time of emergency, when parents are otherwise preoccupied with securing personal possessions and other resources crucial for their livelihoods.*”

²⁴¹ UN/ISDR, 2004b (Korean case study.)

It is probably a small wonder that most of the laws reviewed in this study have not yet been tried in actual disaster situations, having been repealed and/or replaced following the most recent emergency/disaster situation to address the practical challenges encountered. That process normally embodies very specific alterations, rather than entirely new disaster/emergency approaches. Indeed, the bulk of the recommendations at the international level focus on the importance of ensuring that new disaster legislation accords and integrates with existing legislation, rather than creating something so new that it might be controversial or encounter unexpected challenges in attempting to operate within the country's existing system.

2.3 Legislative Effectiveness

Consideration of “effectiveness” of any institution, project, activity or practice is generally interpreted to involve an outcome-based examination or assessment of the “on-the-ground functionality” of that institution, project, activity, or practice. Application of the effectiveness concept in a “desk study” of legislative instruments is recognized to be an uncertain and relatively undependable process. The established process of identifying criteria and indicators of effectiveness is normally recognized to be difficult when applied to legislative instruments. For example, experience has shown that paper evaluation of a legislative framework is decidedly not determinative of the legislation's performance. Most draftsman have had the experience of reviewing a legislative instrument or framework that would fail any test of legislative draftsmanship,²⁴² but discovering that it operates effectively within the country that enacted or adopted it.²⁴³ Thus, perfection of legislative draftsmanship has long been discounted as an indicator of legislative effectiveness.²⁴⁴

Moreover, legislation frequently takes a long time to be fully implemented, particularly where it involves creating institutions/agencies and/or adopting and applying standards to govern particular activities. In the CELP project, this challenge is embodied in the building codes being developed throughout the region.²⁴⁵ The adoption of such codes themselves will normally require a relatively complex, individualized process for determining (i) which particular kinds of standards are relevant and necessary within the country, region, district, village or municipality adopting the code; (ii) what level of performance standards can reasonably be expected of persons and entities that build or adapt structures and infrastructure within that area; and (iii) what level of capacity the relevant governmental entity or sector has for implementing relevant requirements, and enforcing primary provisions of the code. These analyses themselves will take significant time, after which the processes of agreement on particular standards and requirements and drafting them into non-ambiguous legislative language (sometimes denigrated as “legalese”) will require more time. The next time-consuming step will be formal adoption of the building code, including in most cases a variety of types of publication. Alas, the foregoing is only the beginning. After adoption, the government will need to create and/or authorize the relevant government agency to implement the code's requirements, and that agency will in turn have to build up its own internal structure and procedures for meeting these implementation (and enforcement) obligations. Finally, the contents of the new code and the particular activities and permissions necessary to comply with the code must become known to the

²⁴² By, for example, being vague and ambiguous, omitting key elements and/or sometimes not being written in legally actionable terms (*i.e.*, not clearly mandate the relevant government activities and/or not clearly stating the responsibilities or prohibitions on the actions of individuals, entities or government in a way that can be used to compel performance through legal or other action or demand.)

²⁴³ A recent example encountered by the consultant is Mexico's legislative framework on biosafety and genetically modified organisms – a framework which is functional through the current participation of a committed group of officials operating across ministry lines, but which is supported by a body of confusing, poorly drafted and inconsistent legislation. Hårstad, *et al*, 2005, at chaps. 8 and 10.

²⁴⁴ See, *e.g.*, Young, T., Amador, *et al.*, 2009.

http://www.fao.org/eims/pbe/eims_search/simple_s_result.asp?topic=260&language=EN.

²⁴⁵ Draft Country Assessment Report at pp 84, 96, *et passim*.

public, and a body of practical experience relative to the code and its use needs to build up. Consequently, one normally assumes that a practical or operational evaluation of such a framework will only be appropriate after a period of five to ten years (depending on how expeditiously it is implemented, and how large the country or its bureaucracy is.)

2.4 Channels of Responsibility during a State of Emergency

The phrase “channels of responsibility” from this study’s TOR raises an issue that is not fully discussed in any of the literature or legislation relating to emergency or disaster, including in the CELP countries – lines of authority and focal points. Each country’s designation of its national disaster authorities to CDEMA is assumed to identify the primary relevant authority in each country. There is no way to determine from legislative review, whether there are any difficulties related to the collaboration of relevant authorities and/or channeling of responsibilities in any of the CELP countries. In interviews with national disaster/emergency personnel in other countries, there were hints that “channel-of-authority” issues might be problematic, however, no official claimed this to be a systemic problem – most claimed it was very individual to particular organizations or individuals.

It is not clear whether or to what extent it will be useful to compare national organigrams of disaster-emergency lines of responsibility between the countries studied and the CELP countries. Instead, the main comparison issue is set forth in the above discussion of principle types of frameworks and approaches found in the “key provisions” and a few indications of their potential effectiveness in the countr[ies] in which they have been adopted. This approach to “effectiveness” will focus on the apparent legislative intent, the current status of the legislation, and the experiences of the consultant and others with regard to that type of legislation. It will address these issues under four specific headings, beginning with an examination of the designation and powers of persons or agencies responsible for emergency/disaster response and management; then considering the role of law in emergency/disaster management planning; the nature of disaster-management authorities, and a range of financial measures that have been adopted in those countries that are directly relevant to emergency/disaster response and management.

A primary “channel of responsibility” issue relates to the power to declare a “state of emergency”, a “disaster” or some other term for a similar condition, as well as the special powers or authority that the declarer or others will have while such a declaration is in effect. Countries outside the Caribbean have adopted a range of provisions addressing these matters, as detailed in Part II. Legislation around the world related to declarations of emergency/disaster varies according to each country’s unique to that country’s governmental framework. In countries that have relatively inflexible governmental checks and balances, a constitutional declaration will often be designed to create special powers for the central government in the event of a rather broad range of “emergencies” including war, domestic insurrection and in some cases commercial strikes. In some countries, disaster response processes and natural resource emergency activities are tied to or triggered by the central government’s declaration of emergency or disaster. In other countries (including some that have a constitutional process for declaration of emergency or disaster) another agency or minister has a power to declare emergency/disaster, usually tied to special powers to access funds and/or to trigger the application of disaster/emergency plans.

Where a country has more than one law that addresses such declarations, some have adopted legislation to clarify in detail a declaration process that was originally described in the constitution.²⁴⁶ Others have adopted a separate type of declaration relevant to natural disasters and/or certain manmade emergencies.²⁴⁷ In this type of system, each declaration has a distinct purpose. Thus, in some situations, it

²⁴⁶ Examples of this approach are found in the key provisions: Botswana, Essential Supplies and Services Act, Chapter 22:05 and Emergency Powers Act, Chapter 22:04; and Fiji, Emergency Powers Act, No. 28 of 1998.

²⁴⁷ See, Marshall Islands, Disaster Assistance Act, Chap. 10

may be necessary to have both a constitutional declaration (or for constitutional purposes) and a disaster/emergency declaration under disaster/emergency legislation (or for purposes of triggering disaster management plan or special funding processes.)²⁴⁸ In some countries, both aspects are included in every declaration.

An alternative linkage question – the lack of any reliable linkage between a particular legislative instrument and any particular on-the-ground result (i.e., the challenge of identification and measurement of appropriate indicators) – may pose the most difficult challenge for evaluation of legislative effectiveness of particular clauses or tools. If a law forbids some particular activity such as, for example, construction in a flood zone, and one later finds that fewer people are cited for engaging in that activity, is the decline in these activities caused by the law? More active enforcement? Or some other factor that has motivated people to avoid that zone when engaging in construction? The presumption that the enactment of a law changes behavior is not always justified,²⁴⁹ particularly where enforcement of the law is impractical, unfinanced or poorly motivated. Often new laws are not well known to the regulated public, but the same factor that prompted the legislature to adopt a law (e.g. wider awareness of the areas susceptibility to flooding) will also motivate members of the public to take the desired action even if they do not know of the law.

A further limitation on evaluation of effectiveness arises due to the need for personal experiences in the countries whose laws have been studied. In seeking this input, many of the most responsive officials admitted that their laws that are relatively new, and have not been applied in an on-the-ground disaster or emergency. As a result, much of this study's conclusions are based on a combination of (i) the consultant's prior experience in some of these countries, (ii) literature review concerning the particular issues, and (iii) incidental contacts with other persons from the key-provision countries (i.e., persons not directly involved in implementing disaster/emergency related legislation.)

2.5 Disaster/Emergency Plans and their Preparation

Another essential element relating to any country's "channels of responsibility" in an emergency/disaster is the careful delineation of the responsibilities and powers of each relevant official or agency in the event of a disaster. Such delineation is normally a critical element in each country's national disaster management plan. Even countries which prefer to give their officials and agencies a high level of flexibility in most situations will normally prefer to be very specific about certain responsibilities in their disaster/emergency plan. The need for prompt action and difficulties in communicating may make it essential for institutions to operate predictably and to perform their specified functions dependably during an emergency, even if normal communications are down. At a minimum, each agency or individual must know where to turn and what they will find, with regard to each key element of the disaster plan.

The "key provisions" include many that specifically mandate the preparation of a disaster plan or emergency plan at one or more governmental levels,²⁵⁰ including one example of detailed legislation

²⁴⁸ These issues are variously addressed, in some detail, with examples from constitutions and other laws around the world, in the first deliverable at I.A.i and I.B.i-iii.

²⁴⁹ Legal ethics and the ability of law to change behavior have been topics of discussion for decades, if not centuries. While some extol the idea that legislation is a tool for altering unobservable or unenforceable behaviors (*see, e.g.,* Bingham, T., 2010) others note the limited impact that the passage of certain environmental laws has actually had on the specific human actions toward which they were directed. *See, e.g.,* McNeely and Sochaczewski, 1995.

²⁵⁰ *See, Canada, New Brunswick, Emergency Measures Act, S.N.B. 1978, c. E-7.1; Fiji, Natural Disaster Management Act, No. 21 of 1998; India, Disaster Management Act, 2005, Act No. 53 of 2005; Kiribati, National Disaster Act 1993, No. 12 of 1993; Lesotho, Disaster Management Act, No. 2 of 1997; Micronesia, Fed. States, Disaster Relief Assistance Act of 1989, Title 41, Chap. 7 Code of the FSM; Papua New Guinea, Disaster Management Act, 1984; Samoa, Disaster and Emergency Management Act, No. 13 of 2007; RSA, Disaster Management Act, No. 57 of 2002; Thailand, Disaster Prevention and Mitigation Act, B.E 2550 (2007); Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000).*

based on (and mirroring) such a plan.²⁵¹ Examination of national websites and other sources indicates that most countries that have legislatively required disaster/emergency plans, have such plans in existence. None of the Key-provision countries, however, were able to provide specific information about the effectiveness of their disaster/emergency plans, whether because they did not respond to the consultant's requests for such information, or because their emergency/disaster framework has not been adequately tested in practice as yet. Research into recent emergency situations such as the 2005 Indian Ocean Tsunami,²⁵² the 2003-05 Sahel Desert Locust infestation,²⁵³ recent drought, flood and conflict emergencies in the Horn of Africa (Ethiopia, Kenya, Somalia, Uganda and southern Sudan),²⁵⁴ the panzootic spread of highly pathogenic avian influenza in Asia and other regions²⁵⁵ and the 2008 Earthquake in Pakistan²⁵⁶ finds that all evaluators rather strongly aver that advance planning and "practice runs" in the form of formal and informal exercises in implementing such plans are a major contributor to effective emergency frameworks.

In this respect, effectiveness of disaster management frameworks is less a function of legislation than of operative experience, dependent less on the legislation than on its implementation. To be effective, any type of governmentally mandated management planning must respond to the unique needs of the country, region, district, village or municipality in which it will be implemented.²⁵⁷ Where plans are adopted through a detailed participatory process, including active participants from all relevant institutions, agencies and communities, the result will often be a unique instrument that addresses the special needs and characteristics of the country, state, community or village to which the plan applies. All of the post-disaster evaluations cited above indicate that the effectiveness of pre-emergency/disaster planning turns primarily on the extent to which the plan's advance implementation is actually undertaken in a supportive and well financed process. By contrast, where the responsible entities merely adopt and/or adapt a plan that is in use elsewhere, the plan will frequently not achieve the level of "buy-in" necessary to ensure that affected area, agency or sector will prepare and implement it in advance of the disaster and/or will actually find it useful when the disaster strikes.

2.6 Establishment of Authorit[ies]

In most of the "key provisions," a significant percentage of the text is given over to the formal legal establishment of one or more governmental disaster/emergency authorities, and the delineation of their mandates.

a. In general

Depending on how the country is otherwise governed, this framework may include specific establishment and/or mandates for authorities at regional, district, village or municipal levels or may simply make a generalized decision to create an agency or body, which is mandated to establish the components of an appropriate framework. One important difference among countries relates to the relationship among the various bodies created, and especially their relationship with other entities that have disaster/emergency responsibilities, particularly the extent to which the legislation enables the coordination and hierarchy among agencies (particularly whether bodies established at sub-national levels are subordinate to the

²⁵¹ Indonesia, Government Regulation ... on implementation of disaster control, No. 21/2008.

²⁵² See, e.g., Gentner, 2005; IASC, 2006b; RISEPAK, 2006; FAO 2006; and Government of Sri Lanka, 2005.

²⁵³ See, e.g., Brader, L., *et al.*, 2006.

²⁵⁴ See, e.g., Nicholson, N., *et al.*, 2007.

²⁵⁵ See, e.g., Wilshire, A., *et al.*, 2007.

²⁵⁶ See, e.g., Watt, *et al.*, 2005; Pakistan Ministry of Food, Agriculture and Livestock, 2006.

²⁵⁷ See Oglethorpe, 2001.

authority of the national agency or independent structures that have direct responsibility to address and implement the matters within their mandate throughout their jurisdictional area.)²⁵⁸

Within the emergency/disaster frameworks studied, there are generally three kinds of bodies: (1) standing agencies or offices (governmental staff); (2) coordination commissions or similar cross-agency/cross-ministerial bodies comprised of representatives of a wide range of governmental and/or non-governmental units that are potentially involved in disaster/emergency prevention and/or response; and (3) oversight and/or advisory commissions whose membership consists of government or non-governmental members (or both). Any or all of these may be found at all levels or only at one level.

The amount of detail in a law with regard to the establishment of disaster/emergency authorities and other bodies varies greatly, according to a combination of the country's legislative "style" and particular recent experiences, goals or challenges. Thus, a country that has experienced difficulties relative to the establishment of agencies or commissions, or faced legal challenges arising out of procedural problems or disagreements over its mandate, may include detailed provisions to help prevent such difficulties from arising in the future.²⁵⁹ Options presented in the key provisions range from very detailed legislation specifying the composition and procedures of some or all bodies created²⁶⁰ to very general provisions establishing one or two central bodies and calling on them to design and create whatever structure is needed.²⁶¹ In some countries this type of detail is required to address all key parliamentary matters relating to the composition, function and procedures; however, in others, these matters are not addressed, presumably either because they are generally addressed in the country's basic laws governing agencies or because there is an established practice of all agencies and ministries, which the new agency will be expected to follow. The selection of an overall approach and objectives will be an important determinant of which "key provisions" are most relevant and useful to the specific drafting objectives each country undertakes.

b. Standing vs. *Ad-hoc* Authority

Literature on national emergency issues places strong emphasis on the need for preparation and training for plan implementation to be effective.²⁶² This may indicate that an emergency framework that operates through a standing agency will be more effective than one that expects to form an ad hoc emergency/disaster relief agency at the time an emergency/disaster occurs. Among the "key" provisions, some assume that an ad hoc entity or task force will be designated at the time an emergency/disaster strikes (possibly supplementing other agencies).²⁶³ These laws essentially eliminate any legal/legislative/administrative roadblocks to setting up such ad hoc entities and initiating their operations.

²⁵⁸ Discussed in detail in Part II.A..

²⁵⁹ See, Mauritius, Forest and Reserves Act (1983), which includes specific provisions relating to the power of forest agencies enforcing laws and regulations. In that country, shortly before the enactment, an enforcement action against a known violator had been dismissed over irregularities in the way that forest officials gathered and presented evidence. Personal communication with Wahab Owadalli. Particular "fixes" for specific legal or practical issues are present in the legislation of most smaller countries and SIDS. Such adjustments are recommended in the draft Country Assessment Report at Parts III and IV. Their specificity means that they are not generalize-able, but must be developed in light of particular legal, social, economic and physical conditions of the particular country developing or enacting legislation.

²⁶⁰ See, e.g., examples from Ethiopia, Fiji, India, Papua New Guinea, RSA, and Tonga.

²⁶¹ See, e.g., examples from Kiribati and the Northern Mariana Islands.

²⁶² See, e.g., FAO, Real Time Evaluation of Emergency and Rehabilitation Operations in Response to the Indian Ocean Earthquake and Tsunami (2006).

²⁶³ See, e.g., Lesotho, Disaster Management Act, No. 2 of 1997; Northern Mariana Is., Disaster Relief Act of 1979, P.L. 1-023; Vanuatu, National Disaster Act, Cap. 267 (Act 31 of 2000)

For some countries, a combination of limited manpower and budgetary concerns indicate that a relatively small staff component should be responsible for emergency/disaster planning and administration year-round. Based perhaps on a general assumption is that these year-round staff members are not necessarily the persons most qualified to take on direct responsibilities during a disaster or emergency, the law also enables (or mandates) the creation of a specific ad hoc agency or task force when disaster strikes.

The year-round emergency/disaster agencies in the CELP countries will (it is generally assumed) take the primary role in overseeing, mandating and coordinating response whenever disaster strikes. It is possible that any such agency may be strengthened by possessing the power to establish or recommend the establishment of one or more ad hoc agencies or task forces, as an option, when needed.

2.7 Funding Options

The primary literature on disaster/emergency response in recent events has strongly demonstrated the importance of accessible funding to successful emergency response. Experts have almost uniformly cited funding deficiencies as the primary challenge facing national emergency/disaster institutions and frameworks. They note that where funding for emergency situations is formally budgeted or otherwise set-aside in advance, that funding has often been critical in enabling a country to take rapid response action in particular occurrences.²⁶⁴ Even where available funds are often not sufficient to cover the entire disaster response activity, experts have noted that countries experience better initial “rapid response,” and that this factor appears to have a critical impact on the effectiveness of the overall response, the diminution in damages suffered, and the increase in speed with which the emergency/disaster situation will pass. No matter how willingly and generously external assistance is given, those funds, services and goods may take days, weeks or months to become available. Consequently, the most important question relating to legislative effectiveness should be as follows: *How effective are in-country financial mechanisms, as tools to streamline mobilization of emergency funds when an emergency occurs?*

The answer to this question is as individualized as any other legislative matter. When adopted and used legislatively, all of the financial mechanisms and processes discussed in this paper share the same uncertainties; that is, in certain countries they may be perceived to have mandating effects, but when copied in other countries, those effects will be diminished through the application of the second country’s very different national legal practices and customs.

2.7.1 Emergency/Disaster Fund

Appendix I includes nine legislative examples, which specifically create or enable the creation of some type of standing “emergency/disaster fund.”²⁶⁵ In general, experts often recommend the creation of such funds, reflecting an apparent preference for this approach expounded by law and technical assistance experts around the world. This preference arises from obvious sources. First, a fund or account of this type is the logical/rational choice in legislative drafting, in the same way that it is logical for families and homeowners to put aside some savings “for a rainy day.” Obviously, if one wants to assure that he will have sufficient available funds to address some unknown, future emergency, the logical suggestion is to create an untouchable account, to be used only in case of such emergency.

²⁶⁴ See e.g., Brader, 2006.

²⁶⁵ American Samoa, Territorial Disaster Assistance Act of 1978, Chapter 01 of Title 26; Canada, New Brunswick, Emergency Measures Act, S.N.B. 1978, c. E-7.1; Ethiopia, Relief and Rehabilitation Commission Establishment Proclamation ..., No. 173/1979; Lesotho, Disaster Management Act, No. 2 of 1997; Micronesia, Fed. States, Disaster Relief Fund, Title 55, Chap. 6, Subch.II: Code of FSM, and Pohnpei, Emergency Relief Funds, Title 36, Chap. 4; Pohnpei State Code; Nigeria, National Emergency Management Agency (Establishment, etc.) Decree, No. 12 of 1999; Seychelles, National Emergency Foundation Notice, 2005, Cap. 188A, S.I. 20 of 2005; RSA, Disaster Management Act, 2002, No. 57 of 2002

Second, the advance establishment of an emergency fund can facilitate the creation of streamlined procedures and processes for accessing emergency/disaster funding, that will apply only to (or through) disaster/emergency authorities, and only when certain conditions are present, (such as, in many countries, a formal declaration of the state of disaster or emergency in the country or some part of it.) It is sometimes presumed that the pre-existence of such a fund will diminish or eliminate the complexity of normal governmental financial processes by which agencies access unbudgeted funds, particularly during a time of disaster/emergency, when the government's financial system and its employees may not be operating at top form.

In international practice, however, the widespread preferences for the establishment of such funds have been only partly validated. For countries with generally well funded and effective government finance systems, such funds are often found to be both functional and effective. Where the country's financial resources are on a weaker footing, however, governments are often thought to view special funds of this type as potentially available, as moneys that can be to address other types of needs and priorities.²⁶⁶ It is also possible that the creation of such a fund may impact national budgeting processes, inspiring a decrease in funding of normal non-emergency activities, because the budget deciders assume that the fund will fill the needs of the emergency-management agency. In that event, unless the disaster account is sufficiently funded, the entity using the account must strictly budget its activities to ensure that sufficient funds are always available to address emergency needs when disaster strikes.

In addition to these concerns, some countries have organized their national financial system in a manner that is antithetical to the establishment of separate funds or other "pockets of money" outside of the oversight of the country's government financial mechanisms. In some countries, for example, all money of any type (including separately held emergency funds) that is unused at the end of the fiscal year is returned to the country's general fund, re-budgeted, and in the next year will be subjected to the same funding-request protocols applicable to all budgeted money.²⁶⁷ Such laws governing these financial processes are often written in a way that gives these financial provisions priority over any law that appears to conflict with them.

As a result, legislation to create an emergency/disaster fund bears the same effectiveness caveat that legislative developers recognize for all types of national legislation. Specifically, the effectiveness such a fund within a country's national disaster/emergency framework is less dependent on the contents of the specific legislative provisions than on the organic laws, political commitment and economic ability of the country to commit the relevant funds and to view that commitment as permanent and non-retractable.

Currently an evolution appears to be rolling across continents, with regard to the use of budgeted moneys. In some countries, disaster/emergency funds may only be used to respond to a disaster or emergency. This was an objective of many national laws in past decades. Currently, owing to the prevailing international interest in DRR, many countries are strongly encouraged to utilize funds in pre-disaster times, with the goal of minimizing vulnerability to future disasters.

2.7.2 Other Funding and Budgetary Provisions

For countries that face a real and constant threat of disaster, there is a clear need to address funding both to assure that disaster prevention measures are undertaken and to assure that emergency-response funding

²⁶⁶ One donor representative visiting Tonga described them as " 'little piggy banks' that the government can take for a different use whenever it chooses." *Discussed in Young, 1996.*

²⁶⁷ This description was generated during long in-country consultancies in Mauritius in 1990, Tanzania in 1992 and Myanmar in 1997. Persons contacted in those countries in connection with the current research were not aware of a change in these basic structures.

is rapidly available when disasters occur. Many non-Caribbean countries studied provide examples of legislative provisions that aim to strengthen these assurances. These provisions provide object lessons regarding the fact that “law does not make things happen, it enables them.”²⁶⁸

At the heart of these provisions is the belief that special policy treatment of disaster and emergency funds and disaster-related budgetary allocations is required in all countries. The goal will be to motivate legislators to insert legal mechanisms that essentially guarantee that adequate funds will be on hand at the critical time. While some countries’ laws and practices enable this type of mechanism, others do not. In many countries there is no direct means of ensuring budgetary allocation in future, that is “foolproof” under their national constitutional frameworks.

At the regional level (and possibly at the national level in countries with a high rate of public involvement in governmental oversight), provisions calling for public reporting of “treatment of disaster funds” can indeed provide a compelling tool for encouraging good performance with regard to disaster/emergency financing. While this type of international provision has not yet been adopted in the disaster context, such efforts are ongoing in other contexts. If international commitments are made, they may be relatively easily overseen, given that most countries’ national financial processes at this level are open to public scrutiny. Several international conventions, including most prominently CITES, rely exclusively on publicly naming of countries that are not meeting their commitments, as their primary tool for motivating their member States’ compliance.²⁶⁹

Unfortunately, where political preference and “will” are not strongly aligned with a particular issue, it is very difficult for legislative provisions to have any significant impact on critical functions such as budgeting for that issue and/or establishing financial exceptions and short-cuts. National disaster/emergency legislation can only go “so far” towards addressing funding issues, with each country being sensitive to its own unique set of particular concerns, usually based on particular experiences. Examples from among the key provisions are wide ranging. The following are a few for which particular “pros and cons” can be discussed:

a. Pre-decision of emergency/disaster funding

Several of the laws in the countries studied include legislation designed to effectively pre-empt the budgeting decision or impose restriction on it that will make it difficult for the legislature to skimp on emergency funding. One example is American Samoa, whose law specifically states that “[i]t is the intent of the Legislature and declared to be the policy of the territory that funds to meet disaster emergencies must always be available.”²⁷⁰ It is possible that in some countries this kind of pre-decision might have legal weight in the country’s future budgeting processes. In most countries, such a provision would have no specific weight, although it will undoubtedly be quoted in budget hearings.

²⁶⁸ The quoted words are from Melvin Bolton in Mauritius in 1990. They are equally true today, as is often true of the maxims of a wise and kind mentor.

²⁶⁹ Under CITES, countries which are found to be failing in their obligations to control international movement of species under the Convention may be subject to a general resolution under which other CITES countries agree not to accept imports from or authorize exports to that country. This process is generally known as the “CITES Compliance Mechanism”, even though no specific provision of the Convention describes or requires such a process. CITES has also used public processes rating Member States on their compliance with the legislative requirements of the Convention, as a tool to motivate countries to adopt such legislation meeting the Convention standards. On this basis nearly all of CITES 175 member states have adopted implementing legislation, and the overwhelming majority have received a high rating on the extent to which their legislation meets CITES requirements. As a consequence of this success, other instruments, including especially the Basel Convention on Transboundary Movement of Hazardous Wastes, and IMO’s MARPOL Convention, have adopted mechanisms for confirming national legislative compliance with their respective instruments.

²⁷⁰ American Samoa, Territorial Disaster Assistance Act of 1978, (Chapter 01 of Title 26) §26.0107(a).

A provision from the Marshall Islands may have a stronger legal effect, since it purports to establish a new law on disaster/emergency appropriations: “(2) In the event that at all or any part of the Account is utilized for any of the purposes under this Chapter during any financial year, the amount so utilized shall be appropriated in the Annual Appropriation Act for the next financial year in order to maintain a continuous balance of \$200, 000 in the Account at the commencement of each fiscal year.”²⁷¹ One challenge created by this type of mandate is the question of who will be most impacted. The clause does not actually constitute an amendment of national law governing budget processes. As such, in some countries, it might be perceived as a limit on the disaster/emergency management agency or a requirement that it refill the Account.

b. Borrowing or seeking foreign aid

Further, as noted above, some laws include very specific provisions relating to the right of the agency to borrow funds and/or to solicit international assistance, whether for disaster prevention or for response when a disaster has occurred. In some countries, past experiences indicate that government agencies which attempt one of these activities may face legal and political challenge. For example, some countries prefer that all governmental borrowing be centrally scrutinized and approved by some particular agency or official, while others have systematized their contacts with donors and bilateral aid agencies through a single focal point or agency. In either of these instances, a disaster/emergency agency’s urgent appeal for funding or other assistance may be viewed as a violation of these restrictions. As a consequence, the legislature may hope to avoid intra-governmental strife by including a provision specifically allowing these actions. In a country that does not have these restrictions, however, or one in which the collaboration of the central oversight agency is easy to obtain and effective, the inclusion of specific mention of borrowing powers or the right to approach aid-givers directly may be confusing. It may indicate that these are the only mechanisms available to the agency, and might imply that agencies whose laws do not include express statements of this power may not engage in these activities, even if no law or procedure prevents it.

c. Separate bank accounts and legislative financial allocations

The two the most straightforward financial provisions found in the examination of non-Caribbean legislation are those that specifically separate management funds of the disaster/emergency agency from other national funding, calling for that body to operate under a special separate account,²⁷² or specifically requiring that certain agencies and governmental bodies must be responsible for specified contributions to disaster/emergency agencies²⁷³.

d. Insurance

Finally, as more intensively discussed in Part II.C, an important and growing category of legislatively created financial mechanism involves the development of insurance – structures to help insulate key sectors against the risks they face in emergency/disaster situations. After examining a few such systems²⁷⁴, it is clear that a more comprehensive study of national risk/disaster insurance programs and proposals around the world may be needed, owing to the complexity of the regulatory provisions needed or applicable in creating such systems. Such a study may be able to identify the specific readiness of each country and is relevant private, commercial and industrial sectors for the introduction of insurance

²⁷¹ Marshall Islands, Disaster Assistance Act, Chap. 10, §1010 (2).

²⁷² New Brunswick, (Canada), Emergency Measures Act, (S.N.B. 1978, c. E-7.1), §§20-21; Ethiopia, Relief and Rehabilitation Commission Establishment Proclamation, No. 173/1979; Lesotho, Disaster Management Act, No. 2 of 1997, §§35-36; Nigeria, National Emergency Management Agency (Establishment, etc.) Decree 1999, No. 12 of 1999, §§13-15, 17-18.

²⁷³ Guam, Compensation to Farmers for Crop Damages, Title 8, Chap. 12: Administrative Rules and Regulations.

²⁷⁴ Alberta (Canada) Agriculture Financial Services Regulation (Alta. Reg. 99/2002); and United States of America, Federal Crop Insurance Act, 7 USC, Chapter 36. The consultant is also professionally familiar with the National Flood Insurance program in the United States, as well as certain funding programs in Tanzania which operate in an insurance-like manner in the event of loss of agricultural lands.

products. In the event that insurance approaches are to be addressed, it is likely that they should be regional or broader in scope, to enable a more effective distribution of risks and costs, for each emergency. A body of sources for the needed legal research and replicability analysis related to this type of mechanism is already being developing internationally,²⁷⁵ suggesting that these mechanisms will grow both in availability and relevance for the CELP countries in future.

2.8 Conclusion

In sum, the literature shows that no plan can predict all emergencies, nor anticipate the level of devastation or impact of more predictable emergencies. National financial response to emergencies will always be individualized. Just as one family or community may view a higher level of risk as acceptable, preferring to focus its financial expenditure on other priorities, so it is with countries. In literature discussing the effectiveness of emergency response, the most common statements relating to disaster/emergency funding are (i) the importance of DRR; and (ii) the need for countries to put aside special funds in case of disaster and the positive impact that those moneys have in enabling prompt and effective first-responses, particularly where the country has a pre-adopted disaster management plan.²⁷⁶ Even those external actors who are motivated by the strongest desire to assist will have trouble mobilizing their assistance and getting it to the place where it is needed in time to promote the values obtained through quick response.

Ultimately, regarding all financial mechanisms discussed in this paper, but particularly insurance and public guarantee mechanisms, the advice remains constant – no model can be as effective for any country or sub-region as a system that is specifically crafted to address specific characteristics within that country or sub-region. Applying this principle to risk-spreading mechanisms: “Implementation will only be sustainable if solutions are suitable for the community at risk over the long term.”²⁷⁷

²⁷⁵ See, e.g., Arnold, 2008; Gurenko and Dumitru, 2009; UN/ISDR, 2004b; Harmer, Taylor, *et al.*, 2009.

²⁷⁶ See Brader, 2006.

²⁷⁷ Pilon, 2004.

PART III

3.0 International Instruments and Frameworks – Overview of Effectiveness and Other Comparisons

One of the most obvious conclusions drawn from in-depth research into emergency/disaster issues in international instruments is very positive with regard to the Caribbean. The Caribbean region has apparently taken the lead in developing the first international instrument focused directly on emergency and/or disaster management, planning and cooperation, CDEMA. CDEMA is one of a very few binding international instruments and processes directly addressing emergency/disaster management. Apart from CDEMA, the only other international instrument specifically focused on disaster issues is the ASEAN (Association of South East Asian Nations) Agreement on Disaster Management and Emergency Response (2005, Vientiane),²⁷⁸ adopted in response to the Indian Ocean Tsunami of 2004. As it has only recently entered into force (December 17, 2009), that Agreement is currently in its basic formative stages, having prioritized activities such as (i) Establishment of a regional “Response Action Plan”; (ii) proposing Refresher Courses/ Expertise Development; (iii) developing the communication tools including its “Disaster Information Sharing and Communication Network,” (a network of interlinked websites) and Publication its newsletter; (iv) developing “partnerships with relevant organizations and NGOs; and (v) mobilizing financial support and resources.²⁷⁹ As a consequence of this relative newness, it would be premature to evaluate the effectiveness (or indeed any aspect of the actual performance and functionality) of the ASEAN Agreement, with regard to its functionality in disaster and emergency situations.

The FAO Desert Locust Conventions and institutions²⁸⁰ are another body of international instruments addressing disaster response. These instruments are unique in that they have been in existence and operation long enough to provide real insights into the on-the-ground implementation of intergovernmental agreements on disaster issues. The countries in the Sahel region and other areas regularly subjected to desert locust infestation are bound by international commitments at the regional and sub-regional level, similar to the CDEMA member countries. Like CDEMA, these processes operate on regional and sub-regional levels, although FAO has recently developed a multi-regional mechanism to support them.²⁸¹

The entire group of desert locust instruments, and work under their mandate, has been formally evaluated by FAO’s internal Evaluation Unit (PBEE), which focused on evaluating regional and international participation in the 2003-2005 multilateral campaign to respond to desert locust infestation in the Sahel region. That evaluation did not find any situation in which legislation had been either an obstacle or a positive factor in disaster response. It did, however, note critical problems with communication²⁸² and preparedness²⁸³ that affected the speed and effectiveness of financial and other response. It also strongly

²⁷⁸ Available online at <http://www.aseansec.org/17579.htm>.

²⁷⁹ See Prasiddh, 2009.

²⁸⁰ Agreement for the establishment of an FAO Commission for controlling the desert locust in South-West Asia (1963); Agreement for the establishment of a Commission for controlling the desert locust in the Central Region (1965); Agreement for the establishment of a Commission for controlling the desert locust in North-West Africa (1970); Agreement for the establishment of a Commission for controlling the desert locust in the Western Region (2000); Convention for the Establishment of the Desert Locust Control Organization for Eastern Africa (2003).

²⁸¹ FAO has instituted a more general body of primarily technical and support work at the centralized level, to address desert locust issues. This was undertaken in support of members and the subregional agreements, and no separate instrument was deemed necessary to create it.

²⁸² “Donors generally considered that they were not adequately informed by FAO on the actions to be undertaken to address the Desert Locust invasion. The bulk of contributions arrived relatively late and affected countries believed that costs of the control operations would have been reduced, and the impact of the locust invasions more limited, had interventions started earlier.” FAO, 2007.

²⁸³ “The Desert Locust invasion had serious consequences on the food security situation of more than eight million people in the Sahel region, for whom food assistance and rehabilitation measures were not initially foreseen. However, in early 2005, a UN appeal was launched for Western Africa seeking funding for agricultural rehabilitation measures to address the combined effect

indicated that national failures to comply with existing laws requiring the creation and implementation of emergency plans also contributed to deficiency of national and international response to the 2003-5 emergency.²⁸⁴ From the Sahel experience, it is clear that countries with high levels of preparations and planning typically suffer the least harm from disasters of this type. Beyond these general conclusions, however, the natures of national legislative and administrative arrangements were not perceived to be critical factors or obstacles affecting response to these disasters. They did note the importance of political will, however, commenting that the countries in the region all view locust control and preparedness as a high-priority issue saw the greatest effectiveness in their disaster-response activities. Thus, laws, institutions and even firm policy commitments were deemed insufficient in the face of a planned-for emergency.

One other important finding relating to the locust emergencies and regional response was the importance of some key contributions made within the region. “The effective control operations, especially aerial control undertaken during the autumn and winter of 2004 by Algeria and Morocco ... led to the rapid decline of the upsurge in early 2005. This avoided renewed invasions of the Sahel countries in 2005 and demonstrated that Desert Locust invasions can be stopped with currently available techniques.”²⁸⁵ It is notable that this domestic readiness, even when only in a few of the affected countries, was found to have a greater and more immediate positive impact than the delayed international assistance and other elements of the overall response.

As noted, disaster and emergency are generally perceived as national issues. There have been relatively few international experiences with natural and human caused emergencies. Recently, hazardous wastes transported to Côte d’Ivoire led to a serious condition of emergency/disaster in that country, and also engendered a long-lived international controversy over the roles of relevant international instruments (e.g., the Basel Convention on Transboundary Movement of Hazardous Waste, the International Maritime Organization’s “London Convention”²⁸⁶ and IMO’s “MARPOL”²⁸⁷ Convention), which has not yet been resolved.²⁸⁸ Overwhelmingly, international instruments that contain emergency/disaster provisions have adopted those provisions in response to recent disasters, and have not yet had the opportunity to experience them in action.

As further detailed in the first deliverable, most of these instruments have not publicized any specific emergency/disaster measures or institutions. Consequently, a formal “effectiveness” analysis of the disaster/emergency references in international instruments may be premature, and possibly unproductive in assisting CELP countries with regard to disaster/emergency legislation/institutions and the mobilization

of drought and locusts. Substantial costs were also incurred by the affected countries, which had not been foreseen in their national budgets, resulting in less resources being available for other national development activities.” Brader, *et al.* 2005, executive summary at 6f-h.

²⁸⁴ “Algeria, the Libyan Arab Jamahiriya and Morocco were well prepared to face the invasion and also provided substantial assistance to countries in the Sahel during the campaign. The latter were generally inadequately prepared and unable to launch timely, effective control operations to minimize damage to crops and pastures. The Sahel countries, depending on their state of alertness and the availability of resources, have contributed to the control campaign to the best of their ability. In all affected countries, staff, often working under harsh conditions, spent enormous efforts to limit the impact of the Desert Locust invasion.” Brader, *et al.* 2005, executive summary at 6j.

²⁸⁵ Brader, *et al.* 2005, executive summary at 6i.

²⁸⁶ London (Dumping) Convention and its 1996 Protocol, See website for texts and information at: www.londonconvention.org. The parties decided several years ago to omit the word “Dumping” from the informal title, which was changed to “London Convention 1972”, because the Convention had been revised to prohibit most dumping at sea. In fact, both the London Convention and its 1996 Protocol are best understood as “anti-dumping” conventions

²⁸⁷ International Convention for the Prevention of Pollution from Ships (MARPOL), adopted in 1973, as modified by the Protocol adopted in 1978

²⁸⁸ *Discussed in detail in de La Fayette, 2009.*

of financial resources in an emergency or disaster.²⁸⁹ In a few instances, where direct agreement on future potential emergencies is adopted, the primary emergency-related provisions address inter-governmental notifications and alerts.²⁹⁰ Beyond these, however, global instruments refer to considering possible occurrences within their sector, and discussing how they shall be identified, notified and or addressed within the sector only. Most of these focused on particular risks to environment or to specific activities.²⁹¹

There are several apparent reasons for the lack of direct emergency/disaster-related instruments in international law. First, of course is national sovereignty. National governments are generally unwilling to enter into binding instruments relating to domestic activities, such as domestic preparation for and response to emergencies or disaster. The conventional view in international law holds that a country that makes binding international commitments regarding its domestic activities may be giving other countries the power to take action against them to address those violations. National authority to determine how a country will respond to or prepare for a disaster or emergency is a core power and duty of each country. As such, it is at the center of the national sovereignty.

A second reason relates to potential liability – concern that international instruments will be held to represent “international customary law”, creating legal obligations of each country under international or national law. For many countries, even an international provision that is specifically made non-binding may be a basis for legal action.²⁹² As a result, international negotiations in recent decades have been relatively unable to produce strong commitments related to domestic activities, even where those activities might impact the environment – a global resource. What is the result? It is frequently stated that consensus is more easily achieved when the drafters employ “constructive ambiguity” – that is, when they leave specific controversial issues unaddressed, or only refer to them in general, making it unclear whether and how those issues should be implemented at national level. Consequently, most international instruments, especially those adopted at the global level, mention disasters only in relatively general terms.

²⁸⁹ After reviewing over 60 instruments in an ever-widening range of subject areas, and finding relatively little, the consultant stepped back from this fruitless quest, and turned to other work.

²⁹⁰ See, e.g., the ASEAN Agreement on Transboundary Haze Pollution (2002, London); Framework Convention for the Protection of the Marine Environment of the Caspian Sea (2003, Tehran); the MERCOSUR Environmental Protocol (*Protocolo adicional al Acuerdo Marco sobre Medio Ambiente del MERCOSUR*) (2005), and virtually all other regional instruments listed in Annex III to the first deliverable.

²⁹¹ Thus, the Cartagena Protocol on Biosafety (2000, Cartagena de Indias) focuses on the risk of genetically modified organisms pose to ecosystems, and indirectly consider issues of their impact on human and animal health. Similarly, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989, Basel) addresses only risks of hazardous wastes and is more directly limited to wastes that have been exported to one country by another. The respective focuses of the Stockholm Convention on Persistent Organic Pollutants (2001, Stockholm), the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998, Rotterdam), the WHO Regulations on declared outbreak of public health emergency of international concern (June 2007, Geneva) are relatively clear. The International Plant Protection Convention (1997, Rome) is focused on prevention of the introduction of invasive plants from one country to another and the Convention Concerning the Protection of the World Cultural and Natural Heritage (1972, Paris) is focused entirely on protected areas of international importance. At the regional level, the Council of Europe, Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: (2005, Lisbon) examines the use and application of medicinal products and research, and the Fourth ACP-EEC Convention (1989, Lomé) focuses on the ability of developing countries receiving aid from the EEC to convert those contributions to emergency loans in certain situations. Other regional conventions such as the Noumea and Waigani Conventions focus on implementing international instruments at the regional level.

²⁹² In Australia, it is common for activist groups to take action against their own government, claiming that international decisions, even if non-binding, for a customary law which all governments must recognize. See, Smyth, 2001. In one highly publicised case, environmentalists claimed Australia was violating international guidelines in its permitting decisions in and around an Australian World Heritage Site called Kakadu National Park. As a result, the government of Australia has been a notable opponent of international guidelines that it fears might form the basis for a legal challenge by Australians against the actions of their own government. Note, however, that the Kakadu controversy was primarily fuelled by the fear that Kakadu would be listed as “world heritage in danger” under the World Heritage Convention – potentially embarrassing relevant activists and officials alike.

Despite their limited usefulness as legal tools for disaster response, however, international instruments, and their Parties and Secretariats may, provide other benefits of value. In particular, their mechanisms sometimes enable their Parties to access specialized funds, information and assistance in the event of a disaster or emergency.²⁹³ This value is multiplied in the case of the least binding of the international instruments discussed in this report – the Hyogo Framework of Action, as well as DRR programs and declarations generated by the UN/ISDR, GPDRR and related processes. Not only may these instruments tie to financial and informational resources of substantial value and usefulness, but their disaster risk reduction processes are recognized to be tightly interlinked with critical climate change issues, especially, the issue of “adaptation” to climate change – another issue which may provide a fountain of valuable information, assistance and resources through the UNFCCC and its Kyoto Protocol.

3.1 Replicability of World Examples in the Caribbean

In the case of legislation, replicability, like effectiveness, is essentially situational. Each country’s legislative needs depend on a variety of factors, including

- constitutional requirements
 - what the constitution requires before a law or regulation can be effective;
 - what measures must be taken to avoid conflicts and overlaps with other laws and institutions?
 - what will happen when conflicts and overlaps have not been avoided?
- legislative practice
 - which elements of a particular law, institution or process are presumed to exist in all national legislation (and must only be mentioned when they are being pre-empted or nullified with respect to the current law);
 - which elements must be specifically set out (most commonly, as noted above, in response to recent problems that have not been satisfactorily resolved by courts or higher governmental levels)
 - how much detail is needed in order to empower an agency to act or to appropriately limit its activities
- practical matters
 - do agencies that may have a role in disaster/emergency prevention and response work well together? Are there particular coordination issues that have been difficult to resolve in the past?
 - is there any problem in establishing hierarchies among participating agencies or ministries with regard to disaster/emergency matters? Will these problems be resolved by a legislative provision specifically addressing the hierarchy?

With regard to financial legislation, the critical questions are sometimes even more arcane, requiring specific coordination with the finance ministry, accounting office or similar body, to determine what

²⁹³ See, e.g., the World Heritage Fund, which provides about US \$4 million annually to support activities within the ambit of the World Heritage Convention, including emergency assistance for the protection of World heritage sites in disaster/emergency situations. The WHF includes compulsory and voluntary contributions from the States Parties, as well as from private donations. <http://whc.unesco.org/en/funding> The World Heritage convention also provides a type of brokering service linking Member States that wish to provide assistance to developing countries’ world heritage sites with countries in need of such assistance. In terms of fund size, the most successful of the international funds for environmental issues is the Multilateral Fund under the Montreal Protocol on Substances that Deplete the Ozone Layer (discussed in detail in the Secretariat, 2006 at p.390.), however that instrument includes little authority relevant to disaster/emergency. Most international instruments have established “funds” directed at assisting their members in some way, however, these funds have had difficulty in soliciting the (mostly voluntary) contributions needed to ensure operational validity of the fund, Secretariats have often diverted pre-existing contributions and commitments into the new fund, to avoid its dissolution.

specific requirements (budgeting, auditing and reporting processes) will apply to the disaster/emergency agency, and potentially negotiating about how those processes should be altered in the event of a disaster or emergency. The workings of a country's financial entities are very individual in nature, having been sculpted by the need to react both specifically and generally to problems encountered or to oversights in the original financial instruments governing their actions. Legislative development is generally a process of identifying competing concerns, such as the desire of disaster/emergency officials to have streamlined access to funding in the event of disaster or emergency, which sometimes competes with the primary mandate of the finance agencies, to ensure that all money is concretely and transparently accounted for, and that no person or entity may gain access to funds without all proper the foregoing, the various "world examples" examined in Activity 1.2 are unsurprising in content. Overall, they focus on the legal powers to identify/declare an emergency/disaster, the identification and establishment of responsible agencies, the creation of disaster management plans, and in some cases they provide some financial mechanisms, although the latter depend on government's political willingness to fund these mechanisms adequately and/or the ability to obtain funds from outside sources. In essence, they take the same measures as are found in Caribbean legislation.

Both effectiveness and replicability of non-Caribbean laws for Caribbean countries is a function of many factors, best determined by the actual experiences within the country that has adopted the law. Analyses and evaluations focused on disaster prevention and response has not identified any specific instances in which the law has been recognized as an obstacle to disaster/emergency action. The lack of feedback on these issues may be a function of a lack of base data. Fourteen of the thirty-one instruments in Annex I are quite recently adopted (i.e., since 2000), and even among the other instruments,²⁹⁴ very little information has been available regarding how the laws have performed in emergencies.

Ultimately, the fact that so many countries of similar size and development level as the CELP countries have basically similar structures for disaster management (standing agencies, specific criteria for when a disaster or emergency shall be considered to exist, disaster/emergency management planning, and mechanisms for interlinkage between these provisions and nationally available/set-aside moneys for disaster/emergency response) indicates not only that the Annex I examples can be replicated in the Caribbean, but that they already exist there. The variety of different instruments provides examples of more and less detailed approaches, more or less flexible mandates, and more or less independent funding arrangements. In each case, the choice of "more" or "less" will depend on very specific national legislative characteristics. It is possible that these characteristics are uniform across the CELP countries, but the consultant's own experience has shown that they may just as easily be quite different even between neighboring districts in the same country.

Accordingly, the "key provisions" may be thought of as providing varying routes or vehicles for the CELP countries to help ensure that each can find the provisions or clauses needed to enable them to address specific challenges, such as those listed in part 4 of the draft Country Assessment Report, or to meet existing or enhanced general objectives.

In sum, review of the non-Caribbean legislation and literature, and comparison with the information provided regarding the CELP countries indicates that, in general, the Caribbean countries appear to be in

²⁹⁴ Seven of the instruments in Annex I are not directly focused on emergency/disaster management, being support laws describing constitutional powers, and laws addressing specific types of sectoral emergency (chemical accidents, marine disasters, etc.) The fact that these instruments have been provided as the country's "disaster/emergency" legislation may indicate that many countries do not give much attention to legal empowerment when an agency seeks to provide needed response activities in a crisis.

the forefront with regard to the development of legislative measures to support and enable disaster prevention and management.²⁹⁵

3.2 Best Practices and Recommendations for Caribbean Legal and Institutional Frameworks

At base, all of the legislative approaches are generally the same, each containing, for the most part, the same primary components. A few relatively clear results have been discerned in this analysis:

- *Declaration of Disaster/Emergency.* While some countries do not require a specific declaration of emergency/disaster, as a trigger for government action, most do. In many countries national law creates multiple declarations each of which serves one or more particular governmental purposes. In this regard, nearly all CELP countries appear to call for such a declaration, in some cases creating more than one type of legislative declaration, without necessarily clarifying the relationship between them.
- *Institutional structure.* National agency structures for emergency and disaster vary only minimally from one another. Nearly all of the countries studied have established or designated at least one standing agency with emergency/disaster management/response responsibilities. In some more developed countries, various types of disaster or emergency (e.g., chemical spills, marine accidents, etc.) are assigned to different agencies, with the particular responsibility of each agency clearly defined. Few of the key provisions are specialized in that way, however. The greatest variation among the non-Caribbean countries with regard to institutional structure relates to centralization. Some countries have specifically centralized all disaster-management responsibilities in a single entity, while others have maintained strong authorizations of many different bodies, focusing their legislation on coordination among them. Another aspect of centralization relates to provincial, district, and municipal operations. In some countries, a relatively strict hierarchical structure is created, either entirely at the central government level or with branches at provincial, regional and municipal levels. In other countries, each municipality, village and district has its own relatively autonomous agencies, which communicate with the central government but operate independently. In general, the selection among these options seems to reflect the country's general attitudes about decentralization and/or ministerial coordination.
- *Disaster/Emergency Prevention and Management Planning.* While many of the "key provisions" include express provisions for disaster/emergency prevention measures such as risk-based zoning and the adoption of building codes, these measures are still in the forefront few of developing countries. Similarly, although strongly supported by recent evaluations of emergency/disaster response activities, management planning is generally incomplete in many developing countries. Non-comprehensive research into the prevalence of management planning indicates that even in countries that do not legislatively mandate or assign this responsibility, disaster/emergency authorities are putting planning processes into effect, recognizing their value in the world.
- *Funding and Fund Mobilisation.* Review of non-Caribbean legislation at all levels indicates a general preference for the establishment of national emergency/disaster funds, as separate fund sources that can be separately managed and overseen, even if they remain under the direct operation of the national financial ministry or accounting office. The perceived advantage of such a fund is that the rules governing access to and use of these moneys can be specially determined by regulators who are aware of the special circumstances that may exist (communication problems, difficulty getting necessary approvals from particular officials, etc) at the time an

²⁹⁵ Experience with other SIDS indicates that the differences between SIDS and highly developed countries derive more from matters of size and details of legal analysis, suggesting that continued focus on SIDS and other smaller countries is appropriate. At the same time, given that the Caribbean's progress on disaster response is well advanced, there may be some benefit in also considering emergency/disaster legislation of highly developed countries, in order to find examples that might challenge the CELP countries.

emergency fund is needed. Universally, however, fund proponents note that the fund will be meaningless unless well financed, and unless the government is committed to preserving the inviolability of the fund, when other financial needs come knocking. One advantage of having a unified emergency/disaster fund of this type is that it may enable the agencies providing essential services in a disaster to develop a unified budget for that disaster period.

- *Operational costs.* The importance of pre-disaster preparations, in the form of disaster management planning, and the institution of key measures such as risk-based zoning and building codes, underscores another financial issue – the need to adequately finance disaster/emergency oriented measures that are undertaken in times of no disaster/emergency. For many countries, funding questions have devolved to a lower level, so that disaster management agencies themselves have to seek special funding in order to pay normal agency operating costs. This problem has not been resolved by most countries that have been faced with it. One important question to be addressed in national legislation is the power of the disaster/emergency authorities to find necessary operational funding from external sources (borrowing and seeking financial assistance from foreign donors.)
- *Budgeting and Accountability.* In nearly all of the countries studied, national financial processes, including budgeting, fund mobilization and accounting, are not specially addressed in emergency/disaster laws, which, at most, sometimes specify which agency shall be responsible for budgeting and reporting, but does not exempt them from those responsibilities. Recent experiences in the Indian Ocean Tsunami may be typical – where an agency or sector is stressed by the need to provide emergency/disaster response on a timely basis, or to grapple with unexpected problems in doing so, that agency may be granted special dispensation to continue with its work and delay financial filings, however such alterations have generally been offered as “one-offs” rather than integrated in national disaster/emergency legislation or national financial/accounting legislation.

Other specific practices examined in response to the Draft Country Assessment report indicate that some countries call for regular reconsideration of national disaster management plans, including both regular updating of those plans to ensure that they reflect current conditions, resources and expectations, and regular training and awareness raising processes to maximize performance when the plan is actually put into effect.

The examination of non-Caribbean legislation, thus, provides only variation in details and particular approaches. To a large extent these variations arise out of national constitutional and legislative-development frameworks and practices, and have not been perceived to indicate preferred or non-preferred options.

3.3 Conclusion

To some extent, particularly at the regional level, the Caribbean countries are setting the mark for other small and developing countries to aim for in terms of their legislative disaster/emergency frameworks. This is not to imply that those frameworks do not need to be improved, but rather that their improvement will be a function of study, analysis, practical response and innovation, rather than an easier process of imitating other legislative leaders. In light of recent events, some Caribbean countries have identified particular needs and shortcomings in their national and local responses to disaster as well as in their levels of advance preparedness. Legislative response to such needs must first recognize that law does not make change, but rather enables it. Effective legislative responses to disaster/emergency issues must begin by determining what specific change is desired and what specific result is needed. Most important, where legislative change is bolstered by political and popular support, such change can be groundbreaking.

In considering “best practices”, the non-Caribbean legislation provide few ideas that are more advanced than those already found in some of the CELP countries. The key provisions merely provide options, different phrasings and different levels of emphasis, which may be instructive to CELP legislative draftsmen. In a few cases, they may provide examples of new ideas or elements that might be of interest more generally. Where countries feel a need for more detailed disaster planning, for example, the development of an alert-level system similar to that used in Nicaragua may be advantageous. Where greater public participation in disaster planning and the implementation of disaster plans, the step-by-step approach of the Indonesian regulations might be of interest.

For any country’s legislators, best practices in relation to the use of foreign examples and model laws as tools of legislative development are those practices that are built on in-depth analysis. The process of legislative improvement involves five basic steps:

1. identification of particular problems, and the legal instruments and processes that are most closely related to them, or that can, with adjustment be of greatest use in solving them;
2. investigation of the specific manner in which these instruments have functioned in the past, and the particular obstacles and deficiencies identified in their use;
3. development of an institutional “wish list” of the particular changes or new provisions that the implementing agencies would desire in new or amended legislation, and examine the manner in which such provisions would impact other parts of the legal/administrative system involved in emergency/disaster activities;
4. (if necessary and if the change is sufficiently major to warrant it) examination of examples found in other countries’ legislation to see if they offer any mechanisms, approaches or phrasings that might be useful or provide additional options for consideration; and
5. drafting of suggested legislation, utilizing available input, including vetting the draft through expert committees and workshops to improve the possibility that new measures will function effectively.

International examples and other models are useful tools in this process, but should not be thought of as shortcuts. In general, they provide examples for the Caribbean countries of the way other countries have met particular issues and challenges. For this reason, it is often most useful to contact the agency or official whose legislation includes an interesting provision, to determine both why that provision was needed, whether it achieved that object, and whether there were unexpected results of the change. Such inquiry should focus on similarities and differences between the countries in terms of legal approaches and particular needs. Overall, there is much to learn from international experience, the level of performance already found in the Caribbean legislative and institutional frameworks indicates that they are well prepared to use this body of material, even though they are in some ways leaders in this field.

Appendix 1

Matrix of “Key” National Emergency Legislation

Country	World Bank Classification of Economies**	State, Province, etc., if relevant	Name of Legislation	Citation	Scope and coverage	Excerpts of relevant clauses (if manageable in length); or Summary where the number and size of provisions is lengthier. (Where material is directly excerpted from the key legal provision, it is shown in italics)
American Samoa	2	US Territory	Territorial Disaster Assistance Act of 1978	Chapter 01 of Title 26	Focuses on Governmental response agencies and mechanisms in response to and preparation for disasters generally. Broadly inclusive of all types of affected persons, sources and sectors.	<p>[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of "disaster emergency" (§26.0105(d)) - Powers and duties in Emergency/Disaster (§26.0105) - Purposes and Limitations of Act and its coverage (in detail) (§§26.0102 - 26.0103) - Establishment, composition and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> o Disaster emergency council (§ 26.0105) o Office of territory emergency management coordination (§26.0106) - Disaster Management Planning and implementation (§26.0109) - Intergovernmental interactions and assistance (§26.0108) - Compensation (§26.0110) - Establishment and operation of Disaster contingency fund (§26.0107)
Botswana	2		Essential Supplies and Services Act.	Chapter 22:05	Coverage of this Act is limited to expressing the breadth of and limitations on emergency regulatory and requisitioning powers of the President under a declaration of emergency	<p>[Operative Provisions:] §3. Regulations (1) <i>If at any time it appears to the President that any supplies and services essential to the life and well-being of the community are in jeopardy he may make such regulations as to him appear to be necessary or expedient for the control and maintenance of such supplies and services. (2) Without prejudice to the generality of subsection (1), regulations made thereunder may- (a) make provision for the control or rationing of such supplies or the maintenance of such services and their availability at fair prices; (b) restrict or prohibit the sale, distribution or use of any essential supplies or the provision of any services; (c) regulate, restrict or prohibit the use of any motor vehicle, motor boat, aircraft, plant, equipment or appliance; (d) apply to any area within or to the whole of Botswana; (e) apply to all persons, to any group of persons or to individual persons; (f) provide for the apprehension, trial and punishment of any person offending against the regulations;</i></p> <p><i>(g) empower such authorities or persons as may be specified in the regulations to exercise such control and authority as may be so specified; (h) provide for charging in respect of the grant or issue of any license, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations.</i></p> <p>4. Penalties: <i>Regulations made under section 3 may provide in respect of any contravention thereof or failure to comply therewith that the offender shall be liable to a fine not exceeding P2000 or to imprisonment for a term not exceeding one year, or to both.</i></p> <p>5. Repugnancy with other written laws: <i>Regulations made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any other written law; and any provision of any other written law which may be inconsistent with any regulation made under section 3 shall, to the extent of such inconsistency, have no effect so long as such regulation remains in force.</i></p> <p>6. Proof of documents: <i>Every document purporting to be an instrument made or issued by the President or other authority in pursuance of this Act or of any regulation made under section 3, and to be signed by the President or such other authority or person, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President or that authority or person.</i></p>
Botswana	2		Emergency Powers Act	Chapter 22:04	Coverage of this Act limited to expressing the breadth of and limitations on emergency powers of the President under a declaration of emergency	<p>[Operative Provisions:] §3. Emergency regulations: (1) <i>Whenever an emergency proclamation is in force, the President may make such regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the Republic, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community. (2) Without prejudice to the generality of the powers conferred by subsection (1), emergency regulations may, so far as appears to the President to be necessary or expedient for any of the purposes mentioned in that subsection- (a) make provision for the detention of persons or the restriction of their movements, and for the deportation and exclusion from the Republic of persons who are not citizens of Botswana; (b) authorize- (i) the taking of possession or control on behalf of the Republic of any property or undertaking; (ii) the acquisition on behalf of the Republic of any property other than land; (c) authorize the</i></p> <p><i>entering and search of any premises; (d) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modification; (e) provide for charging in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations; (f) provide for payment of compensation and remuneration to persons affected by the regulations; and (g) provide for the apprehension, trial and punishment of persons offending against the regulations. Provided that nothing in this paragraph shall authorize the making of provision for the trial of persons by military courts. (3) Emergency regulations may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Act to be made, and may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations.</i></p>

						<p>(4) Emergency regulations shall specify the area to which they apply, and may contain provision for the exclusion of persons from the area so specified if it consists of only a part of the Republic.</p> <p>4. Repugnancy with other enactments: Emergency regulations and any orders or rules made in pursuance of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any enactment; and any provision of any enactment which may be inconsistent with any emergency regulation or any such order or rule shall, whether or not that provision has been amended, modified or suspended in its operation under section 3, to the extent of such inconsistency, have no effect so long as such regulation, order or rule remains in force.</p> <p>5. Duration, etc. of emergency regulations: (1) All emergency regulations, if not sooner revoked, shall cease to have effect when the emergency proclamation in pursuance of which they have been made ceases to have effect. (2) No emergency regulations shall have effect- (a) during a period when an emergency proclamation is in force by virtue of having been approved by a resolution of the National Assembly under the Constitution; or (b) during a period when an emergency proclamation is in force by virtue of having been extended by a resolution of the National Assembly under the Constitution, unless the National Assembly has, by a like resolution, affirmed that those regulations shall have effect during that period.</p> <p>6. Proof of documents: Every document purporting to be an instrument made or issued by the President or other authority or person in pursuance of this Act or of any emergency regulation, and to be signed by the President or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President or that authority or persons</p>
Canada	1	New Brunswick	Emergency Measures Act	S.N.B. 1978, c. E-7.1	Comprehensive disaster management system, at provincial level.	<p>[Entire act is a unified integrated emergency management system. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of Emergency/Disaster: (§§11, 16-19) - Powers and duties in Emergency/Disaster (§§13-15) - Establishment, composition and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> o Emergency Measures Organization (§3) o Committee of Executive Council (§4) o Other Committees (§5) - Disaster Management Planning and Implementation (§§6-10) - Establishment and operation of Fund (§§20-21) - Liability and Enforcement (§§22-24)
Ethiopia	4		Relief and Rehabilitation Commission Establishment Proclamation ...	Proclamation No. 173/1979	Creation of a Relief and Rehabilitation Commission, focus on resettlement and relief to those displaced by disaster.	<p>[Entire act is a very detailed instrument creating the Commission. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Establishment, composition and operations <ul style="list-style-type: none"> o Relief and Rehabilitation Commission - (§§4-6, 10, 14) o Advisory Council within Commission (§ 13) - Enumeration of Powers, duties and "special powers" (§§7-9) - Fund and Funding Provisions [very short and undetailed] (§15) - Accounting and Auditing (§16) - Offenses and Penalties (§17)
Ethiopia	4		Emergency Food Security Reserve Administration	No. 67/2000	Special Food Security powers and regulations for the Disaster Prevention and Preparedness Commission, especially the establishment of the "Emergency Food and Non-Food Relief Items Reserve" to be built up from government subventions and donations, in preparation for future food-shortage emergencies, and may be provided "on loan" or as donations.	<p>[Entire act is very detailed provision for the establishment of an integrated system for management of Food emergencies. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of Emergency Food Shortage by Emergency Food Security Reserve Board (under other law) triggers some actions under this instrument (§§2(2), 12(6), 7) - Establishment, composition and operations of <ul style="list-style-type: none"> o a government-owned national food reserve (§§3-6) o Emergency Food Security Reserve Administration and staff (§§7-13, 17) o Technical Committee (§§14-16) - Budgeting and Auditing (§§18-19)
Fiji	3		Natural Disaster Management Act, 1998	(No. 21 of 1998)	Performance by Government and Relevant Agencies of Their Functions And Duties In Relation To Natural Disaster Management and Related Matters	<p>[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of Disaster (§§17-19) - Powers and duties in Disaster and Rehabilitation (§§20-23, 25-26, 28-36) - Establishment, composition, powers and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> o National Disaster Management Office and staff (§§8, 10-15) o National Disaster Management Operations Centre and staff (§9) o National Disaster Management Council (§§4-6) o Emergency Committee (§7 and schedule) o Preparedness Committee (§7 and schedule) o Mitigation and Prevention Committee (§7 and schedule) - Disaster Management Planning and Implementation (§§40-43) (includes "Public Awareness Plan") - Budget (§16)
Fiji	3		Emergency Powers Act	No. 28 of 1998	Power of President (or Cabinet acting separately) to declare a state of emergency and powers during the pendency of that declaration.	<p>[NOTE: This legislation specifically details the role of NGOs and the procedures for requesting foreign assistance]</p> <p>[Lengthy provisions empowering the declaration of State of Emergency and its use. Operative clauses too lengthy to fully reproduce here. Summary of operative clauses, plus an excerpt, follows:</p> <ul style="list-style-type: none"> - Presidential Declaration of Emergency/Disaster (§§2-3) - Powers and duties in Emergency/Disaster (very detailed) (§§4-5) - limitation of powers/duties in "natural disaster" (§6)]
Guam	X	US Territory	Compensation to Farmers for Crop Damages - .	Title 8, Chap. 12: Guam Administrative Rules and Regulations	Specifies which individuals and entities are entitled to compensation for disaster-related crop and property damages. Based on the amount of land each person has in cultivation; the nature of the disaster (not caused or contributed to by human agency); the productivity per acre or facility; and	<p>[An example of how a particular group may be targeted for special assistance in disaster situations. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Designation of administering agency (§12101) - Designation of primary targets of assistance ("Bonafide Farmers") (§12102a) - Flexibility (ability to declare other types of recipients of assistance (§12103)

					available funds.	
India	3		Chemical Accidents (Emergency Planning, Preparedness and Response) Rules, 1996	.G.S.R.347(E) 1 Aug 1996	Response in the case of chemical accident	[Entire act is a unified integrated system for addressing spills and other industrial accidents involving chemicals. Operative clauses too lengthy to reproduce here. Summary of operative clauses: : - Establishment, composition and operations of interconnected agencies and other entities: o Central Crisis Group (§§3, 5, 11) o State Crisis Groups (§§6-7, 11) o District and Local Crisis Groups (§§8-12) o Crisis Alert System (§§4, 12)
India	3		Disaster Management Act, 2005	Act No. 53 of 2005	Sets national framework and calls on states to implement at state level. Creating institutions and a National Institute of Disaster Management. Mandates creation of national disaster management plan as well as frameworks and plans at state and local levels. Implementation is based on the existence of a "threatening disaster situation." Every government ministry and department and each State is required to prepare a disaster management plan. Specifically authorizes the creation of (but does not establish) a National Disaster Response Fund to hold government subventions and other funds. Also allows the creation of funds at State level.	[Entire (extremely lengthy) act is a unified integrated Emergency Management system, at all levels within a federated country. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Government Powers and duties in Emergency/Disaster (including division of powers) (§§35-37, 41) - Establishment, composition and operations of interconnected agencies and other entities: o National Disaster Management Authority (§§3-6) o National Advisory Committee (§7) o National Executive Committee (§8, 10) o National subcommittees (§9) o State Disaster Management Authorities (§§14-19, 38-40) o State Executive Committee (§§20-22, 24) o District Disaster Management Authority (§§25-30,33-34) o National Institute of Disaster Management (§§42-43) o National Disaster Response Force (§§44-45) - Disaster Management Planning and Implementation o National (§§11-12) o State (§23) o District (§§31-32) - Power to order loan relief (§13) - Establishment and operation of Fund (§§46-48) - Budget (§49) - Procurement (§50) - Offenses/Penalties (§§51-60) - Annual reporting on disaster preparedness (§70)
India	3	Gujurat	Gujarat State Disaster Management Act, 2003	Gujarat Act No. 20 of 2003	Creating and mandating the State's framework for disaster management within the federated system addressing disaster management.	[Entire act is a unified integrated system for implementing national act ("India Disaster Management Act, 2005"). Operative clauses too lengthy to reproduce here. Summary of operative provisions plus specific excerpts, follow: - Declaration of Emergency or Disaster at state level, or request to federal level (§32)- Designation/empowerment [in detail] of o new and existing state and local authorities (§§3-11, 27, 41) o Communities, Private Sector Enterprises and Other Agencies or Persons (§§28-30) o key staff positions (Chief Executive Officer, State Relief Commissioner, Collector, and Local Authorities (§§20-25, 41) - Emergency plan and its implementation -- including rehabilitation (§§12-19, 26)- Data collection collation and use (§§13-15)- Finance, Budget, Borrowing, and Reports (§§33-37)- Duties of Citizens (§31)- Offenses and Penalties (§§38-40) Excerpts from finance clause -- §34 The Authority may, with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of carrying out its functions under this Act.
Indonesia	3		Government Regulation ... on implementation of disaster control	No. 21/2008		[Entire regulation implements a unified integrated disaster response system. Operative clauses too lengthy to reproduce here. Summary of operative clauses, which are divided among "Pre-disaster", "Emergency Alert", "Post-disaster" and "Monitoring and Evaluation": - Establishment, composition and operations of interconnected agencies and other entities: o National Disaster Control Regulatory Agency (§§1(19)) o National Disaster Control Agency (§§1(18)) - Disaster Management Planning and Implementation o "Disaster Control Plan"(§§5-6, 9-10,17) o "Disaster-minimising Action Plans" (national and regional levels) (§§7, 9, 11, 12) - Fund (§§41, 43) - Reporting (§93) This framework is more detailed, as is appropriate for this type of regulatory instrument. Its organization and approach are different from and much more detailed than other documents reviewed. Its outline is summarized here: Outline of Framework: Pre-disaster - "Situation where No Disaster Occurs"(§§5-14) (planning, zoning and building to minimise future risk) - "Situation where Disaster Potentially Occurs" (§§16-20) (programmes for alertness, early warning and pre-disaster mitigation) - "Emergency Alert" (§§21-54) Emergency Alert - rapid assessment (§§ 22-24) - deployment of human resources (§§25-31) - establishment of special controls (e.g., quarantine, customs, immigration) (§§32-38) - procurement (§§39-41) - management and accountability (§§42-44) - rescue (§46, 51) - command and communications structures (§§47-50) - basic human needs (§§52-3) - essential infrastructure (§54)

					<ul style="list-style-type: none"> - Post-disaster rehabilitation (§§56-60) - environmental restoration (§§ 61-63) - private residences (§67) - health, social needs and counselling (§§68-69, 71-72, 82-85) - mediation and conflict resolution (§70) - recovery of administrative function and infrastructure (§§64-66, 73, 80-81) - reconstruction (§§ 75-79, 86) - community participation (§§87-88) - improvement of public services (§§89-90) Monitoring and Evaluation (including reports) (§§91-94) Other (including requests for international assistance) (§95)
Kiribati	3	National Disaster Act 1993	No. 12 of 1993	Act organizes administrative framework and provides for management of it as necessary to ensure mitigation of, preparedness for, response to and recovery from disaster	<p>[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses</p> <ul style="list-style-type: none"> - Declaration of Emergency/Disaster (§17) - Powers and duties in Emergency/Disaster (§18) - Establishment, composition and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> o National Disaster Council (§§4-6,8) o Central Operations Group (§7) o National Disaster Management Office (§9) o Local Disaster Committees (§10) o Other Committees (§11) - Disaster Management Planning and Implementation (§§12-14, 16) - Annual reporting on disaster preparedness (§15) - Offenses and Penalties (§§19-23)
Lesotho	3	Disaster Management Act, 1997	Act No. 2 of 1997	Establishes and empowers the Disaster Management Authority and similar authorities at the district and village levels. Declaration of a state of disaster by the national Authority may last whatever period the authority states and may be extended. Calls for the creation of a Disaster Management Plan, and (when a disaster is declared) a "Disaster Relief Plan". Also upon declaration, mandates creation of an <i>ad-hoc</i> Disaster Relief Task Force. Empowers federal authority to take over local and regional disaster processes, where necessary.	<p>[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of State of Disaster (§3) - Powers and duties in State of Disaster (§4) - Establishment, composition and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> o National Disaster Relief Task Force (§§8-10) o Disaster Management Authority (§§11-13, 21-22) o Board of Directors (§§14-20) o District and Village Disaster Management Teams (§§23-33, 43) - Disaster Management, Disaster Relief and Post-disaster Rehabilitation Planning and Implementation (§§5-7) - Establishment and operation of Fund (§§34-37) - Audit, Budget, Annual reporting (§§39-42)
Marshall Islands	3	Disaster Assistance Act	Chap. 10	Objectives: "to reduce vulnerability of people and communities of the Republic to damage, injury, and loss of life and property resulting from natural or manmade catastrophes; to clarify the role of the Cabinet and local governments in the prevention of, preparation for, response to, and recovery from disaster; to authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery between agencies, and for matters connected therewith and incidental thereto." Disaster may be declared by the Cabinet for no more than 30 days unless renewed by the Cabinet. Strong provisions mandating ongoing work on disaster avoidance/prevention.	<p>[Entire act is a unified integrated system of disaster management. Operative clauses too lengthy to reproduce in full. Summary of operative clauses, plus directly reproduced excerpts follow:</p> <ul style="list-style-type: none"> - Declaration of State of Disaster (§§1005-1006) (Excerpted below) - Powers and duties in Emergency/Disaster (§1007) - Establishment, composition and operations of Disaster Committee and staff (§§1008-1009) - Disaster Management Planning and Implementation (§§1009, 1011) - Financial - the Disaster Assistance Account (§§1010, 1012) <p>Excerpts from the law: §1006(3) <i>An executive order or proclamation of a state of disaster shall empower the disaster response and recovery aspects of the disaster plans applicable to the political subdivision or area in question, and authorize the deployment and use of any forces to which the plan or plans apply, and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this Chapter or to any other provision of law relating to disasters.</i></p> <p>§1007 <i>the Cabinet may, during the period of state of disaster...suspend the provisions of any statute prescribing the procedures for conduct of government business, or the orders, rules or regulations, of any government agency, if strict compliance with the provisions of any law, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster;...utilize all available resources of the Government of the Marshall Islands as reasonably necessary to cope with the disaster;...transfer the direction, personnel, or functions of ministries and agencies or units</i></p> <p><i>thereof for the purpose of performing or facilitating disaster services... subject to any constitutional requirements for just compensation, commandeered or utilize any private property found necessary to cope with the disaster;.. direct and compel the evacuation of all or part of the population from any stricken or threatened area if deemed necessary for the preservation of life or other disaster mitigation activities, response, or recovery; provided, however, that any person so evacuated shall be permitted to return to the place from which he was evacuated immediately following the termination of the state of disaster.</i></p>
Micronesia, Fed. States	3	Disaster Relief Fund	Title 55, Chap. 6, Subch.II: Code of FSM	Creates a fund which is to be part of "a permanent, orderly program of National Government assistance to the States and local governments in carrying out their responsibilities to alleviate suffering and damage which result from disasters"	<p>Specific provisions of this chapter focus on legislative creation of "Disaster Relief Fund." Relevant operative clauses are brief, reproduced here:</p> <p>§ 608. <i>Definitions. As used in this subchapter:</i></p> <p>(1) <i>"Disaster" means any hurricane, typhoon, cyclone, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, civil disturbance, or other catastrophe in any part of the Federated States of Micronesia which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant disaster assistance under this subchapter, above and beyond emergency services by the National Government, to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.</i></p> <p>(2) <i>"Emergency" means any hurricane, typhoon, cyclone, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, explosion, civil disturbance, or other catastrophe in any part of the Federated States of Micronesia which requires national emergency assistance to supplement State and local efforts to save lives and protect property, provide for public health and safety, or to avert or lessen the threat of disaster.</i></p>

						<p>§ 609. Establishment. (1) There is created a Disaster Relief Fund to be used for natural disaster and emergency relief throughout the Federated States of Micronesia. (2) Moneys for the Disaster Relief Fund shall be derived from appropriations by the Congress of the Federated States of Micronesia and the State legislatures, United States grants, funds designated for such purposes from international organizations and from any and all other appropriate sources. (3) The Disaster Relief Fund shall be administered in accordance with the provisions of this subchapter. § 610. Request - Declaration. All requests for a determination by the President that an emergency or disaster exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that national assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency or disaster, and will define the type and extent of national aid required. As a prerequisite to emergency or disaster assistance under this subchapter, the Governor shall take appropriate action under State law and direct execution of any State emergency or disaster plan. Based upon such Governor's request, the President may find and declare that a disaster or an emergency exists.</p> <p>§ 611. Use of Disaster Relief Fund. (1) Upon declaring that a disaster or emergency exists, the President may authorize such expenditure of moneys from the Disaster Relief Fund as in his opinion are necessary to carry out the purposes of this subchapter, providing that they are consistent with the type and extent of aid requested by the Governor of the affected State. (2) Expenditures from the Disaster Relief Fund may be used for necessary food, clothing, shelter, medical supplies, compensation for crop damage, transportation, debris clearance, reconstruction and repair of seawalls and other damaged property, building materials, and such other matters as the President determines to be necessary and occasioned by the emergency or disaster.</p> <p>§ 612. Use of local firms and individuals. In the expenditure of national funds for debris clearance, distribution of supplies, reconstruction, and other emergency or disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such emergency or disaster."</p>
Micronesia, Fed. States	3	Pohnpei	Emergency Relief Funds	Title 36, Chap. 4: Pohnpei State Code	State level act, Creating an Emergency Relief and Rehabilitation Fund at the state level	<p>Specific provisions of this chapter focus on legislative creation of the "Emergency Relief and Rehabilitation Fund": Relevant operative clauses are brief, excerpts here: 36 PC 4-101. Emergency Relief and Rehabilitation Fund. There is hereby created a Pohnpei fund for emergency relief and rehabilitation, hereinafter referred to as "fund," to assist developmental endeavors within the state to overcome physical and economic losses sustained from storm, flood, fire or other natural disaster." 36 PC 4-102. "Developmental endeavor" defined. For purposes of 36 PC 4-101 through 36 PC 4-106, "developmental endeavor" is any activity, whether public or private, for profit or not-for-profit, which significantly contributes or holds the potential for significant contribution to the economy of this state through the employment of ten or more state residents, the influx of capital, machinery or infrastructure in amounts in excess of \$10,000, the manufacture or marketing of local products, the development of agriculture production or harvesting, or the development of fisheries, or any combination thereof; PROVIDED that the Governor, in his discretion, may include, as development endeavors, other worthy activities not otherwise included in this definition which the Governor finds to be important contributions to this state's economy. 36 PC 4-103. Administration of the fund. The fund established by 36 PC 4-101 shall be administered by the Governor pursuant to 36 PC 4-101 through 36 PC 4-106 and regulations of the Governor issued pursuant hereto. 36 PC 4-104. Application for relief and rehabilitation. Persons who either own or control a development endeavor, having suffered loss from a natural disaster, may make application to the Governor for relief and rehabilitation stating the cause and nature of the loss and relief and rehabilitation requested as well as such other information as the Governor shall so require. The Governor shall take prompt consideration of all applications so submitted. 36 PC 4-105. Award. Upon a finding that a development endeavor has suffered loss from a natural disaster, the Governor shall provide immediate relief through emergency aid, subsidies, and technical assistance, and shall provide a plan for long-term rehabilitation through the administration of long-term loans, with or without interest, technical assistance, and other aid which the Governor deems necessary, and at such financial levels that the Governor deems advisable within the monies available within the fund. Terms of emergency relief and rehabilitation shall be as mutually agreed upon by the applicant developmental endeavor and the Governor. Assistance awarded through the Governor may be combined with other sources of assistance available to the developmental endeavor that has suffered loss. 36 PC 4-106. Authorization for appropriation; administration. (1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to finance the fund established by 36 PC 4-101. (2) Monies within the fund shall be administered and expended by the Governor solely for the purposes stated in 36 PC 4-101 through 36 PC 4-106. The Governor shall submit an annual report to the Legislature on or before October 15 on all financial activities of his office pursuant to 36 PC 4-101 through 36 PC 4-106 for the last fiscal year. (3) All revenues derived from the administration of 36 PC 4-101 through 36 PC 4-106 shall be deposited in the fund created by 36 PC 4-101. All monies within the fund shall remain available until fully expended.</p>
Micronesia, Fed. States	3		Disaster Relief Assistance Act of 1989	Title 41, Chap. 7 Code of the FSM	Integration of federal and state disaster relief system by "upgrading and broadening the scope of existing disaster relief programs [and] encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and local governments" and other legislative measures.	[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of State of Emergency (§§705(1), 703(5))- Powers and duties of Governor to address emergency situations (§§705(2)-(7)))- Disaster Management Planning and Implementation (§§706-707)

Nicaragua	4		Ley creadora del sistema nacional para la prevención, Mitigación y atención de desastres	Ley No. 337; La Gaceta No. 70 del 7 de Abril del 2000	<p><i>Ley tiene por objeto establecer los principios, normas, disposiciones e instrumentos generales necesarios para crear y permitir el funcionamiento de un sistema interinstitucional orientado a la reducción de riesgos por medio de las actividades de prevención, mitigación y atención de desastres, sean éstos naturales o provocados. (objective of law is general establishment of an inter-institutional system for risk prevention, mitigation and response to natural and man-made disasters)</i></p>	<p>[This entire act enables the creation of an integrated national framework for disaster prevention and mitigation, focused on coordinating the work of existing agencies. For consistency in treatment with the English-language laws described in this Annex, it is first noted that the Declaration of states of disaster, emergency, and various states of alert are set forth in Articles 23-3. The following is an outline of the headings of operative provisions in this law:</p> <p>CAPITULO I: DE LAS DISPOSICIONES GENERALES Artículo 1.- Objeto de la Ley Artículo 2.- Principios del Sistema Nacional para la Prevención, Mitigación y Atención de Desastres Artículo 3.- Definiciones básicas Artículo 4.- Creación del Sistema Nacional para la Prevención, Mitigación y Atención de Desastres Artículo 5.- Integración del Sistema Nacional Artículo 6.- Objetivo del Sistema Nacional Artículo 7.- Funciones del Sistema Nacional Artículo 8.- Funciones de las Entidades que Forman el Sistema Nacional</p> <p>CAPITULO II: DEL COMITÉ NACIONAL DEL SISTEMA NACIONAL PARA LA PREVENCIÓN, MITIGACIÓN Y ATENCIÓN DE DESASTRES Artículo 9.- Comité Nacional del Sistema Nacional Artículo 10.- Integración del Comité Nacional Artículo 11.- Funciones del Comité Nacional Artículo 12.- Creación del Fondo Nacional para Desastres Artículo 13.- Funcionamiento Fondo Nacional para Desastres</p> <p>CAPITULO III: DE LA SECRETARÍA EJECUTIVA DEL SISTEMA NACIONAL DE PREVENCIÓN, MITIGACIÓN Y ATENCIÓN DE DESASTRES Artículo 14.- Creación de la Secretaría Ejecutiva Artículo 15.- Funciones de la Secretaría Ejecutiva del Sistema Nacional Artículo 16.- Creación de las Comisiones de Trabajo Sectoriales</p> <p>CAPITULO IV: DE LOS COMITÉS DEL SISTEMA NACIONAL DE PREVENCIÓN, MITIGACIÓN Y ATENCIÓN DE DESASTRES EN EL TERRITORIO NACIONAL Artículo 17.- Comités Departamentales y de las Regiones Autónomas Artículo 18.- Funciones de los Comités Artículo 19.- Actuaciones de los Gobiernos en las Regiones Autónomas Artículo 20.- Comités de Prevención, Mitigación y Atención de Desastres en el Municipio Artículo 21.- Local para la Ubicación</p> <p>CAPITULO V: DEL CENTRO DE OPERACIONES DE DESASTRES Artículo 22.- Centro de Operaciones de Desastres</p> <p>CAPITULO VI: DE LAS ALERTAS Y EL ESTADO DE DESASTRE Artículo 23.- Estado de Desastre Artículo 24.- Disposiciones Especiales Artículo 25.- Jerarquía Orgánica Artículo 26.- Proceso de los Estados de Alerta Artículo 27.- Procedimiento para el Alerta Verde Artículo 28.- Procedimiento para el Alerta Amarilla Artículo 29.- Procedimiento para el Alerta Roja Artículo 30.- Declaración de las Alertas Artículo 31.- Alerta Municipales</p>
Nicaragua	4		Reglamento de Sistema Nacional para la Prevención, Mitigación y Atención de Desastres	Decreto N° 53/00	<p><i>El presente Reglamento, tiene por objeto establecer las disposiciones reglamentarias para la aplicación de la Ley N° 337 de 2000. (Implementing Regulations under the Law creating the National Disaster Management System, which is Law # 337)</i></p>	<p>[Entire regulation addresses the coordination of relevant disaster agencies through a National Committee (el Comité Nacional), a Technical Working Group (Grupo de Trabajo Técnico), NGOs/CSGs, and various other sectoral and general committees at agency, provincial, local and municipal levels, as well as a disaster management centre (el Centro de Operaciones de Desastre) Operative clauses too lengthy to reproduce here. For consistency in treatment with the english-language laws described in this Annex, it is first noted that the Declaration of states of disaster, emergency, and various states of alert, it is noted that the Declaration of Emergency/Disaster is covered in Artículo 21, but primarily addressed in the main law (law no. 337, above). Summary of headings of operative provisions:</p> <p>Artículo 2.- Unidades Técnicas de Enlace Artículo 3.- Actividades del Comité Nacional Artículo 4.- Sesiones del Comité Nacional Artículo 5.- Delegaciones Artículo 6.- Quórum para las sesiones del Comité Nacional</p> <p>Artículo 7.- Decisiones del Comité Nacional. Artículo 8.- Grupo de Trabajo Técnico de Apoyo a la Secretaría. Artículo 9.- Secretaría Ejecutiva. Artículo 10.- Funciones de la Secretaría Ejecutiva del Sistema Nacional. Artículo 11.- Organización de la Secretaría Ejecutiva. Artículo 12.- Comisiones de Trabajo Sectoriales. Artículo 13.- Funciones de las Comisiones de Trabajo Sectoriales. Artículo 14.- Comités del Sistema Nacional en el Territorio Nacional. Artículo 15.- Incorporación y funcionamiento de las organizaciones de la sociedad civil en los Comités territoriales. Artículo 16.- Funciones de los Comités Departamentales y Regionales. Artículo 17.- Funciones de los Comités Municipales. Artículo 18.- Sesiones de los Comités territoriales. Artículo 19.- Quórum y las decisiones de los Comités territoriales. Artículo 20.- Comisiones de trabajo de los Comités territoriales. Artículo 21.- Procedimiento para la declaratoria de alertas. Artículo 22.- Alertas municipales.</p> <p>Artículo 23.- Información en los casos de alerta y de desastre. Artículo 24.- Estado Mayor de la Defensa Civil del Ejército de Nicaragua y del Centro de Operaciones de Desastre (CODE). Artículo 25.- Comisión Nacional del Centro para la Prevención de Desastres en América Central (CEPRENAC).</p>

						[Note, the five categories of entities established under this regulation are specifically listed in Ley No. 337.]
Nigeria	3		National Emergency Management Agency (Establishment, etc.) Decree 1999	No. 12 of 1999	Unification of disaster authorities through the establishment of national emergency management framework including the creation of the National Emergency Management Agency, State Emergency Management Agencies, etc. and delegation of their duties and powers; and creation of national centres and staff, as appropriate	[Entire act establishes a unified integrated Emergency Management Framework. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Establishment, composition and operations of interconnected agencies and other entities o National Emergency Management Agency & staff (§§2,11-12, 20-22) o Management Council of NEMA (§§3-5) o State Emergency Management Committees (§§8-9) - Establishment and operation of Fund for Operation of the Agency (§§13-15, 17-18) - Rules governing awarding of contracts with Agency (§16) - Annual reporting on disaster preparedness (§19) [Note: "Natural disaster" is defined to include " mass deportation or repatriation of Nigerians from any other country" as well as "crisis, epidemic, drought, flood, earthquake, storm, train, roads, aircraft, oil spillage or other accidents"]
Northern Mariana Is.	2	US Territory	Commonwealth of the Northern Mariana Islands Disaster Relief Act of 1979	P.L. 1-023	Policies and procedures for disaster management, specifically for "an orderly and continuing program of assistance by the Commonwealth of the Northern Mariana Islands to alleviate the suffering and damage which may result from disasters.	[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of Emergency/Disaster (§ 5(c)) - Powers and duties in Emergency(not limited to situations for which there is a declaration of SOE) (§ 5) - Limitation of Government Powers in Emergency(§3) - Establishment, composition and operations of interconnected agencies and other entities: o Disaster Control Office (§ 6) o Local Disaster Agencies and Services (§ § 7-8) - Disaster Management Planning and Implementation (§§ 6, 9) - Duties of Citizens: (§ 510(a))
Papua New Guinea	3		Disaster Management Act 1984		Intended as "an Act to make provision with respect to emergencies arising out of epidemics, earthquakes, volcanic eruptions and other disasters, and for related purposes." Creates a framework of institutions and sets disaster planning responsibilities.	[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of Emergency/Disaster: - Powers and duties in Emergency/Disaster - Establishment, composition and operations of interconnected agencies and other entities: o National Disaster Committee (§§3-7) o Provincial Disaster Committee (§§9-13) o National Disaster Center (§§15-18) - Disaster Management Planning and Implementation (incorporated into description of the functions of the Committees, above) - Funding (§§19-21) - Requests for international funds and assistance (§6(e)) - Annual reporting (§§8,14)
Samoa	3		Disaster and Emergency Management Act, 2007	No. 13 of 2007	Creates a framework of institution and sets disaster planning responsibilities. Proclamation of Disaster or Emergency by head of state already empowered in Constitution. Chairperson of National Disaster Council may declare a disaster, which declaration lasts 48 hours or until formal declaration by head of state, unless extended for another 48 hours.	[Entire act is a unified integrated Emergency Management Programme. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of Emergency/Disaster: o Coordination between the two types of declaration --emergency (constitutional) and disaster (declared under this Act) (§§18 & 19) - Establishment, composition and operations of interconnected agencies and other bodies (NOTE: Clauses are very detailed -- e.g., specifying particular positions and organisation structure of staff): o National Disaster Council (§5) o Disaster Advisory Committee (§6) o role of the ministry (§7) o National Emergency Operation Centres (§8) o Response agencies (§11) - Disaster Management Planning and Implementation, o by Central gov't (§§9-10) o by "response agencies" (§§13) o by other agencies and organisations (§§14) o plan approval process (§§15-17) - Coordination of recovery activities (§20) - Regulatory Powers and Offences (§§21-23) - Indemnity (§24) [NOTE, this Act contains no funding provisions]
Samoa	3		Marine Pollution Prevention Act 2008	Act No. 2 of 2008	Addresses pollution of the marine environment and for responses to marine pollution incidents emanating from vessels, and other matters related to the implementation of international marine pollution conventions. Relevant to disaster emergency, provides an example of how future potential damages and harms (such as pollutant spills) should interact with national disaster management legislation	[Most of this act relates to matters outside the scope of current analysis. Clauses relevant to coordination between this act and emergency management are §§ 5, 16(1), 19-21, 23, 27(4). Each of these is very lengthy. They are important in demonstrating the level of inter-linkage that must be expressed in order to maximise the possibility that two or more overlapping legislative instruments will actually operate in an integrated fashion, rather than simply stating this in preambular or other initial clauses.
Seychelles	2		National Emergency Foundation Notice, 2005	Cap. 188A, S.I. 20 of 2005	Emergency assistance to citizens in cases of floods, fires, tsds, landslides and other natural causes, directly or through charitable organisations	[Act focuses solely on creation of an Emergency Fund. The following are its operative clauses]: 3. There is hereby established a Fund to be known as the National Emergency Foundation 4.(1) The objectives of the Fund are - (a) to raise funds from Governments, private individuals, corporations, associations and other institutions or bodies in Seychelles and elsewhere; (b) to use the funds to assist persons in cases of emergencies, such as floods, fires, tsds, land slides and other natural causes; (c) to provide temporary relief to small businesses which have suffered significantly through above causes by extending short term loans for purchase of equipment, raw materials or related products; (d) to assist other charitable organisations in achieving the above objectives. (2) The Board shall have the power to do all things necessary for or incidental to the achievement of the objectives of the Fund

					<p>5. (1) The Fund shall consist of - (a) any money paid into the Fund by any person or organisation in or outside Seychelles; and (b) any money lawfully accruing to the Fund. (2) Disbursement of the moneys of the Fund shall be made by the Board.</p> <p>6. (1) The Fund shall be administered by a Board consisting of 3 public officers and 4 persons representing the private sector and non-governmental organisations appointed by the President. (2) The President shall appoint a chairman from among the members of the Board. (3) Subject to subparagraph (4), a member of the Board shall hold office for a term of 3 years and may be re-appointed. (4) If a vacancy occurs in the membership of the Board, the President shall appoint a member having regard to subparagraph (1) for the remaining period of the term of office of the member vacating office.</p> <p>7. (1) The Board shall meet at least once each month (2) members of the Board shall constitute a quorum for a meeting of the Board. (3) The decisions of the Board shall be made by a majority of the votes of the members present and voting at a meeting of the Board and, in the event of an equality of votes, the chairman shall have a casting vote. (4) Subject to subparagraphs (1) to (3), the Board shall regulate its proceedings.</p> <p>8. The Board may consult and cooperate with the relevant Ministries and other public authorities in implementing its decisions.</p> <p>9. (1) The Board shall open and maintain an account with a financial institution and all moneys of the Fund shall be paid into the account. (2) Any withdrawal of money from the account shall require the signatures of at least two members of the Board designated by the Board.</p> <p>10. (1) The Board shall keep proper books and accounts of the moneys of the Fund and shall prepare for the period from 28th December 2004 to 31st December 2005 and for each subsequent year a statement of accounts. (2) The accounts and statement of accounts of the Fund shall be audited by the Auditor General. (3) The Board shall cause a copy of the audited accounts of the Fund to be published in a daily newspaper</p>
Republic of South Africa (RSA)	3	Disaster Management Act, 2002	No. 57 of 2002	Basic law on Disaster management	<p>[Entire act is a unified integrated Emergency Management Agency. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of National State of Disaster (§27)- Declaration of Provincial State of Disaster (§41)- Declaration of Municipal/local State of Disaster (§55)- Governmental powers during National State of Disaster (§27)- Classification and recording of disasters (§23)- Post-Disaster Recovery and Rehabilitation (§56)- Establishment, composition and operations of interconnected agencies and other entities: ° Intergovernmental Committee on Disaster Management (§4) ° National Disaster Management Advisory Forum (§5) ° National Disaster Management Centre (§§8-15, 20-22) ° Provincial disaster management centres (§§29-34) ° Provincial disaster management advisory forum (§37) ° Municipal disaster management centres (§§43-44) ° Municipal disaster management centres (§§45-49, 54) ° Municipal disaster management advisory forum (§51) ° Disaster Management Volunteers (§58)</p> <ul style="list-style-type: none"> - Disaster Management Planning and Implementation <ul style="list-style-type: none"> ° National disaster management framework (§§6-7) ° Disaster management plans and strategies - National, Provincial and Municipal (§§19, 25, 52-53) ° Provincial disaster management framework (§28) ° Municipal disaster management framework (§42) - Establishment and operation of Fund (§§8-15) - Communication and coordination (§§16-18) - Annual report (§§24, 35, 50)
Thailand	3	Disaster Prevention and Mitigation Act, B.E 2550 (2007).		Revises former laws (which placed disaster management under various ministries) into a single unified legislation for disaster planning and management under one chain of authority.	<p>[Entire act is a unified integrated Emergency Management system. Operative clauses too lengthy to reproduce here. Summary of operative clauses:</p> <ul style="list-style-type: none"> - Declaration of National State of Disaster (§27 -- not actual declaration) - Declaration of Provincial State of Disaster (§41) - Powers and duties of Minister and others (§13-15, 27, 31, 41) - Establishment, composition and operations of interconnected agencies and other entities: <ul style="list-style-type: none"> ° National Disaster Prevention and Mitigation Committee (§6-10) ° Department of Disaster Prevention (§§11, 18-20, 25, 27) ° Committee for development of Provincial Disaster Prevention Plan (§17) ° Empowerment of Provincial and Local officials (§§18-23, 28-30) ° Bangkok Local Powers (§§32, 35-40) ° Volunteer Unit (§§41-42) - Disaster Management Planning and Implementation <ul style="list-style-type: none"> ° National Disaster Prevention and Mitigation Plan (§12, 15(1)) ° Provincial Disaster Prevention and Mitigation Plan (§16, 15(1), 38-39) ° Bangkok Disaster Prevention and Mitigation Plan (§33-34) - Offences and Penalties (§§49-55)

Tonga	3		Emergency Management Act 2007	Act No. 14 of 2007	This Act makes provision for the management of an emergency i.e. an event, actual or imminent, which endangers or threatens to endanger life, property or the environment and which requires a significant and coordinated response. The Act establishes the National Emergency Management Office, the National Emergency Operations Committee, the National Emergency Operations Committee and the National Emergency Recovery Committee and defines their functions, powers and internal organization. There shall also be District Emergency Management Committees for each district of the Kingdom and village emergency committees. The Prime Minister may declare a state of emergency for a limited period of time. The Act defines powers of authorized officers during an emergency. The Act defines offences and prescribes penalties for such offences.	[Entire act is a unified integrated Emergency Management Programme. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of Emergency/Disaster:(§§32-35); - Agency powers and duties during Emergency/Disaster (§§36-37) [very detailed] - Immunities for the exercise of powers (§42) - Relationship to State of Emergency Declaration under other act or authority (§5) - Establishment, composition and operations of interconnected agencies and other entities [NOTE: Clauses are very detailed -- e.g., specifying particular positions and organisation structure of staff]: o National Emergency Management Office (NEMO) (§§ 7,9); o NEMO Staff (§§ 8, 10-11, 15) o National Emergency Operations Committee (§§13-14); o National Emergency Recovery Committee (§§16-17); o District Emergency Management Committees (§§18-19, 21); o Village Emergency Committee (§§22-24); - Rules regarding meeting procedure for all committees established under this Act (§ 25-27); - Disaster Management Planning and Implementation o at national level (§§28, 30-31) o at district level (§§29-31) - Annual reporting on disaster preparedness (§ 12, 20); - Offences (§§38-40) - Power to regulate (§43)] [NOTE: This act specifically indicates that it does not apply to political emergencies (war, insurrection, commercial/industrial emergencies)]
Vanuatu	3		National Disaster Act	Cap. 267 (Act 31 of 2000)	Establishment of a (standing) National Disaster Committee, National Disaster Office and National Disaster Operations Centre (the later of which is only activated following declaration of a disaster), and provision for the development of national disaster plans, subject-specific national disaster support plans and provincial disaster plans. Specific enunciation of presidential power to declare "state of emergency" -- with no specific duration in law.	[Entire act is a unified integrated emergency management system. Operative clauses too lengthy to reproduce here. Summary of operative clauses: - Declaration of Emergency (§§13-15) - Activation of Emergency Plan (§12) - Powers and duties in Emergency (§§16-18) - Establishment, composition and operations of interconnected agencies and other entities: o National Disaster Management Office and Staff (§§6-7) o National Disaster Committee (§§4-5) o National Disaster Operations Center (§8) - Disaster Management Planning and Implementation: o National Disaster Plan (§§9, 12) o National Disaster Support Plans(§§10, 12) o Provincial Disaster Plans(§§11-12) - offenses/penalty (§ 19)]
Viet Nam	3		Decision .. approving the national strategy on natural disaster prevention, fighting and reduction till 2020.	Decision No. 172/2007/QD-TTg	Principles and objectives (guidelines) of a predominantly water-focused "disaster prevention, fighting and reduction" law.	[This is a policy instrument, but operates legislatively, in the sense that governmental action in Vietnam is more closely directed by formally adopted policy statements than by specific legislation. It provides a useful statement of and guidelines for national measures to prepare for and address natural disasters. It is far too long to reproduce here.]

*The selection of Key legislation is discussed in the Report in the initial paragraphs of part II.C.

**Note: The World Bank Classification of Economies is based on GNI per capita data is a commonly used basis for the designation of development status, on the basis of income. See <http://siteresources.worldbank.org/INTRGEP2004/Resources/classification.pdf>. Income groups (See also the 2009 UNDP report, entitled Overcoming barriers: Human mobility and development) are as follows:

"1" to denote countries with "very high human development" (formerly called "developed countries") - per capita GNI of US\$11,116 or more;
"2" to denote developing countries with "high human development", also referred to as "upper middle income" - per capita GNI of US\$3,596 - US\$11,115;
"3" to denote developing countries with "medium human development", also referred to as "lower middle income"- per capita GNI US\$906 - US\$3,59;
"4" to denote developing countries with "low human development" ", also referred to as "low income" countries a- per capita GNI US\$905 or less; and
"X" to refer to countries not rated on either scale.

Appendix 2

Matrix of National Constitutional Provisions addressing Emergency

Country	Language		Most relevant provisions and excerpts (Emergency/disaster provisions, contingency funding and governmental power to borrow)
	Reviewed in	Is that an official lang?	
Albania	English	No	<p>Article 16 [Competences] The People's Assembly has the following main competences:...4. It decides on the partial and general mobilization, the state of emergency, and the state of war in case of armed aggression against the Republic of Albania or when this is necessary to fulfill obligations deriving from the international treaties.</p> <p>Article 17 [Election, Term] (1) The People's Assembly is made up of 250 deputies. The People's Assembly is elected for a 4 year period. (2) The People's Assembly convenes the first session no later than two months from the day it is elected. (4) [sic] In case of war or state of emergency the People's Assembly can prolong its activity beyond the fixed limit as long as the war or the state of emergency continues. [emphasis added]</p>
Algeria	English	No	<p>Article 91: (1) In case of urgent necessity, the High Security Council convened, the President of the People's National Assembly, the President of the Council of Nation, the Head of Government and the President of the Republic decrees the state of emergency or the state of siege, for a definite period and takes all the necessary measures to restore the situation. (2) The duration of the state of emergency or the state of siege cannot be extended unless with the approval of the parliament sitting in both chambers convened together.</p> <p>Article 92: The organization of the state of emergency and the state of siege is defined by an organic law.</p> <p>Article 93: (1) When the country is threatened by an impending danger to its institutions, to its independence or to its territorial integrity, the President of the Republic decrees the state of exception. (2) Such a measure is taken after referring to the President of the People's National Assembly, the President of the Council of Nation and the Constitutional Council, and hearing the High Security Council and the Cabinet. (3) The state of exception entitles the President of the Republic to take exceptional measures dictated by the safeguard of the independence of the Nation and the institutions of the Republic. (4) The Parliament meets de jure. The state of exception mentioned above and which led to its proclamation.</p> <p>Article 94: The High Security Council heard, the President of the People's National Assembly and the President of the Council of Nation referred to, the President of the Republic decrees the general mobilization during the meeting of the Cabinet.</p>
Andorra	French	Yes	<p>Article 41: 1. La loi organise la protection des droits et des libertés reconnus aux Chapitres III et IV devant les tribunaux ordinaires, selon une procédure d'urgence qui, dans tous les cas, prévoit deux instances. 2. La loi établit une procédure exceptionnelle de recours devant le Tribunal Constitucional (recours d'empara) contre les actes des pouvoirs publics qui portent atteinte aux droits mentionnés dans le paragraphe précédent, sauf pour le cas prévu à l'article 22.</p> <p>Article 42: 1. Une Llei Qualificada régleme l'état d'alerte et l'état d'urgence. Le premier peut être déclaré par le Govern en cas de catastrophe naturelle, pour une durée de quinze jours, et fait l'objet d'une notification au Consell General. Le second est également déclaré par le Govern, pour une période de trente jours, en cas d'interruption du fonctionnement normal de la vie démocratique, après autorisation préalable du Consell General. Toute prorogation de ces dispositions requiert nécessairement l'approbation du Consell General. 2. Pendant l'état d'alerte, l'exercice des droits reconnus aux articles 21 et 27 peut être limité. Pendant l'état d'urgence, les droits mentionnés dans les articles 9.2, 12, 15, 16, 19 et 21 peuvent être suspendus. L'application de cette suspension aux droits contenus dans les articles 9 alinéa 2 et 15 doit toujours être effectuée sous le contrôle de la justice, sans préjudice de la procédure de protection établie à l'article 9 alinéa 3.</p> <p>Article 60: 1. En cas d'extrême urgence et de nécessité, le Govern peut présenter au Consell General un projet de loi pour qu'il soit approuvé, par un vote unique portant sur l'ensemble de ses articles, dans un délai de quarante-huit heures. 2. Les matières réservées à la Llei Qualificada ne peuvent faire l'objet ni d'une délégation législative ni de la procédure prévue au paragraphe 1 du présent article.</p> <p>[Provisions regarding governmental "vote of confidence" process are also varied in "state of emergency" situations. Those provisions (Article 71) not typed here verbatim. The most relevant excerpt reads as follows: "La dissolution ne peut être prononcée si une motion de censure a été déposée ou si l'Etat d'urgence a été déclaré"]</p>
Angola	English	No	<p>Article 52: (1) The exercise of the rights, freedoms and guarantees of citizens may be restricted or suspended only in accordance with the law if such constitute a threat to public order, community interests, individual rights, freedoms and guarantees, or in the event of the declaration, a state of siege or emergency, and such restrictions shall always be limited to necessary and adequate measures to maintain public order, in the interest of the community and the restoration of constitutional normality. (2) On no account shall the declaration of a state of siege or state of emergency affect the right to life, personal integrity, personal identity, civil capacity, citizenship, the non-retroactive nature of penal law, the right of the accused to defense or freedom of conscience and religion. (3) A state of siege and state of emergency shall be regulated by a specific law.</p> <p>Article 66 The President of the Republic shall have the following powers:...(r) To declare a state of siege or state of emergency, in accordance with the law;...</p>
Argentina	Spanish	Yes	<p>Artículo 76.- Se prohíbe la delegación legislativa en el Poder Ejecutivo, salvo en materias determinadas de administración o de emergencia pública, con plazo fijado para su ejercicio y dentro de las bases de la delegación que el Congreso establezca. La caducidad resultante del transcurso del plazo previsto en el párrafo anterior [referring to first sentence of this Art. 76] no importará revisión de las relaciones jurídicas nacidas al amparo de las normas dictadas en consecuencia de la delegación legislativa.</p>
Austria	German	Yes	<p>Article 118 (3) devolves responsibilities in the fields of emergency services, first aid, deaths and interment to be County-level responsibilities</p>
Azerbaijan	English	No	<p>Article 27 Right to life: (4) Arms shall not be used against human beings except ... c. to carry out orders given by authorized persons during martial law or state of emergency, military aggression....</p> <p>Article 35 Right to work: ...(5) Based on decisions of the law court there might be cases of forced labor, terms and conditions being specified by legislation; forced labor is permissible due to orders of authorized persons during the term of army service, state of emergency or martial law....</p> <p>Article 71 Protection of rights and liberties of a human being and citizen: ...(3) Rights and liberties of a human being and citizen may be partially and temporarily restricted only on announcement of war, martial law and state of emergency, and also mobilization, taking into consideration international obligations of the Azerbaijan Republic. Population of the Republic shall be notified in advance about restrictions as regards their rights and liberties.</p> <p>Article 94 General rules established by the Parliament [Milli Majlis] of the Azerbaijan Republic: (1) The Parliament [Milli Majlis] of the Azerbaijan Republic shall be empowered to establish general rules concerning the following matters:... 8. state of emergency; martial law;...</p> <p>Article 109 Competence of the President of the Azerbaijan Republic: The President of the Azerbaijan Republic: ...29. announces state of emergency and martial law;</p> <p>Article 112 State of emergency: Whenever natural calamities take place, epidemic, epizootic, grave ecological and other disasters and also on accomplishment of acts aimed to violation of territorial integrity of the Azerbaijan Republic, revolt or state coup, with mass disorders accompanied by violence, other conflicts threatening life and safety of citizens, or normal activity of state bodies, the President of the Azerbaijan Republic shall announce state of emergency in individual areas of the Azerbaijan Republic and within 24 hours submit a decree for same for approval by the Parliament [Milli Majlis] of the Azerbaijan Republic.</p>
Bahrain	English	TR	<p>Article 12 [Compensation]: The State guarantees the common liability of society in bearing the burdens arising from public disasters and ordeals, and for compensating those affected by war damage or as a result of performing their military duties.</p>
Belarus - Constitution	English	No	<p>Article 41 [Work, Unions, No Forced Labor].... (3) Forced labor shall be prohibited, other than work or service specified in the verdict of a court of law or in accordance with the law on state of emergency or martial law.</p> <p>Article 63 [Emergency, Martial Law]: (1) The exercise of the personal rights and liberties specified in this Constitution may be suspended only during a state of emergency or martial law under the procedure and within the limits specified in the Constitution and the law. (2) In carrying out special measures during a state of emergency, the rights specified in Articles 24 [Right to Life, Death Penalty], 25 (3) [torture or cruel, inhuman, or undignified treatment or punishment, or be subjected to medical or other experiments], 26 [Presumption of Innocence] and 31 [Religion] of the Constitution may not be restricted.</p>

			<p>Article 72 [Election Procedure] ... (3) No elections shall be held during a state of emergency or martial law.</p> <p>Article 100 [Competences]: (1) The President shall...18) in the event of a natural disaster, a catastrophe, or unrest involving violence or the threat of violence on the part of a group of persons or organizations that endangers peoples' lives and health or jeopardizes the territorial integrity and existence of the State, declare a state of emergency in the territory of the Republic of Belarus or in specific areas thereof and submit the decision to the Supreme Council for approval within three days;...</p> <p>Article 148 [Debate]...(2) The Constitution shall not be amended or supplemented during a state of emergency or the last six months of the term of a Supreme Council.</p>
Bolivia	Spanish	Yes	<p>Son deberes de las bolivianas y los bolivianos: ...11. Socorrer con todo el apoyo necesario, en casos de desastres naturales y otras contingencias.</p> <p>CAPITULO TERCERO - ESTADOS DE EXCEPCIÓN</p> <p>Artículo 137. En caso de peligro para la seguridad del Estado, amenaza externa, conmoción interna o desastre natural, la Presidenta o el Presidente del Estado tendrá la potestad de declarar el estado de excepción, en todo o en la parte del territorio donde fuera necesario. La declaración del estado de excepción no podrá en ningún caso suspender las garantías de los derechos, ni los derechos fundamentales, el derecho al debido proceso, el derecho a la información y los derechos de las personas privadas de libertad.</p> <p>Artículo 138.I. La vigencia de la declaración del estado de excepción dependerá de la aprobación posterior de la Asamblea Legislativa Plurinacional, que tendrá lugar apenas las circunstancias lo permitan y, en todo caso, dentro de las siguientes setenta y dos horas a la declaración del estado de excepción. La aprobación de la declaración indicará las facultades conferidas y guardará estricta relación y proporción con el caso de necesidad atendida por el estado de excepción. Los derechos consagrados en la Constitución no quedarán en general suspendidos por la declaración del estado de excepción. II. Una vez finalizado el estado de excepción, no podrá declararse otro estado de excepción dentro del siguiente año, salvo autorización legislativa previa.</p> <p>Artículo 139. I. El Ejecutivo rendirá cuentas a la Asamblea Legislativa Plurinacional de los motivos que dieron lugar a la declaración del estado de excepción, así como del uso que haya hecho de las facultades conferidas por la Constitución y la ley. II. Quienes violen los derechos establecidos en esta Constitución serán objeto de proceso penal por atentado contra los derechos. III. Los estados de excepción serán regulados por la ley.</p> <p>Artículo 140. I. Ni la Asamblea Legislativa Plurinacional, ni ningún otro órgano o institución, ni asociación o reunión popular de ninguna clase, podrán conceder a órgano o persona alguna facultades extraordinarias diferentes a las establecidas en esta Constitución. II. No podrá acumularse el Poder Público, ni otorgarse supremacía por la que los derechos y garantías reconocidos en esta Constitución queden a merced de órgano o persona alguna. III. La reforma de la Constitución no podrá iniciarse mientras esté vigente un estado de excepción.</p> <p>Artículo 407. Son objetivos de la política de desarrollo rural integral del Estado, en coordinación con las entidades territoriales autónomas y descentralizadas: ... 4. Proteger la producción agropecuaria y agroindustrial ante desastres naturales e inclemencias climáticas, geológicas y sísmicas. La ley preverá la creación del seguro agrario: ...</p>
Brazil	English (gov't transl., unofficial)	No	<p>"Article 71. The Emergency Social Fund is hereby instituted for the fiscal years of 1994 and 1995, as well as for the period from January 1, 1996 through June 30, 1997, aiming at the financial recuperation of the Federal Public Finances and the economic stabilization, the resources of which shall be applied primarily to the actions of the health and education systems, the welfare benefits and welfare assistance of permanent nature, including the payment of welfare debts and budgetary expenditures associated to programs of great economic and social interest.</p> <p>Paragraph 1 - The provision of the final part of item II of paragraph 9 of article 165 of the Constitution shall not apply to the Fund established by this article. Paragraph 2 - From the beginning of the 1996 fiscal year on, the Fund established by this article shall be called Fiscal Stabilization Fund. Paragraph 3 - The Executive Power shall publish, on a bimonthly basis, a budget execution statement, which statement shall list the sources and applications of the Fund established by this article." [Added by § 7º - A lei disporá sobre a organização dos Fundos, a distribuição proporcional de seus recursos, sua fiscalização e controle, bem como sobre a forma de cálculo do valor mínimo nacional por aluno. * (Incluído pela Emenda Constitucional nº 14, de 1996 - D.O.U. 13.09.96)]</p> <p>Article 57 [Infringement of civil rights]... (3) Following a proclamation of war, martial law, or a state of emergency the exercise of individual civil rights may be temporarily curtailed by law, except for the rights established by Article 28, 29, 31 (1)-(3), 32 (1), and 37.</p> <p>Article 61 [Catastrophes]: Citizens shall assist the state and society in the case of a natural or other disaster, on conditions and in a manner established by law.</p> <p>Article 64 [Term of National Assembly]... (2) In case of war, armed hostilities, or another state of emergency occurring during or after the expiry of the National Assembly's term, its mandate shall be extended until the expiry of the circumstances.....</p> <p>Article 84 [Functions]: The National Assembly shall: ... (12) on a motion from the President or the Council of Ministers, introduce martial law or a state of emergency on all or part of the country's territory;</p> <p>Article 100 [Commander-in-Chief, War] ... (5) The President shall proclaim martial law or any other state of emergency whenever the National Assembly is not in session and cannot be convened. The National Assembly shall then be convened forthwith to endorse the decision.</p> <p>Article 162 [Functions]: (1) A Grand National Assembly shall resolve only on the constitutional amendment bills for which it has been elected. (2) In an emergency, a Grand National Assembly shall further perform the functions of a National Assembly. (3) The prerogatives of a Grand National Assembly shall expire after it resolves on all matters for which it has been elected. The President shall then schedule elections by a procedure established by law.</p>
Bulgaria	English	No	<p>Article 22 - When the nation faces danger, the King shall make a proclamation to the people putting the country in a state of emergency after agreement with the Prime Minister and the President of the assembly.</p> <p>Article 86 - If the country is in a state of emergency, the assembly shall meet every day continuously. The Assembly has the right to terminate this state of emergency whenever the situation permits. If the Assembly is not able to meet because of circumstances such as the occupation by foreign forces the declaration of the state of emergency must be automatically extended. During the state of emergency, the assembly shall not be dissolved.</p> <p>Article 133 - Revision or amendment shall be prohibited when the country is in the state of emergency, as outlined in article 86.</p>
Cambodia	English (gov't transl., unofficial)	No	<p>Article 53 (Restrictions, R.F. 56): (1) Under extraordinary circumstances for guaranteeing the safety of citizens and defending the constitutional order, in accordance with the federal constitutional law, it is possible to establish limits on rights and liberties for a limited period of time. (2) A state of emergency on the territory of the Chechen Republic and in its local divisions can be introduced in the presence of circumstances and in the sequence as established under federal constitutional law.</p> <p>Article 60 (Joint Jurisdiction, R.F. 72): The Russian Federation and the Chechen Republic share jurisdiction over:... h) the implementation of measures to combat catastrophes, natural disasters, epidemics and fighting their consequences;</p>
Chechnya	English	No	<p>Artículo 32.- Son atribuciones especiales del Presidente de la República: ... 20º.- Cuidar de la recaudación de las rentas públicas y decretar su inversión con arreglo a la ley. El Presidente de la República, con la firma de todos los Ministros de Estado, podrá decretar pagos no autorizados por ley, para atender necesidades impostergables derivadas de calamidades públicas, de agresión exterior, de conmoción interna, de grave daño o peligro para la seguridad nacional o del agotamiento de los recursos destinados a mantener servicios que no puedan paralizarse sin serio perjuicio para el país. El total de los giros que se hagan con estos objetos no podrá exceder anualmente del dos por ciento (2%) del monto de los gastos que autorice la Ley de Presupuestos. Se podrá contratar empleados con cargo a esta misma ley, pero sin que el ítem respectivo pueda ser incrementado ni disminuido mediante trasposas. Los Ministros de Estado o funcionarios que autoricen o den curso a gastos que contravengan lo dispuesto en este número serán responsables solidaria y personalmente de su reintegro, y culpables del delito de malversación de caudales públicos.</p> <p>Artículo 39.- El ejercicio de los derechos y garantías que la Constitución asegura a todas las personas sólo puede ser afectado bajo las siguientes situaciones de excepción: guerra externa o interna, conmoción interior, emergencia y calamidad pública, cuando afecten gravemente el normal desenvolvimiento de las instituciones del Estado. CPR Art. 39º D.O. 24.10.1980 LEY Nº 18.825 Art. único Nº18 D.O. 26.08.2005</p> <p>Artículo 41.- El estado de catástrofe, en caso de calamidad pública, lo declarará el Presidente de la República, determinando la zona afectada por la misma. El Presidente de la República estará obligado a informar al Congreso Nacional de las medidas adoptadas en virtud del estado de catástrofe. El Congreso Nacional podrá dejar sin efecto la declaración transcurridos ciento ochenta días desde ésta si las razones que la otivaron hubieran cesado en forma absoluta. Con todo, el Presidente de la República sólo podrá declarar el estado de catástrofe por un período superior a un año con acuerdo del Congreso Nacional. El referido acuerdo se tramitará en la forma establecida en el inciso segundo del artículo 40. Declarado el estado de catástrofe, las zonas respectivas quedarán bajo la dependencia inmediata del Jefe de la Defensa Nacional que designe el Presidente de la República. Este asumirá la dirección y supervigilancia de su jurisdicción con las atribuciones y deberes que la ley señale.</p> <p>Artículo 42.- El estado de emergencia, en caso de grave alteración del orden público o de grave daño para la seguridad de la Nación, lo declarará el Presidente de la República, determinando las zonas afectadas por dichas circunstancias. El estado de emergencia no podrá extenderse por más de quince días, sin perjuicio de que el Presidente de la República pueda prorrogarlo por igual período. Sin embargo, para sucesivas prórrogas, el Presidente requerirá siempre del acuerdo del Congreso Nacional. El referido acuerdo se tramitará en la forma establecida en el inciso segundo del artículo 40. Declarado el estado de emergencia, las zonas respectivas quedarán bajo la dependencia inmediata del Jefe de la Defensa Nacional que designe el Presidente de la República. Este asumirá la dirección y supervigilancia de su jurisdicción con las atribuciones y deberes que la ley señale. El Presidente de la República estará obligado a informar al Congreso Nacional de las medidas adoptadas en virtud del estado de emergencia. CPR Art. 41º A D.O. 24.10.1980 LEY Nº 20.050 Art. 1º Nº 20 D.O. 26.08.2005</p> <p>Artículo 43.- Por la declaración del estado de asamblea, el Presidente de la República queda facultado para suspender o restringir la libertad personal, el derecho de reunión y la libertad de trabajo. Podrá, también, restringir el ejercicio del derecho de asociación, interceptar, abrir o registrar documentos y toda clase de comunicaciones, disponer requisiciones de bienes y establecer limitaciones al ejercicio del derecho de propiedad. Por la declaración de estado de sitio, el Presidente de la República podrá restringir la libertad de locomoción y arrestar a las personas en sus propias moradas o en lugares que la ley determine y que no sean cárceles ni estén destinados a la detención o prisión de reos comunes. Podrá, además, suspender o restringir el ejercicio del derecho de reunión. Por la declaración del estado de catástrofe, el Presidente de la República podrá restringir las libertades de locomoción y de reunión. Podrá, asimismo, disponer requisiciones de bienes, establecer limitaciones</p>
Chile	Spanish	Yes	

			al ejercicio del derecho de propiedad y adoptar todas las medidas extraordinarias de carácter administrativo que sean necesarias para el pronto restablecimiento de la normalidad en la zona afectada. Por la declaración del estado de emergencia, el Presidente de la República podrá restringir las libertades de locomoción y de reunión. CPR Art. 41º B D.O. 24.10.1980
China	English	No	Article 67 [Functions and Powers]: The Standing Committee of the National People's Congress exercises the following functions and powers:... 20. to decide on entering the state of emergency throughout the country or in particular provinces, autonomous regions, or municipalities directly under the Central Government; Article 80 [Functions and Powers]: The President of the People's Republic of China, in pursuance of decisions of the National People's Congress and its Standing Committee, ... proclaims entering of the state of emergency; proclaims a state of war; and issues mobilization orders. Article 89 [Functions and Powers]: The State Council exercises the following functions and powers: .. 16. in accordance with the provisions of law, to decide on entering the state of emergency in parts of provinces, autonomous regions, and municipalities directly under the Central Government;...
Colombia	Spanish	Yes	ARTICULO 346. El Gobierno formulará anualmente el Presupuesto de Rentas y Ley de Apropiaaciones que deberá corresponder al Plan Nacional de Desarrollo y a las metas anuales del balance primario del sector público no financiero y lo presentará al Congreso, dentro de los primeros diez (10) días de cada legislatura. En la Ley de Presupuesto se podrán conceder autorizaciones para reorientar rentas cedidas o asignadas y modificar leyes que decreten gasto público, todo ello con carácter transitorio y de conformidad con lo dispuesto en la Ley Orgánica de Presupuesto. En la Ley de Apropiaaciones no podrá incluirse partida alguna que no corresponda a un crédito judicialmente reconocido, o a un gasto decretado conforme a la ley anterior, o a uno propuesto por el Gobierno para atender debidamente el funcionamiento de las ramas del poder público, o al servicio de la deuda, o destinado a dar cumplimiento al Plan de Desarrollo. Las comisiones de asuntos económicos de las dos cámaras deliberarán en forma conjunta para dar primer debate al proyecto de presupuesto de rentas y ley de apropiaciones. La correspondiente ponencia deberá rendirse por lo menos con un mes de antelación a su discusión en comisiones. Previamente a la discusión en comisiones conjuntas de asuntos económicos de las dos cámaras, y durante el mes después de su presentación se reunirán conjuntamente las comisiones constitucionales permanentes de las dos cámaras por especialidad, con el objeto de producir sendos conceptos o pliegos reformatorios respecto del proyecto de ley de presupuesto y en relación con los temas de su competencia. Los informes así producidos serán distribuidos a todos los miembros del Congreso y serán considerados durante el primer debate. Durante el mismo período los congresistas se reunirán por bancadas departamentales y Bogotá para examinar la partidas que se asignen al respectivo departamento o al Distrito Capital, efectuando dicho estudio de manera desagregada y producirán un informe con las mismas características del mencionado en el inciso anterior, el cual tendrá el mismo trámite. Los Senadores formarán parte de la bancada del departamento donde hayan obtenido la mayor votación. El proyecto de rentas y ley de apropiaciones deberá ser sometido a consideración para segundo debate en las plenarias a más tardar ocho (8) días antes del vencimiento del término para la expedición del presupuesto del que trata el artículo 349. Entre el 2 de mayo y el 20 de junio se realizarán audiencias públicas departamentales y distritales para escuchar a la comunidad. PARÁGRAFO 1o. Las modificaciones que se propongan en los informes de que tratan los incisos 4 y 5 del presente artículo deberán corresponder al Plan de Inversiones del Plan Nacional de Desarrollo y a los planes de inversión de los planes de desarrollo de las entidades territoriales. El proyecto presentado al Congreso por el Gobierno, recogerá el resultado de audiencias públicas consultivas convocadas por los Gobiernos Nacional, Departamentales y del Distrito Capital y del análisis hecho en el Congreso por las Comisiones Constitucionales y las Bancadas de cada departamento y Bogotá. No incluirá partidas globales excepto las necesarias para atender emergencias y catástrofes. La Ley Orgánica del Presupuesto reglamentará la materia, así como la realización de audiencias públicas especiales de control político, en las cuales los congresistas formularán los reclamos y aspiraciones de la comunidad. PARÁGRAFO 2o. Lo dispuesto en este artículo se aplicará a la elaboración y aprobación en todas las entidades territoriales. Con excepción de los mecanismos establecidos en esta disposición, en ningún caso y en ningún tiempo los miembros de las corporaciones públicas podrán directamente o por intermedio de terceros, convenir con organismos o funcionarios del Estado la apropiación de partidas presupuestales o las decisiones de destinación de la inversión de dineros públicos. [Comment in official version: Los gastos de inversión, incluidos en el proyecto de presupuesto presentado al Congreso por el Gobierno, recogerán el resultado de audiencias públicas consultivas, convocadas por los gobiernos nacional, departamentales y del Distrito Capital, y del análisis hecho en el Congreso por las comisiones constitucionales y las bancadas de cada departamento y Bogotá. El presupuesto no incluirá partidas globales, excepto las necesarias para atender emergencias y desastres. El Congreso de la República participará activamente en la dirección y control de los ingresos y los gastos públicos, lo cual comprenderá, tanto el análisis y la decisión sobre la inversión nacional, como sobre la regional. La Ley Orgánica del Presupuesto reglamentará la materia, así como la realización de las audiencias públicas especiales de control político, en las cuales los congresistas formularán los reclamos y aspiraciones de la comunidad. Lo relativo a las audiencias, dispuesto en este artículo, se aplicará a la elaboración, aprobación y ejecución del presupuesto, en todas las entidades territoriales.] PARÁGRAFO. Con excepción de los mecanismos establecidos en el título XII de la Constitución Política, en ningún caso y en ningún tiempo, los miembros de las corporaciones públicas podrán, directamente o por intermedio de terceros, convenir con organismos o funcionarios del Estado la apropiación de partidas presupuestales, o las decisiones de destinación de la inversión de dineros públicos. Lo dispuesto en este parágrafo se aplicará a la elaboración y aprobación de presupuesto en todas las entidades territoriales.
Congo (Brazzaville)	English	No	Article 109 [State of Emergency and Siege]: (1) When it appears that an imminent peril resulting in grave results to public order or in the case of events presenting themselves, by their nature and their gravity, the character of the public calamity or national disaster, the President of the Republic may decree in the Council of Ministers a state of emergency over a part or the whole of the national territory. (2) When it appears an imminent peril resulting either from a menace of foreign character, or an insurrection of the Armed Forces, or grave events occurred despite the state of emergency, the President of the Republic may declare in the Council of Ministers a state of siege. (3) In both cases, the Parliament shall meet by right if it is not in session in order to appreciate the legality of the decision of the President of the Republic. (4) The extension of the state of siege or the state of emergency for more than fifteen days shall only be authorized by the Parliament. (5) The law shall determine the manner of application of the present article.
Costa Rica	Spanish	Yes	Artículo 45.- La propiedad es inviolable; a nadie puede privarse de la suya si no es por interés público legalmente comprobado, previa indemnización conforme a la ley. En caso de guerra o conmoción interior, no es indispensable que la indemnización sea previa. Sin embargo, el pago correspondiente se hará a más tardar dos años después de concluido el estado de emergencia. Por motivos de necesidad pública podrá la Asamblea Legislativa, mediante el voto de los dos tercios de la totalidad de sus miembros, imponer a la propiedad limitaciones de interés social. Artículo 180.- El presupuesto ordinario y los extraordinarios constituyen el límite de acción de los Poderes Públicos para el uso y disposición de los recursos del Estado, y sólo podrán ser modificados por leyes de iniciativa del Poder Ejecutivo. Todo proyecto de modificación que implique aumento o creación de gastos deberá sujetarse a lo dispuesto en el artículo anterior. Sin embargo, cuando la Asamblea esté en receso, el Poder Ejecutivo podrá variar el destino de una partida autorizada, o abrir créditos adicionales, pero únicamente para satisfacer necesidades urgentes o imprevistas en casos de guerra, conmoción interna o calamidad pública. En tales casos, la Contraloría no podrá negar su aprobación a los gastos ordenados y el decreto respectivo implicará convocatoria de la Asamblea Legislativa a sesiones extraordinarias para su conocimiento.
Croatia	English	No	Article 17 [Special Restrictions in State of Emergency]: (1) During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian Parliament by a two-thirds majority of all members or, if the Croatian Parliament is unable to meet, at the proposal of the Government and upon the counter-signature of the Prime Minister, by the President of the Republic. (2) The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of persons in respect of race, color, gender, language, religion, national or social origin. (3) Not even in the case of an immediate threat to the existence of the State may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of penal offenses and punishments, or on freedom of thought, conscience and religion. Article 78 [Sessions]: (2) The Croatian Parliament shall convene emergency sessions at the request of the President of the Republic, the Government or the majority of its members.
Cuba	Spanish	Yes	Artículo 67.- En caso o ante la inminencia de desastres naturales o catástrofes u otras circunstancias que por su naturaleza, proporción o entidad afecten el orden interior, la seguridad del país o la estabilidad del Estado, el Presidente del Consejo de Estado puede declarar el estado de emergencia en todo el territorio nacional o en una parte de él, y durante su vigencia disponer la movilización de la población. La ley regula la forma en que se declara el estado de emergencia, sus efectos y su terminación. Igualmente determina los derechos y deberes fundamentales reconocidos por la Constitución, cuyo ejercicio debe ser regulado de manera diferente durante la vigencia del estado de emergencia. Artículo 98.- Son atribuciones del Consejo de Ministros: ... h) proveer la defensa nacional, al mantenimiento del orden y la seguridad interiores, a la protección de los derechos ciudadanos, así como a la salvaguarda de vidas y bienes en caso de desastres naturales; ...
Cyprus			Part III. 10. The Republic of Cyprus will be responsible for all purely civil aviation matters; under Section 2 the United Kingdom will have such facilities as they consider necessary for the operation of military aircraft in peace and war. Under Section 7 the Republic of Cyprus will provide air traffic control within the Cyprus Flight Information Region. There will be single and undivided approach and aerodrome control. This approach control, at present exercised by the United Kingdom, will become the responsibility of the Republic of Cyprus as soon as they have the qualified staff to exercise it, but the United Kingdom will have the right to provide staff to assist and to exercise exclusive control in emergency. ARTICLE 10: 1. No person shall be held in slavery or servitude. 2. No person shall be required to perform forced or compulsory labour. 3. For the purposes of this Article the term " forced or compulsory labour " shall not include ... (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants. ARTICLE 16: .. 2. There shall be no entry in any dwelling house or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster. ARTICLE 33: 1. Subject to the provisions of this Constitution relating to a state of emergency, the fundamental rights and liberties guaranteed by this Part shall not be subjected to any other limitations or restrictions than those in this Part provided. ... ARTICLE 39 ... 3. If the election cannot take place on the date fixed under this Constitution owing to extraordinary and unforeseen circumstances such as earthquake, floods, general epidemic and

			<p>the like, then such election shall take place on the corresponding day of the week next following.</p> <p>ARTICLE 50: 1. The President and the Vice-President of the Republic, separately or conjointly, shall have the right of final veto on any law or decision of the House of Representatives or any part thereof concerning - ... (c) the following questions of security: (iii) emergency measures and martial law;... It is specified that the right of veto under sub-paragraph (c) above shall cover all emergency measures or decisions, but not those which concern the normal functioning of the police and the gendarmier. ...</p> <p>ARTICLE 97: 3. If an election under paragraph 1 or 2 of this Article cannot take place on the date fixed by or under this Constitution owing to extraordinary and unforeseen circumstances such as earthquake, floods, general epidemic and the like, then such election shall take place on the corresponding day of the week next following.</p>
Denmark	English	No	<p>Section 23 [Provisional Laws] In an emergency the King may when the Parliament cannot assemble, issue provisional laws, provided that they shall not be at variance with the Constitution Act, and that they shall always immediately on the assembling of the Parliament be submitted to it for approval or rejection.</p> <p>Section 42 [Referendum]: (7) In an emergency a Bill that may be subjected to a Referendum may receive the Royal Assent immediately after it has been passed, provided that the Bill contains a provision to that effect. Where under the rules of Subsection (1) one-third of the Members of the Parliament request a Referendum on the Bill or on the Act to which the Royal Assent has been given, such Referendum shall be held in accordance with the above rules. Where the act is rejected by the Referendum, an announcement to that effect shall be made by the Prime Minister without undue delay and not later than fourteen days after the Referendum was held. From the date of such announcement the Act shall become ineffective.</p>
Dominican Republic	Spanish	Yes	<p>ART. 55.- El Presidente de la República es el jefe de la administración pública y el jefe supremo de todas las fuerzas armadas de la República y de los cuerpos policiales. Corresponde al Presidente de la República: ... 7. En caso de alteración de la paz pública, y si no se encontrare reunido el Congreso Nacional, decretar, donde aquella exista, el estado de sitio y suspender el ejercicio de los derechos que según el Artículo 37, Inciso 7 de esta Constitución se permite al Congreso suspender. Podrá también, en caso de que la soberanía nacional se encuentre en peligro grave e inminente, declarar el estado de emergencia nacional, con los efectos y requisitos indicados en el Inciso 8 del mismo artículo. En caso de calamidad pública podrá, además, decretar zonas de desastres aquellas en que se hubieren producido daños, ya sea a causa de meteoros, sismos, inundaciones o cualquier otro fenómeno de la naturaleza, así como a consecuencia de epidemias. 8. En caso de violación de las disposiciones contenidas en los apartados a) y d) del Inciso 10 del Artículo 8 de esta Constitución, que perturben o amenacen perturbar el orden público, la seguridad del Estado o el funcionamiento regular de los servicios públicos o de utilidad pública, o impidan el desenvolvimiento de las actividades económicas, el Presidente de la República adoptará las medidas provisionales de policía y seguridad necesarias para conjurar la emergencia, debiendo informar al Congreso de esa emergencia y de las medidas adoptadas. ...</p> <p>ART. 37.- Son atribuciones del Congreso: ... 8. En caso de que la soberanía nacional se encuentre expuesta a un peligro grave e inminente, el Congreso podrá declarar que existe un estado de emergencia nacional, suspendiendo el ejercicio de los derechos individuales, con excepción de la inviolabilidad de la vida, tal como lo consagra el Inciso 1) del Artículo 8 de esta Constitución. Si no estuviera reunido el Congreso, el Presidente de la República podrá dictar la misma disposición, que conllevará convocatoria del mismo para ser informado de los acontecimientos y las disposiciones tomadas.</p>
Ecuador	Spanish	Yes	<p>Art. 35.- Las personas adultas mayores, niñas, niños y adolescentes, mujeres embarazadas, personas con discapacidad, personas privadas de libertad y quienes adolezcan de enfermedades catastróficas o de alta complejidad, recibirán atención prioritaria y especializada en los ámbitos público y privado. La misma atención prioritaria recibirán las personas en situación de riesgo, las víctimas de violencia doméstica y sexual, maltrato infantil, desastres naturales o antropogénicos. El Estado prestará especial protección a las personas en condición de doble vulnerabilidad.</p> <p>Art. 38.- El Estado establecerá políticas públicas y programas de atención a las personas adultas mayores, que tendrán en cuenta las diferencias específicas entre áreas urbanas y rurales, las inequidades de género, la etnia, la cultura y las diferencias propias de las personas, comunidades, pueblos y nacionalidades; asimismo, fomentará el mayor grado posible de autonomía personal y participación en la definición y ejecución de estas políticas. En particular, el Estado tomará medidas de: ... 6. Atención preferente en casos de desastres, conflictos armados y todo tipo de emergencias.</p> <p>Art. 41.- Se reconocen los derechos de asilo y refugio, de acuerdo con la ley y los instrumentos internacionales de derechos humanos. Las personas que se encuentren en condición de asilo o refugio gozarán de protección especial que garantice el pleno ejercicio de sus derechos. El Estado respetará y garantizará el principio de no devolución, además de la asistencia humanitaria y jurídica de emergencia. No se aplicará a las personas solicitantes de asilo o refugio sanciones penales por el hecho de su ingreso o de su permanencia en situación de irregularidad. El Estado, de manera excepcional y cuando las circunstancias lo ameriten, reconocerá a un colectivo el estatuto de refugiado, de acuerdo con la ley.</p> <p>Art. 42.- Se prohíbe todo desplazamiento arbitrario. Las personas que hayan sido desplazadas tendrán derecho a recibir protección y asistencia humanitaria emergente de las autoridades, que asegure el acceso a alimentos, alojamiento, vivienda y servicios médicos y sanitarios. Las niñas, niños, adolescentes, mujeres embarazadas, madres con hijas o hijos menores, personas adultas mayores y personas con discapacidad recibirán asistencia humanitaria preferente y especializada. Todas las personas y grupos desplazados tienen derecho a retornar a su lugar de origen de forma voluntaria, segura y digna.</p> <p>Art. 46.- El Estado adoptará, entre otras, las siguientes medidas que aseguren a las niñas, niños y adolescentes: ... 6. Atención prioritaria en caso de desastres, conflictos armados y todo tipo de emergencias. ...</p> <p>Art. 164.- La Presidenta o Presidente de la República podrá decretar el estado de excepción en todo el territorio nacional o en parte de él en caso de agresión, conflicto armado internacional o interno, grave conmoción interna, calamidad pública o desastre natural. La declaración del estado de excepción no interrumpirá las actividades de las funciones del Estado. El estado de excepción observará los principios de necesidad, proporcionalidad, legalidad, temporalidad, territorialidad y razonabilidad. El decreto que establezca el estado de excepción contendrá la determinación de la causal y su motivación, ámbito territorial de aplicación, el periodo de duración, las medidas que deberán aplicarse, los derechos que podrán suspenderse o limitarse y las notificaciones que correspondan de acuerdo a la Constitución y a los tratados internacionales.</p> <p>Art. 261.- El Estado central tendrá competencias exclusivas sobre: ... 8. El manejo de desastres naturales.</p> <p>Art. 281.- La soberanía alimentaria constituye un objetivo estratégico y una obligación del Estado para garantizar que las personas, comunidades, pueblos y nacionalidades alcancen la autosuficiencia de alimentos sanos y culturalmente apropiado de forma permanente. Para ello, será responsabilidad del Estado: ..12. Dotar de alimentos a las poblaciones víctimas de desastres naturales o antrópicos que pongan en riesgo el acceso a la alimentación. Los alimentos recibidos de ayuda internacional no deberán afectar la salud ni el futuro de la producción de alimentos producidos localmente.</p> <p>Art. 365.- Por ningún motivo los establecimientos públicos o privados ni los profesionales de la salud negarán la atención de emergencia. Dicha negativa se sancionará de acuerdo con la ley.</p> <p>Art. 389.- El Estado protegerá a las personas, las colectividades y la naturaleza frente a los efectos negativos de los desastres de origen natural o antrópico mediante la prevención ante el riesgo, la mitigación de desastres, la recuperación y mejoramiento de las condiciones sociales, económicas y ambientales, con el objetivo de minimizar la condición de vulnerabilidad. El sistema nacional descentralizado de gestión de riesgo está compuesto por las unidades de gestión de riesgo de todas las instituciones públicas y privadas en los ámbitos local, regional y nacional. El Estado ejercerá la rectoría a través del organismo técnico establecido en la ley. Tendrá como funciones principales, entre otras: 1. Identificar los riesgos existentes y potenciales, internos y externos que afecten al territorio ecuatoriano. 2. Generar, democratizar el acceso y difundir información suficiente y oportuna para gestionar adecuadamente el riesgo. 3. Asegurar que todas las instituciones públicas y privadas incorporen obligatoriamente, y en forma transversal, la gestión de riesgo en su planificación y gestión. 4. Fortalecer en la ciudadanía y en las entidades públicas y privadas capacidades para identificar los riesgos inherentes a sus respectivos ámbitos de acción, informar sobre ellos, e incorporar acciones tendientes a reducirlos. 5. Articular las instituciones para que coordinen acciones a fin de prevenir y mitigar los riesgos, así como para enfrentarlos, recuperar y mejorar las condiciones anteriores a la ocurrencia de una emergencia o desastre. 6. Realizar y coordinar las acciones necesarias para reducir vulnerabilidades y prevenir, mitigar, atender y recuperar eventuales efectos negativos derivados de desastres o emergencias en el territorio nacional. 7. Garantizar financiamiento suficiente y oportuno para el funcionamiento del Sistema, y coordinar la cooperación internacional dirigida a la gestión de riesgo.</p> <p>Art. 397.- En caso de daños ambientales el Estado actuará de manera inmediata y subsidiaria para garantizar la salud y la restauración de los ecosistemas. Además de la sanción correspondiente, el Estado repetirá contra el operador de la actividad que produjera el daño las obligaciones que conlleve la reparación integral, en las condiciones y con los procedimientos que la ley establezca. La responsabilidad también recaerá sobre las servidoras o servidores responsables de realizar el control ambiental. Para garantizar el derecho individual y colectivo a vivir en un ambiente sano y ecológicamente equilibrado, el Estado se compromete a: ... 5. Establecer un sistema nacional de prevención, gestión de riesgos y desastres naturales, basado en los principios de inmediatez, eficiencia, precaución, responsabilidad y solidaridad.</p>
El Salvador	Spanish	Yes	<p>Art. 9.- Nadie puede ser obligado a realizar trabajos o prestar servicios personales sin justa retribución y sin su pleno consentimiento, salvo en los casos de calamidad pública y en los demás señalados por la ley.</p> <p>Art. 29.- En casos de guerra, invasión del territorio, rebelión, sedición, catástrofe, epidemia u otra calamidad general, o de graves perturbaciones del orden público, podrán suspenderse las garantías establecidas en los artículos 5, 6 inciso primero, 7 inciso primero y 24 de esta Constitución, excepto cuando se trate de reuniones o asociaciones con fines religiosos, culturales, económicos o deportivos. Tal suspensión podrá afectar la totalidad o parte del territorio de la República, y se hará por medio de decreto del Órgano Legislativo o del Órgano Ejecutivo, en su caso. También podrán suspenderse las garantías contenidas en los Arts. 12 inciso segundo y 13 inciso segundo de esta Constitución, cuando así lo acuerde el Órgano Legislativo, con el voto favorable de las tres cuartas partes de los Diputados electos; no excediendo la detención administrativa de quince días.</p>

			<p>Art. 106.- La expropiación procederá por causas de utilidad pública o de interés social, legalmente comprobados, y previa una justa indemnización. Cuando la expropiación sea motivada por causas provenientes de guerra, de calamidad pública o cuando tenga por objeto el aprovisionamiento de agua o de energía eléctrica, o la construcción de viviendas o de carreteras, caminos o vías públicas de cualquier clase, la indemnización podrá no ser previa. Cuando lo justifique el monto de la indemnización que deba reconocerse por los bienes expropiados de conformidad con los incisos anteriores, el pago podrá hacerse a plazos, el cual no excederá en conjunto de quince años, en cuyo caso se pagará a la persona expropiada el interés bancario correspondiente. Dicho pago deberá hacerse preferentemente en efectivo. Se podrá expropiar sin indemnización las entidades que hayan sido creadas con fondos públicos. Se prohíbe la confiscación ya sea como pena o en cualquier otro concepto. Las autoridades que contravengan este precepto responderán en todo tiempo con sus personas y bienes del daño inferido. Los bienes confiscados son imprescriptivos.</p> <p>Art. 131.- Corresponde a la Asamblea Legislativa: a... 6º.- Decretar impuestos, tasas y demás contribuciones sobre toda clase de bienes, servicios e ingresos, en relación equitativa; y en caso de invasión, guerra legalmente declarada o calamidad pública, decretar empréstitos forzosos en la misma relación, si no bastaren las rentas públicas ordinarias;</p> <p>Art. 212.- La Fuerza Armada tiene por misión la defensa de la soberanía del Estado y de la integridad del territorio. El Presidente de la República podrá disponer excepcionalmente de la Fuerza Armada para el mantenimiento de la paz interna, de acuerdo con lo dispuesto por esta Constitución. Los órganos fundamentales del Gobierno mencionados en el Art. 86, podrán disponer de la Fuerza Armada para hacer efectivas las disposiciones que hayan adoptado, dentro de sus respectivas áreas constitucionales de competencia, para hacer cumplir esta Constitución. La Fuerza Armada colaborará en las obras de beneficio público que le encomiende el Órgano Ejecutivo y auxiliará a la población en casos de desastre nacional. (2)</p> <p>Art. 221.- La militarización de los servicios públicos civiles procederá únicamente en casos de emergencia nacional.</p> <p>Art. 167.- Corresponde al Consejo de Ministros: ... 4º.- Autorizar la erogación de sumas que no hayan sido incluidas en los presupuestos, a fin de satisfacer necesidades provenientes de guerra, de calamidad pública o de grave perturbación del orden, si la Asamblea Legislativa no estuviere reunida, informando inmediatamente a la Junta Directiva de la misma, de las causas que motivaron tal medida, a efecto de que reunida que fuere ésta, apruebe o no los créditos correspondientes;</p>
Estonia	English	No	<p>Article 65 [Functions]: The Parliament shall:... 14) declare a state of emergency in the nation in accordance with Article 129;</p> <p>Article 78 [Functions]: The President of the Republic shall: ... 17) present proposals to the Parliament on declarations of a state of war, on orders for mobilization and demobilization and, in accordance with Article 129, on proclamations of a state of emergency;</p> <p>Article 87 [Functions]: The Government of the Republic shall: ... 8) declare, in the case of natural disasters and catastrophes or in order to impede the spread of infectious diseases, a state of emergency throughout the nation or in parts thereof;</p> <p>Article 104 [Procedures, Qualified Majority]: (1) Procedures for the adoption of laws shall be determined by the Law On the Parliament By-Laws. (2) The following laws may be adopted or amended only by a majority of the complement of the Parliament: ... 16) Law on A State of Emergency;</p> <p>Article 106 [Financial Laws]: (1) Issues related to the budget, taxes, the financial obligations of the state, the ratification of foreign treaties, and the enactment and ending of a state of emergency may not be put to referendum. (2) Procedures for referenda shall be determined by the Referendum Law.</p> <p>Article 129 [State of Emergency]: (1) In the case of a threat to the Constitutional system of government, the Parliament may declare, on proposal by the President of the Republic or the Government of the Republic and with a majority of its complement, a state of emergency in the whole country, with a duration of no longer than three months. (2) Regulations for a state of emergency shall be determined by law.</p> <p>Article 130 [Restrictions During State of Emergency] During a state of emergency or a state of war, the rights and liberties of persons may be restricted, and obligations placed upon them, in the interests of national security and public order, in the cases, and in accordance with procedures prescribed by law. Rights and liberties determined by Article 8, Articles 11-18, Article 20 (3), Article 22, Article 23, Article 24 (2) and (4), Article 5, Article 27, Article 28, Article 36 (2), Article 40, Article 41, Article 9 and Article 51 (1) may not be restricted.</p> <p>Article 131 [Authority During State of Emergency]: (1) During a state of emergency or a state of war there shall be no elections for the Parliament, the President of the Republic or representative bodies of local government, nor can their authority be terminated. (2) The authority of the Parliament, the President of the Republic, and representative bodies of local government shall be extended if they should end during a state of emergency or state of war, or within three months of the end of a state of emergency or state of war. In these cases, new elections shall be declared within three months of the end of a state of emergency or a state of war.</p> <p>Article 148 [Court System]: ... (2) The creation of special courts to handle some categories of court cases shall be determined by law. (3) The establishment of emergency courts shall be prohibited.</p> <p>Article 161 [Initiative]: (1) The right to initiate amendments to the Constitution shall rest with at least one-fifth of the complement of the Parliament and with the President of the Republic. (2) Amendments to the Constitution may not be initiated, nor the Constitution amended, during a state of emergency or a state of war.</p>
Ethiopia	English	Yes	<p>Article 89 Economic Objectives: (1) Government shall have the duty to formulate policies which ensure that all Ethiopians can benefit from the country's legacy of intellectual and material resources..... (3) Government shall take measures to avert any natural and man-made disasters, and, in the event of disasters, to provide timely assistance to the victims....</p> <p>Article 93 Declaration of State of Emergency: (1) (a) The Council of Ministers of the Federal Government shall have the power to decree a state of emergency, should an external invasion, a break down of law and order which endangers the Constitutional order and which cannot be controlled by the regular law enforcement agencies and personnel, a natural disaster, or an epidemic occur. (b) State executives can decree a State-Wide state of emergency should a natural disaster or an epidemic occur. Particulars shall be determined in State Constitutions to be promulgated in conformity with this Constitution. (2) A state of emergency declared in accordance with sub-article 1 (a) of this article: (a) If declared when the House of Peoples' Representatives is in session, the decree shall be submitted to the House within forty-eight hours of its declaration. The decree, if not approved by a two-thirds majority vote of members of the House of Peoples' Representatives, shall be repealed forthwith. (b) Subject to the required vote of approval set out in (a) of this sub-article, the decree declaring a state of emergency</p> <p>when the House of Peoples' Representatives is not in session shall be submitted to it within fifteen days of its adoption. (3) A state of emergency decreed by the Council of Ministers, if approved by the House of Peoples' Representatives, can remain in effect up to six months. The House of Peoples' Representatives may, by a two-thirds majority vote, allow the state of emergency proclamation to be renewed every four months successively. (4) (a) When a state of emergency is declared, the Council of Ministers shall, in accordance with regulations it issues, have all necessary power to protect the country's peace and sovereignty, and to maintain public security, law and order. (b) The Council of Ministers shall have the power to suspend such political and democratic rights contained in this Constitution to the extent necessary to avert the conditions that required the declaration of a state of emergency. (c) In the exercise of its emergency powers the Council of Ministers can not, however, suspend or limit the rights provided for in Articles 1, 18, 25, and sub-articles 1 and 2 of Article 39 of this Constitution.</p> <p>(5) The House of Peoples' Representatives, while declaring a state of emergency, shall simultaneously establish a State of Emergency Inquiry Board, comprising of seven persons to be chosen and assigned by the House from among its members and from legal experts. (6) The State of Emergency Inquiry Board shall have the following powers and responsibilities: (a) To make public within one month the names of all individuals arrested on account of the state of emergency together with the reasons for their arrest. (b) To inspect and follow up that no measure taken during the state of emergency is inhumane. (c) To recommend to the Prime Minister or to the Council of Ministers corrective measures if it finds and case of inhumane treatment. (d) To ensure the prosecution of perpetrators of inhumane acts. (e) To submit its views to the House of Peoples' Representatives on a request to extend the duration of the state of emergency.</p>
Fiji	English	Yes	<p>Chapter 10. Section 34 Freedom of movement ... (11) Subsections 23 (3) and (4) apply to a person whose right to freedom of movement is restricted pursuant to measure authorised under a state of emergency in the same way as they apply to a person detained pursuant to such a measure.</p> <p>Chapter 27. Section 23 Personal liberty: ... (3) If a person (detainee) is detained pursuant to a measure authorised under a state of emergency: (a) the detainee must, as soon as is reasonably practicable and in any event within 7 days after the start of the detention, be given a statement in writing, in a language that the detainee understands, specifying the grounds of the detention; (b) notice of the detention must be published in the Gazette within 14 days after the start of the detention, giving particulars of the law under which the detention is authorised; (c) the detainee must be given the opportunity to communicate with, and to be visited by: (i) his or her spouse, partner or next-of-kin; and (ii) a religious counselor or social worker; (d) the detainee must be given reasonable facilities to consult with a legal practitioner of his or her choice; (e) the detention must, within one month and thereafter at intervals of not more than 6 months, be reviewed by an independent and impartial tribunal established by the Judicial Service Commission and presided over by a person qualified to practise as a barrister and solicitor in Fiji; and (f) at a hearing before the tribunal the detainee may appear in person or be represented by a legal practitioner. (4) Following a review by a tribunal under subsection (3), the tribunal may make recommendations to the appropriate authority as to the continued detention of the detainee.</p> <p>Section 187 Emergency powers: (1) The Parliament may make a law conferring power on the President, acting on the advice of the Cabinet, to proclaim a state of emergency in Fiji, or in a part of Fiji, in such circumstances as the law prescribes. (2) The law may include provisions conferring on the President the power to make regulations relating to the state of emergency. (3) A measure authorised by or under the law may derogate from the rights and freedoms set out in section 23, 24, 30, 31, 32, 33, 34 or 37 (but not from other rights and freedoms set out in the Bill of Rights) if each of the following conditions is satisfied: (a) the Cabinet has reasonable grounds for believing that, because of the emergency described in the proclamation of the state of emergency, the life of the State is threatened and the exigencies of the situation are such that they cannot be dealt with effectively without derogating from the Bill of Rights; (b) the proclamation of the state of emergency is laid before the House of Representatives, is confirmed by it within 5 sitting days after the proclamation</p> <p>is made and remains in force at the time the measure is taken; (c) the proclamation of the state of emergency remains in force for no longer than 3 months or for such further successive periods of up to 6 months as the House of Representatives determines; (d) regulations relating to the state of emergency are laid before the House of Representatives within 2 sitting days after they are made and remain in force at the time the measure is taken. (4) A law made under this section that is inconsistent with the obligations of the State under an international convention or covenant is invalid to the extent of the inconsistency. (5) Regulations made pursuant to subsection (2) remain in force only so long as the proclamation of the state of emergency remains in force.</p>

			<p>Section 188 Summoning of House of Representatives: (1) Upon the proclamation of a state of emergency, the President must summon the House of Representatives to meet. (2) If the proclamation is made during the period after a dissolution of the House of Representatives and before the holding of the next following general election of members of the House of Representatives, the President must, under subsection (1), summon the members of the dissolved House, and those members may exercise all the powers conferred on the House of Representatives under this Chapter. (3) Despite the summoning under subsection (2) of members of the dissolved House of Representatives, the general election must proceed and the recalled House again stands dissolved on the day immediately before the day fixed for the polling at the general election. (4) If, during a period while a state of emergency is in force, the term of the House of Representatives would, under section 59, expire by effluxion of time, the President may, on the advice, of the Cabinet, proclaim an extension of the term for such period as is specified in the proclamation. (5) The term of the House of Representatives must not be extended under subsection (4) for a total of more than 12 months.</p> <p>Section 189 Powers of House of Representatives: (1) The House of Representatives may, at anytime, disallow a proclamation of a state of emergency. (2) The House of Representatives may at any time amend or disallow regulations relating to the state of emergency that are laid before it. (3) If: (a) notice of a motion to disallow a proclamation of a state of emergency or to amend or disallow regulations relating to the state of emergency has been given by at least 18 members of the House of Representatives; and (b) at the end of the period of 3 sitting days after the notice was given, the notice has not been withdrawn, the motion has not been called on and the House has not passed a resolution deferring its consideration; (c) the proclamation or the regulations, as the case may be, are taken to have been disallowed or amended, as the case may be.</p> <p>Section 194 Interpretation: ... "state of emergency" means a state of emergency proclaimed under Chapter 14 (Arts 187-189);</p>
Finland	English	No	<p>Section 23 Basic rights and liberties in situations of emergency: Such provisional exceptions to basic rights and liberties that are compatible with Finland's international obligations concerning human rights and that are deemed necessary in the case of an armed attack against Finland or if there exists an emergency that threatens the nation and which according to an Act is so serious that it can be compared with an armed attack may be provided by an Act.</p>
France	French	Yes	<p>Art. 16: Lorsque les institutions de la République, l'indépendance de la Nation, l'intégrité de son territoire ou l'exécution de ses engagements internationaux sont menacés d'une manière grave et immédiate et que le fonctionnement régulier des pouvoirs publics constitutionnels est interrompu, le Président de la République prend les mesures exigées par ces circonstances, après consultation officielle du Premier Ministre, des Présidents des assemblées ainsi que du Conseil Constitutionnel. Il en informe la Nation par un message. Ces mesures doivent être inspirées par la volonté d'assurer aux pouvoirs publics constitutionnels, dans les moindres délais, les moyens d'accomplir leur mission. Le Conseil Constitutionnel est consulté à leur sujet. Le Parlement se réunit de plein droit. L'Assemblée Nationale ne peut être dissoute pendant l'exercice des pouvoirs exceptionnels.</p>
Germany	German	Yes	<p>Article 91 (Internal emergency): (1) In order to avert any imminent danger to the existence or to the free democratic basic order of the Federation or of a Land, a Land may request the services of the police forces of other Laender or of the forces and facilities of other administrative authorities and the Federal Border Guard. (2) If the Land in which the danger is imminent is not itself willing or able to fight the danger, the Federal Government may place the police in that Land and the police forces of other Laender under its own instructions and use units of the Federal Border Guard. The order for this shall be rescinded after the danger is past, or else at any time on the demand of the Bundesrat. Where the danger extends to a region larger than a Land, the Federal Government may, insofar as is necessary for effectively combating such danger, issue instructions to the Land governments; the first and second sentences of this paragraph shall not be affected by this provision.</p> <p>Article 106 (Apportionment of tax revenue): As amended December 23, 1955 and December 24 1956 (1) The yield of fiscal monopolies and receipts from the following taxes shall accrue to the Federation: ... 6. Berlin emergency aid tax....</p> <p>Article 135a: (1) The legislation reserved to the Federation in Article 134, paragraph (4), and Article 135, paragraph (5), may also stipulate that the following liabilities shall not be discharged, or not to their full extent: ... 3. such liabilities of Laender or communes (associations of communes) as have arisen from measures taken by these holders of rights before August 1, 1945, within the sphere of administrative functions incumbent upon, or delegated by, the Reich to comply with regulations of occupying Powers or to remove a state of emergency due to the war. [Provision of Art 81 ("legislative emergency") not reproduced, as not relevant]</p>
Greece	English	No	<p>Article 5 [Freedom, Integrity] (4) Individual administrative measures restricting free movement or freedom of residence in the country and the right of every Greek to leave or enter Greece shall be prohibited. Such measures may be taken in cases of extraordinary emergency and only for the prevention of illegal acts, following the decision of a penal court as the law provides. In cases of utmost urgency, the ruling of the court may be issued after the administrative act has been taken, but not later than three days; if not the said administrative act shall be lifted ipso jure.</p> <p>Article 22 [Work, Social Security]: ... (3) All forms of compulsory labor shall be prohibited. Special laws shall determine matters relating to the forcible recruitment of personal services in the event of war or mobilization or for the benefit of the defence needs of the country or in the case of social emergency caused by a natural catastrophe or likely to endanger public health, and matters relating to the services offered to local authorities with a view to satisfying local needs. ...</p>
Grenada	English	Yes	<p>Art. 4.-... (3) For the purpose of this section, the expression "forced labour" does not include- ... d. any labour required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.</p> <p>Art. 14. Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 3 [personal liberty] or section 13 [nondiscrimination] of this Constitution to the extent that the law authorises the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Grenada during that period.</p> <p>Art. 17.-(1) The Governor-General may, by Proclamation which shall be published in the Gazette, declare that a state of emergency exists for the purposes of this Chapter. (2) Every declaration of emergency shall lapse- a. in the case of a declaration made when Parliament is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and b. in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration unless it has in the meantime been approved by a resolution of both Houses of Parliament. (3) A declaration of emergency may at any time be revoked by the Governor-General by Proclamation which shall be published in the Gazette. (4) A declaration of emergency that has been approved by a resolution of the Houses of Parliament in pursuance of subsection (2) of this section shall, subject to the provisions of subsection (3) of this section, remain in force so long as the resolution of both those Houses remains in force and no longer. (5) A resolution of a House of Parliament passed for the purposes of this section shall remain in force for six months or such shorter period as may be specified therein: Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding six months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution of that House. (6) A resolution of a House of Parliament for the purposes of subsection (2) of this section and a resolution of a House extending any such resolution shall not be passed unless it is supported by the votes of a majority of all the members of the House. (7) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time. (8) The Governor-General may summon the Houses of Parliament to meet for the purposes of subsection (2) of this section notwithstanding that Parliament then stands dissolved, and the persons who were members of the Senate and the House of Representatives immediately before the dissolution shall be deemed, for those purposes, still to be members of those Houses but, subject to the provisions of sections 28(3) and 34(4) of this Constitution (which relate to the election of the President of the Senate and the Speaker of the House of Representatives), a House of Parliament shall not, when summoned by virtue of this subsection, transact any business other than debating and voting upon a resolution for the purposes of subsection (2) of this section.</p> <p>18.- ... (2) In this Chapter " a period of public emergency " means any period during which a. Her Majesty is at war; or b. a declaration of emergency is in force under section 17 of this Constitution.</p>
Guatemala	Spanish	Yes	<p>ARTICULO 133.- Junta Monetaria. La Junta Monetaria tendrá a su cargo la determinación de la política monetaria, cambiaria y crediticia del país y velará por la liquidez y solvencia del sistema bancario nacional, asegurando la estabilidad y el fortalecimiento del ahorro nacional. Con la finalidad de garantizar la estabilidad monetaria, cambiaria y crediticia del país, la Junta Monetaria no podrá autorizar que el Banco de Guatemala otorgue financiamiento directo o indirecto; garantía o aval al estado, a sus entidades descentralizadas o autónomas ni a las entidades privadas no bancarias. Con ese mismo fin, el Banco de Guatemala no podrá adquirir los valores que emitan o negocien en el mercado primario dichas entidades. Se exceptúa de estas prohibiciones el financiamiento que pueda concederse en casos de catástrofes o desastres públicos, siempre y cuando el mismo sea aprobado por las dos terceras partes del número total de diputados que integran el Congreso a solicitud del presidente de la</p> <p>república. La Superintendencia de Bancos, organizada conforme a la ley, es el órgano que ejercerá la vigilancia e inspección de bancos, instituciones de crédito, empresas financieras, entidades afianzadoras, de seguros y las demás que la ley disponga.</p> <p>ARTICULO 138.- Limitación a los derechos constitucionales. Es obligación del Estado y de las autoridades, mantener a los habitantes de la Nación, en el pleno goce de los derechos que la Constitución garantiza. Sin embargo, en caso de invasión del territorio, de perturbación grave de la paz, de actividades contra la seguridad del Estado o calamidad pública, podrá cesar la plena vigencia de los derechos a que se refieren los artículos 5º, 6º, 9º, 26º, 33º, primer párrafo del artículo 35º, segundo párrafo del artículo 38º y segundo párrafo del artículo 116º. Al concurrir cualquiera de los casos que se indican en el párrafo anterior, el Presidente de la República, hará la declaratoria correspondiente, por medio de decreto dictado en Consejo de Ministros y se aplicarán las disposiciones de la Ley de Orden Público. En el estado de prevención, no será necesaria esta formalidad. a. decreto especificará; b. Los motivos que lo justifiquen; c. Los derechos que no puedan asegurarse en su plenitud; d. El territorio que afecte; y e. El tiempo que durará su vigencia. Además,</p>

			<p>en el propio decreto, se convocará al Congreso, para que dentro del término de tres días, lo conozca, lo ratifique, modifique o impruebe. En caso de que el Congreso estuviere reunido, deberá conocerlo inmediatamente. Los efectos del decreto no podrán exceder de treinta días por cada vez. Si antes de que venza el plazo señalado, hubieren desaparecido las causas que motivaron el decreto, se le hará cesar en sus efectos y para este fin, todo ciudadano tiene derecho a pedir su revisión. Vencido el plazo de treinta días, automáticamente queda restablecida la vigencia plena de los derechos, salvo que se hubiere dictado nuevo decreto en igual sentido. Cuando Guatemala afronte un estado real de guerra, el decreto no estará sujeto a las limitaciones de tiempo, consideradas en el párrafo anterior. Desaparecidas las causas que motivaron el decreto a que se refiere este artículo, toda persona tiene derecho a deducir las responsabilidades legales procedentes, por los actos innecesarios y medidas no autorizadas por la Ley de Orden Público.</p> <p>ARTICULO 139.- Ley de Orden Público y Estados de Excepción. Todo lo relativo a esta materia, se regula en la Ley Constitucional de Orden Público. La Ley de Orden Público, no afectará el funcionamiento de los organismos del Estado y sus miembros gozarán siempre de las inmunidades y prerrogativas que les reconoce la ley; tampoco afectará el funcionamiento de los partidos políticos. La Ley de Orden Público, establecerá las medidas y facultades que procedan, de acuerdo con la siguiente graduación: a. Estado de prevención; b. Estado de alarma; c. Estado de calamidad pública; d. Estado de sitio; y e. Estado de guerra.</p> <p>ARTICULO 183.- Funciones del Presidente de la República. Son funciones del Presidente de la República: ... f) Dictar las disposiciones que sean necesarias en los casos de emergencia grave o de calamidad pública, debiendo dar cuenta al Congreso en sus sesiones inmediatas. ...</p> <p>ARTICULO 249.- Cooperación del Ejército. El Ejército prestará su cooperación en situaciones de emergencia o calamidad pública.</p>
Guayana	English	Yes	<p>70. ... (5) If, after a dissolution [of Parliament] and before the holding of an election of members of the Assembly, pursuant to the provisions of article 61, the President considers that owing to the existence of a state of war of a state of emergency in Guyana or any part thereof, it is necessary to recall Parliament, the President shall summon the Parliament that has been dissolved to meet, but the election of members of the Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved, again stand dissolved on the day before the day on which the election is held.</p> <p>150. (1) This article applies to any period when -- ... (b) there is in force a proclamation (in this article referred to as a "proclamation of emergency") made by the President declaring that a state of public emergency exists for the purposes of this article;</p> <p>(2) Nothing contained in or done under the authority of any laws shall be held to be inconsistent with or in contravention of article 139 [Protection of right to personal liberty], 140 (2) [Protection from deprivation of property] or 143 [arbitrary search or entry], any provision of article 144 [secure protection of the law] other than paragraph (4) thereof, or any provision of articles 145 to 149 [inclusive] [freedom of conscience, expression, assembly, association, movement, non-discrimination] to the extent that the law in question makes in relation to any period to which this article applies provision, or authorises the doing during any such period of anything, which is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purpose of dealing with that situation. (3) (a) Where any proclamation of emergency has been made, copies thereof shall as soon as practicable be laid before the National Assembly, and if, by reason of its adjournment or the prorogation of Parliament, the Assembly is not due to meet within five days the President shall, by proclamation, summon the Assembly to meet within five days, and the Assembly shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or Parliament had stood prorogued to that day. (b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following subparagraph, but without prejudice to the making of another proclamation of emergency at or before the end of the period. (c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of the provisions of this subparagraph) a resolution is passed by the Assembly approving its continuance in force for a further period, not exceeding six months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.</p> <p>(4) A resolution such as is referred to in paragraph (1) (c) shall, unless it is sooner revoked by a resolution of the Assembly, ceased to be in force at the expiration of two years beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the Assembly in the manner prescribed by that paragraph at or before the end of that period.</p>
Haiti	French	Yes	<p>ARTICLE 266: Les Forces Armées ont pour attributions: ... e) Aider la nation en cas de désastre naturel; ...</p> <p>ARTICLE 293.1: Tout individu victime de confiscation de biens ou de dépossession arbitraire pour raison politique, durant la période s'étendant du 22 Octobre 1957 au 7 Février 1986 peut récupérer ses biens devant le Tribunal compétent. Dans ce cas, la procédure est célère comme pour les affaires urgentes et la décision n'est susceptible que du pourvoi en Cassation.</p>
Honduras			<p>ARTICULO 106.- Nadie puede ser privado de su propiedad sino por causa de necesidad o interés público calificados por la ley o por resolución fundada en Ley, y sin que medie previa indemnización justipreciada. En caso de guerra o conmoción interior, no es indispensable que la indemnización sea previa, pero el pago correspondiente se hará, a más tardar, dos años después de concluido el estado de emergencia.</p> <p>ARTICULO 187.- El ejercicio de los derechos establecidos en los artículos 69, 71, 72, 78, 81, 84, 93, 99 y 103, podrán suspenderse en caso de invasión del territorio nacional, perturbación grave de la paz, de epidemia o de cualquier otra calamidad general, por el Presidente de la República, de acuerdo con el Consejo de Ministros, por medio de un Decreto que contendrá: 1. Los motivos que lo justifiquen; 2. La garantía o garantías que se restrinjan; 3. El territorio que afectará la restricción; y, 4. El tiempo que durará ésta. Además se convocará en el mismo Decreto al Congreso Nacional para que dentro del plazo de treinta días, conozca de dicho decreto y lo ratifique, modifique o impruebe. En caso que estuviere reunido, conocerá inmediatamente del Decreto. La restricción de garantías no podrá exceder de un plazo de cuarenta y cinco días por cada vez que secrete. Si antes de que venza el plazo señalado para la restricción, hubieren desaparecido las causas que motivaron el Decreto, se hará cesar en sus efectos, y en este caso</p> <p>todo ciudadano tiene el derecho para instar su revisión. Vencido el plazo de cuarenta y cinco días, automáticamente quedan restablecidas las garantías, salvo que se hubiere dictado nuevo Decreto de restricción. La restricción de garantías decretada, en modo alguno afectará el funcionamiento de los organismos del Estado, cuyos miembros gozarán siempre de las inmunidades y prerrogativas que les conceda la ley.</p> <p>ARTICULO 274.- Las Fuerzas Armadas estarán sujetas a las disposiciones de su Ley Constitutiva y a las demás Leyes y Reglamentos que regulen su funcionamiento. Cooperarán con las Secretarías de Estado y demás instituciones, a pedimento de éstas, en labores de alfabetización, educación, agricultura, protección del ambiente, vialidad, comunicaciones, sanidad y reforma agraria. Participarán en misiones internacionales de paz, en base a tratados internacionales, prestarán apoyo logístico de asesoramiento técnico, en comunicaciones y transporte; en la lucha contra el narcotráfico; colaborarán con personal y medios para hacer frente a desastres naturales y situaciones de emergencia que afecten a las personas y los bienes; así como en programas de protección y conservación del ecosistema, de educación académica y formación técnica de sus miembros y otros de interés nacional. Además cooperarán con las instituciones de seguridad pública, a petición de la</p> <p>ARTICULO 360.- Los contratos que el Estado celebre para la ejecución de obras públicas, adquisición de suministros y servicios, de compra-venta o arrendamiento de bienes, deberán ejecutarse previa licitación, concurso o subasta, de conformidad con la ley. Se exceptúan los contratos que tengan por objeto proveer a las necesidades ocasionadas por un estado de emergencia y los que por su naturaleza no puedan celebrarse, sino con persona determinada.</p> <p>ARTICULO 365.- El Poder Ejecutivo, bajo su responsabilidad y siempre que el Congreso Nacional no estuviere reunido, podrá contratar empréstitos, variar el destino de una partida autorizada o abrir créditos adicionales, para satisfacer necesidades urgentes o imprevistos en caso de guerra, conmoción interna o calamidad pública, o para atender compromisos internacionales, de todo lo cual dará cuenta pormenorizada al Congreso Nacional en la subsiguiente legislatura. En la misma forma procederá cuando se trate de obligaciones a cargo del Estado provenientes de sentencia definitiva firmes, para el pago de prestaciones laborales, cuando no existiere partida</p> <p>o ésta estuviere agotada. Secretaría de Estado en el Despacho de Seguridad, para combatir el terrorismo, tráfico de armas y el crimen organizado, así como en la protección de los poderes del Estado y el Tribunal de Elecciones, a pedimento de éstos, en su instalación y funcionamiento.</p>
Hong Kong	English	Yes	<p>Article 18: ... (3) In the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the Hong Kong Special Administrative Region which endangers national unity or security and is beyond the control of the government of the Region, decides that the Region is in a state of emergency, the Central People's Government may issue an order applying the relevant national laws in the Region.</p>
Hungary	English	No	<p>Article 8 [Human rights]: ... (2) In the Republic of Hungary regulations pertaining to fundamental rights and duties are determined by law; such law, however, may not restrict the basic meaning and contents of fundamental rights. ... (4) During a state of national crisis, state of emergency or state of danger, the exercise of fundamental rights may be suspended or restricted, with the exception of the fundamental rights specified in Articles 54 -56, Paragraphs (2)-(4) of Article 57, Article 60, Articles 66-69 and Article 70E.</p> <p>Article 19 [Powers and representation]: ... i) declare a state of emergency, in the case of armed actions aimed at overturning constitutional order or at the acquisition of exclusive control of public power, in the case of acts of violence committed by force of arms or by armed groups which gravely endanger lives and property on a mass scale, and in the event of natural or industrial disaster;</p> <p>Article 19A [State of war, national crisis or emergency]: (1) Should the Parliament be obstructed in reaching such decisions, the President of the Republic shall have the right to declare a state of war, a state of national crisis and establish the National Defense Council, or to declare a state of emergency. (2) The Parliament shall be considered to be obstructed in reaching such decisions, if it is not in session and convening it is impossible due to lack of time or due to the events responsible for the declaration of the state of war, state of national crisis or state of emergency. (3) The Speaker of Parliament, the President of the Constitutional Court and the Prime Minister shall jointly determine whether the Parliament is obstructed, and whether a declaration of a state of war, a state of national crisis or a state of emergency is justified. (4) At its first meeting following the end of the obstruction, the Parliament shall review the justification of the declaration of a state of war, state of national crisis or state of emergency, and shall rule on the legality of the measures taken. A majority of two-thirds of the votes of the Members of Parliament is required for this decision.</p>

			<p>Article 19B [National Defence Council]: (1) During a state of martial law, the National Defense Council shall decide a) on the use of the armed forces abroad and within the country, the participation of the armed forces in peacekeeping missions, humanitarian operations in foreign theaters, and the stationing of armed forces in a foreign country, b) on the deployment of foreign armed forces in Hungary or in other countries from the territory of Hungary, and on the stationing of foreign armed forces in Hungary, c) on the introduction of emergency measures as defined in a separate law. (2) The National Defense Council is chaired by the President of the Republic, and is composed of the following members: the Speaker of Parliament, the floor leaders of the political parties represented in Parliament, the Prime Minister, the Ministers, and the Chief of Staff of the Hungarian Armed Forces with the right of consultation. (3) The National Defense Council shall exercise - a) the powers transferred to it by the Parliament; b) the powers of the President of the Republic; c) the powers of the Government. (4) The National Defense Council may pass decrees, which may suspend the application of certain laws or which may deviate from the provisions of certain laws. Furthermore, it may take other extraordinary measures, but may not, however, suspend the application of the Constitution. (5) Decrees passed by the National Defense Council shall lose validity upon cessation of the state of national crisis, unless the Parliament extends the validity of such decrees. (6) The operation of the Constitutional Court may not be restricted during a state of national crisis.</p> <p>Article 19C [Use of armed forces, emergency measures]: (1) Should Parliament be obstructed upon declaration of a state of emergency, the President of the Republic shall decide on the use of the armed forces under Subsection (2) of Section 40B. (2) The President of the Republic shall introduce emergency measures, which are defined in a separate law, by decree during a state of emergency. (3) The President of the Republic shall immediately inform the Speaker of Parliament of any emergency measures that have been introduced. The Parliament or, should the Parliament be obstructed, the Parliamentary Defense Committee shall remain in session during a state of emergency. The Parliament, or the Parliamentary Defense Committee, shall have the right to suspend emergency measures introduced by the President of the Republic. (4) Emergency measures introduced by decree shall remain in force for a period of thirty days, unless the Parliament or, should the Parliament be obstructed, the Parliamentary Defense Committee extends their validity. (5) In other respects the regulations pertaining to a state of national crisis shall apply to a state of emergency.</p> <p>Article 19D [The law on the state of crisis or emergency] A majority of two-thirds of the votes of the Members of Parliament present is required to pass the law specifying the detailed regulations to be applied during a state of national crisis and a state of emergency.</p> <p>Article 28A [Interdictions of dissolution]: (1) During a state of national crisis or a state of emergency the Parliament may neither declare its dissolution nor be dissolved. (2) Should a term of Parliament expire during a state of national crisis or a state of emergency, its mandate shall be extended until the cessation of the state of national crisis or state of emergency. (3) During a state of war, the danger of war or an emergency, the President of the Republic may reconvene a Parliament which has declared its dissolution or which has been dissolved. The Parliament itself shall pass a resolution on the extension of its mandate.</p> <p>Article 28C [National referendum]: ... (5) National referendum may not be held on the following subjects: ... g) declaration of a state of war, a state of emergency or a state of national crisis,</p> <p>Article 35 [Powers]: (1) The Government shall - ... i) take the measures necessary to limit and alleviate the consequences of natural disasters that endanger lives and property (hereinafter referred to as a state of danger) and to maintain public order and safety;</p> <p>Article 40B [Use of armed forces]: ... (2) In the event of armed actions aimed at overturning constitutional order or at the acquisition of exclusive control of public power, or in the case of grave acts of violence committed by force of arms or by armed groups which endanger lives and property on a mass scale, during a state of emergency declared in accordance with the provisions of the Constitution, the armed forces may be used, if the use of the police proves insufficient.</p>
India	English	Yes	<p>[Part XVIII Emergency Provisions [Articles 352-359]. This Part applies only to "war, external aggression or armed rebellion" Potentially interesting regarding governmental emergency powers in general. Other sections referencing "Proclamation of Emergency" (authorised under Part XVIII - see Article 366 (18)) include Articles 83, 172 and 250. Similarly, Article 360 "Provisions as to financial emergency" apply only where " the President is satisfied that a situation has arisen whereby the financial stability or credit of India or of any part of the territory thereof is threatened.]</p> <p>Article 369 Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List: Notwithstanding anything in this Constitution, Parliament shall, during a period of five years from the commencement of this Constitution, have power to make laws with respect to the following matters as if they were enumerated in the Concurrent List, namely: - (a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woolen textiles, raw cotton (including ginned cotton and unginned cotton or kapas), cotton seed, paper (including newsprint), food-stuffs (including edible oilseeds and oil), cattle fodder (including oil-cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica; (b) offences against laws with respect to any of the matters mentioned in clause (a),</p> <p>jurisdiction and powers of all courts except the Supreme Court with respect to any of those matters, and fees in respect of any of those matters but not including fees taken in any court, but any law made by Parliament, which Parliament would not but for the provisions of this article have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of the said period, except as respects things done or omitted to be done before the expiration thereof.</p> <p>Article 267 Contingency Fund: (1) Parliament may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of India" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the President to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116. (2) The Legislature of a State may by law establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of the State" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor of the State to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of the State by law under article 205 or article 206.</p> <p>Article 292 Borrowing by the Government of India: The executive power of the Union extends to borrowing upon the security of the Consolidated Fund of India within such limits, if any, as may from time to time be fixed by Parliament by law and to the giving of guarantees within such limits, if any, as may be so fixed.</p> <p>Article 293 Borrowing by States: (1) Subject to the provisions of this article, the executive power of a State extends to borrowing within the territory of India upon the security of the Consolidated Fund of the State within such limits, if any, as may from time to time be fixed by the Legislature of such State by law and to the giving of guarantees within such limits, if any, as may be so fixed. (2) The Government of India may, subject to such conditions as may be laid down by or under any law made by Parliament, make loans to any State or, so long as any limits fixed under article 292 are not exceeded, give guarantees in respect of loans raised by any State, and any sums required for the purpose of making such loans shall be charged on the Consolidated Fund of India. (3) A State may not without the consent of the Government of India raise any loan if there is still outstanding any part of a loan which has been made to the State by the Government of India or by its predecessor Government, or in respect of which a guarantee has been given by the Government of India or by its predecessor Government. (4) A consent under clause (3) may be granted subject to such conditions, if any, as the Government of India may think fit to impose.</p>
Ireland	English	Yes	<p>Article 15 [Constitution, Functions]: ... (8.1) Sittings of each House of Parliament shall be public. (8.2) In cases of special emergency, however, either House may hold a private sitting with the assent of two-thirds of the members present.</p> <p>Article 24 [Certification, Urgency]: (1) If and whenever on the passage by the House of Representatives of any Bill, other than a Bill expressed to be a Bill containing a proposal to amend the Constitution, the Prime Minister certifies by messages in writing addressed to the President and to the Chairman of each House of Parliament that, in the opinion of the Government, the Bill is urgent and immediately necessary for the preservation of the public peace and security, or by reason of the existence of a public emergency, whether domestic or international, the time for the consideration of such Bill by the Senate shall, if the House of Representatives so resolves and if the President, after consultation with the Council of State, concurs, be abridged to such period as shall be specified in the resolution. ...</p> <p>[Discussion of "national emergency" in Article 28 apply only to "national emergency occasioned by war, armed conflict, or armed rebellion."]</p>
Israel (Incomplete translation)			<p>Section 49 Declaration of a state of emergency: (a) Should the Knesset ascertain that the State is in a state of emergency, it may, of its own initiative or, pursuant to a Government proposal, declare that a state of emergency exists. (b) The declaration will remain in force for the period prescribed therein, but may not exceed one year; the Knesset may make a renewed declaration of a state of emergency as stated. (c) Should the Government ascertain that a state of emergency exists in the State and that its urgency necessitates the declaration of a state of emergency, even before it becomes possible to convene the Knesset, it may declare a state of emergency. The declaration's validity shall expire upon 7 days from its proclamation, if not previously approved or revoked by the Knesset, pursuant to a decision by a majority of its members; should the Knesset fail to convene, the Government may make a renewed declaration of a state of emergency as stated in this subsection. (d) The Knesset and Governmental declarations of a state of emergency will be published in Reshumot; should</p> <p>Publication in Reshumot not be possible, another appropriate manner will be adopted, provided that notification thereof be published in Reshumot at the earliest possible date. (e) The Knesset may at all times revoke the declaration of the state of emergency; notification of its revocation will be published in Reshumot.</p> <p>Section 50 State of emergency: (a) During a state of emergency the Government may make emergency regulations for the defence of the State, public security and the maintenance of supplies and essential services; emergency regulations will be submitted to the Foreign Affairs and Security Committee at the earliest possible date after their enactment. (b) Should the Prime Minister deem it impossible to convene the Knesset, given the existence of an immediate and critical need to make emergency regulations, he may make such regulations or empower a Minister to make them. (c) Emergency regulations may alter any law temporarily suspend its effect or introduce conditions, and may also impose or increase taxes or other compulsory payments unless there be another provision by law. (d) Emergency regulations may not prevent recourse to legal action, or prescribe retroactive punishment or allow infringement upon human dignity. (e) Emergency regulations shall not be enacted, nor shall arrangements, measures and</p>

			<p>powers be implemented in their wake, except to the extent warranted by the state of emergency. (f) The force of emergency regulations shall expire three months after the day of their enactment unless their force is extended by law, or they are revoked by the Knesset by law, or pursuant to a decision of a majority of the members of Knesset. (g) Emergency regulations shall come into force on the day of their publication in Reshumot; should publication in Reshumot not be possible another appropriate means of publication will be adopted provided that they be published in Reshumot as soon as possible. (h) Should the state of emergency cease to exist, the regulations enacted will remain in force for the duration of the prescribed period, however not longer than for 60 days after the termination of the state of emergency; state of emergency regulations whose force was lengthened by law shall remain in force.</p> <p>Section 53 Inapplicability of emergency laws: Notwithstanding the provisions of any law, emergency regulations cannot change this Basic Law, temporarily suspend it, or make it subject to conditions.</p>
Italy	English	No	<p>Article 13 [Personal Liberty]: (1) Personal liberty is inviolable. ... (3) As an exception, under the conditions of necessity and urgency strictly defined by law, the police may take provisional measures that must be reported within 48 hours to the judiciary and, if they are not ratified within another 48 hours, are considered revoked and remain without effect....</p> <p>Article 21 [Freedom of Communication]: ... (4) In cases of absolute urgency where immediate judicial intervention is impossible, periodicals may be seized by the judicial police, who must immediately and in no case later than 24 hours report the matter to the judiciary. If the measure is not validated by the judiciary within another 24 hours, it is considered revoked and has no effect.</p> <p>Article 77 [Law Decrees]: ... (2) As an exception by necessity and urgency, government may issue provisional measures with the force of law and submits them on the same day to the chambers for confirmation; if the chambers are not in session, they have to be summoned for that purpose within five days. ...</p> <p>Article 117 [State and Regional Legislative Power]: ... (3) The following matters are subject to concurrent legislation of both the state and regions: international and European Union relations of the regions; foreign trade; protection and safety of labor; education, without infringement of the autonomy of schools and other institutions, and with the exception of vocational training; professions; scientific and technological research and support for innovation in the productive sectors; health protection; food; sports regulations; disaster relief service; land-use regulation and planning; harbors and civil airports; major transportation and navigation networks; regulation of media and communication; production, transportation and national distribution of energy; complementary and integrative pensions systems; harmonization of the budgetary rules of the public sector and coordination of the public finance and the taxation system; promotion of the environmental and cultural heritage, and promotion and organization of cultural activities; savings banks, rural co-operative banks, regional banks;</p> <p>regional institutions for credit to agriculture and land development. In matters of concurrent legislation, the regions have legislative power except for fundamental principles which are reserved to state law.</p> <p>Article 119 [Financial Autonomy]: (1) Municipalities, provinces, metropolitan cities and regions have financial autonomy regarding revenues and expenditures. (2) Municipalities, provinces, metropolitan cities and regions have autonomous resources. They establish and implement their own taxes and revenues, in harmony with the constitution and in accordance with the principles of coordination of the public finances and the taxation system. They receive a share of the proceeds of state taxes related to their territory. (3) The law of the state establishes an equalization fund to the benefit of areas where the fiscal capacity per inhabitant is reduced, with no restrictions as to the allocation of its proceeds. (4) The funds deriving from the sources mentioned in the previous paragraphs have to enable municipalities, provinces, metropolitan cities and regions to finance in full the functions attributed to them. (5) In order to promote economic development, social cohesion, and solidarity, to remove economic and social inequalities, to foster the actual exercise of human rights, to pursue</p> <p>ends other than those pertaining to the exercise of their ordinary functions, the state may allocate additional resources or carry out special actions to the benefit of certain municipalities, provinces, metropolitan cities and regions. (6) Municipalities, provinces, metropolitan cities and regions have their own assets, assigned to them according to general principles established by state law. They may only contract loans in order to finance investment expenditure. State guarantees on such loans are excluded.</p>
Japan	English	No	<p>Article 54 [Election of Representatives]: ... (3) However, the Cabinet may in time of national emergency convoke the House of Councilors in emergency session. (4) Measures taken at such session as mentioned in the preceding paragraph shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten days after the opening of the next session of the Diet.</p>
Jordan	English	No	<p>Article 15: ... (iv) In the event of the declaration of martial law or a state of emergency, a limited censorship on newspapers, publications, books and broadcasts in matters affecting public safety and national defence may be imposed by law.</p> <p>Article 111: ... (iii) No sum falling within the expenditure section of the General Budget may be transferred from one chapter to another except by law. ... (vi) The national revenues and expenditures estimated for each financial year shall be approved by the General Budget Law, provided that said Law may provide for the allocation of any special sums for a period exceeding one year.</p> <p>Article 42 [No Forced Labor]: There is no forced labor except in the cases specified by law for national emergency and with just remuneration.</p>
Kuwait	English	No	<p>Article 65 [Promulgation of Laws, Initiative of the Amir]: (1) The Amir has the right to initiate, sanction, and promulgate laws. Promulgation of laws takes place within thirty days from the date of their submission by the National Assembly to the Amir. This period is reduced to seven days in case of urgency. Such urgency is decided upon by a majority vote of the members constituting the National Assembly....</p> <p>Article 71 [Emergency Decrees]: (1) Should necessity arise for urgent measures to be taken while the National Assembly is not in session or is dissolved, the Amir may issue decrees in respect thereof which have the force of law, provided that they are not contrary to the Constitution or to the appropriations included in the budget law. (2) Such decrees are referred to the National Assembly within the fifteen days following their issue if the Assembly is in session. If it is dissolved or its legislative term has expired, such decrees are referred to the next Assembly at its first sitting. If they are not thus referred, they retrospectively cease to have the force of law, without the necessity of any decision to that effect. If they are referred and the Assembly does not confirm them, they retrospectively cease to have the force of law, unless the Assembly approves their validity for the preceding period or settles in some other way the effects arising therefrom.</p> <p>Article 100 [Interpellations]: (1) Every member of the National Assembly may address to the Prime Minister and to Ministers interpellations with regard to matters falling within their competence. (2) The debate on such an interpellation shall not take place until at least eight days have elapsed after its presentation, except in case of urgency and with the consent of the Minister concerned....</p>
Latvia			<p>Article 66 [Budget]: (1) Annually, before the commencement of each financial year, the Parliament shall determine the State Revenues and Expenditures Budget, the draft of which shall be submitted to the Parliament by the Government. (2) If the Parliament makes a decision that involves expenditures not included in the Budget, then this decision must also allocate funds to cover such expenditures. After the end of the budgetary year, the Government shall submit an accounting of budgetary expenditures for the approval of the Parliament.</p> <p>Article 73 [Matters Excluded from Referendum]: The Budget and laws concerning loans, taxes, customs duties, railroad tariffs, military conscription, declaration and commencement of war, peace treaties, declaration of a state of emergency and its termination, mobilisation and demobilisation, as well as agreements with other nations may not be submitted to national referendum.</p> <p>Article 75 [Urgency]: Should the Parliament, by not less than a two thirds majority vote, determine a law to be urgent, the President may not request reconsideration of such law, it may not be submitted to national referendum, and the adopted law shall be proclaimed no later than the third day after the President has received it.</p> <p>Article 82 [Court System]: In Latvia court cases shall be heard by district (city) courts, regional courts and the Supreme Court, but in the event of war or a state of emergency, also by military courts.</p>
Lebanon	English	No	<p>Article 53 [List of Additional Presidential Powers]: ... 11. He may introduce, from outside the agenda, any urgent matter to the council of Ministers.</p> <p>Article 56 [Promulgation Time Limits]: (1) The President of the Republic promulgates the laws which have been adopted within one month of their transmission to the Government. He must promulgate laws that were declared urgent by a special Decision of the Chamber within five days....</p> <p>Article 58 [Urgent Bills]: Every Bill the Council of Ministers deems urgent and in which this urgency is indicated in the decree of transmission to the Chamber of Deputies may be issued by the President within forty days following its communication to the Chamber, after including it on the agenda of a general meeting, reading it aloud before the Chamber, and after the expiration of the time limit without the Chamber acting on it.</p> <p>Article 64 [Responsibility and Powers]: The Prime Minister is the Head of Government and its representative. He speaks in its name and is responsible for executing the general policy that is set by the Council of Ministers. He exercises the following powers: ... 6. He calls the Council of Ministers into session and sets its agenda, and he informs the President and the Ministers beforehand of the subjects included on the agenda and of the urgent subjects that will be discussed.</p> <p>Article 83 [Yearly Budget]: Each year at the beginning of the October session, the Government has to submit to the Chamber of Deputies the general budget estimates of state expenditures and revenues for the following year. The budget is voted upon article by article.</p> <p>Article 85 [Extraordinary Credit]: No extraordinary credit may be opened except by a special law. Nevertheless, should unforeseen circumstances render urgent expenditures necessary, the President of the Republic may issue a Decree, based on a Decision of the Council or Ministers, to open extraordinary or supplementary credits or transfer appropriations in the budget as long as these credits do not exceed a maximum limit specified in the budget law. These measures are to be submitted to the Chamber for approval at the first ensuing session.</p> <p>Article 88 [Public Loan]: No public loan or undertaking involving an expenditure from the treasury funds may be contracted except by virtue of a law.</p> <p>Article 89 [Contracts, Concessions, Resources, Monopolies]: No contract or concession for the exploitation of the natural resources of the country, or a public utility service, or a monopoly may be granted except by virtue of a law and for a limited period.</p>
Liberia	English	Yes	<p>Article 12: No person shall be held in slavery or forced labor within the Republic, nor shall any citizen of Liberia nor any person resident therein deal in slaves or subject any other person to forced labor, debt bondage or peonage; but labor reasonably required in consequence of a court sentence or order conforming to acceptable labor standards, service in the military, work or service which forms part of normal civil obligations or service exacted in cases of emergency or calamity threatening the life or well-being of the community shall not be deemed forced labor.</p>

			<p>Article 15: a. Every person shall have the right to freedom of expression, being fully responsible for the abuse thereof. This right shall not be curtailed, restricted or enjoined by government save during an emergency declared in accordance with this Constitution. ...</p> <p>Article 32: a. The Legislature shall assemble in regular session once a year on the second working Monday in January. b. The President shall, on his own initiative or upon receipt of a certificate signed by at least one-fourth of the total membership of each House, and by proclamation, extend a regular session of the Legislature beyond the date for adjournment or call a special extraordinary session of that body to discuss or act upon matters of national emergency and concern. When the extension or call is at the request of the Legislature, the proclamation shall be issued not later than forty-eight hours after receipt of the certificate by the President.</p>
Lithuania	English	No	<p>[Chapter IX "Emergency Powers" (Articles 85-88) appears focused on military emergencies]</p> <p>[Article 144/145's provisions on (and references in Arts 67 and 84 to) "state of emergency" apply only "In the event that the constitutional system or public order of the State is threatened."]</p> <p>Article 48: ... (4) Military service or alternative service, as well as labor which is executed during war, natural calamity, epidemic, or other urgent circumstances, shall not be deemed as forced labor.</p>
Macedonia	English	No	<p>Article 21: (1) Citizens have the right to assemble peacefully and to express public protest without prior announcement or a special license. (2) The exercise of this right may be restricted only during a state of emergency or war.</p> <p>Article 54: ... (2) The freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution. (3) The restriction of freedoms and rights cannot discriminate on grounds of sex, race, color of skin, language, religion, national or social origin, property or social status. (4) The restriction of freedoms and rights cannot be applied to the right to life, the interdiction of torture, inhuman and humiliating conduct and punishment, the legal determination of punishable offenses and sentences, as well as to the freedom of personal conviction, conscience, thought and religious confession.</p> <p>Article 98: ... (4) Emergency courts are prohibited.</p> <p>Article 63: ... (4) The term of office of the Representatives to the Assembly can be extended only during states of war or emergency.</p> <p>Article 125: (1) A state of emergency exists when major natural disasters or epidemics take place. (2) A state of emergency on the territory of the Republic of Macedonia or on part thereof is determined by the Assembly on a proposal by the President of the Republic, the Government or by at least 30 Representatives. (3) The decision to establish the existence of a state of emergency is made by a two-thirds majority vote of the total number of Representatives and can remain in force for a maximum of 30 days. (4) If the Assembly cannot meet, the decision to establish the existence of a state of emergency is made by the President of the Republic, who submits it to the Assembly for confirmation as soon as it can meet.</p> <p>Article 126: (1) During a state of war or emergency, the Government, in accordance with the Constitution and law, issues decrees with the force of law. (2) The authorization of the Government to issue decrees with the force of law lasts until the termination of the state of war or emergency, on which the Assembly decides.</p> <p>Article 128: The mandate of the judges of the Constitutional Court of Macedonia, as well as members of the Republican Judicial Council is extended for the duration of the state of war or emergency.</p>
Madagascar	English	No	<p>Article 57 [Promulgation of Laws, Request for Reconsideration]: (1) The President of the Republic shall promulgate laws within two weeks following transmittal to him of laws adopted by the National Assembly. This period may be reduced to five days in an emergency declared by the National Assembly.</p> <p>Article 59 [State of Emergency, Martial Law]: (1) The President of the Republic, meeting with the Council of Ministers, with the agreement of the Presidents of the National Assembly, the Senate, and the Constitutional Court, may proclaim a state of emergency or martial law for the defense of the Republic, for public order, or for State security, as circumstances require. (2) The proclamation of a state of emergency shall confer special powers on the President of the Republic; their extent and duration shall be specified by law.</p> <p>Article 82 [Legislation]: ... VI) A state of national emergency may be declared by the President of the Republic in accordance with Article 59; extension beyond two weeks may only be authorized by Parliament.</p> <p>Article 86 [Examination, Disagreement, Joint Commission]: (3) When, following a disagreement between the two Assemblies, a Government or private bill has not been adopted after two readings in each Assembly, or if, after one reading by each of the Assemblies, the Government has declared an emergency, the Prime Minister has the option to create a joint commission responsible for creating a text on the provisions under discussion. The text prepared by the joint commission may be submitted by the Government for the approval of the two Assemblies. No amendment will be acceptable without the agreement of the Government.</p>
Malta	English	No	<p>Section 34 [Personal Liberty]: ... (5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the taking during such a period of public emergency as is referred to in paragraph (a) or (e) of subsection (2) of section 47 of this Constitution of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.</p> <p>Section 35 [No Forced Labour]: ... (2) For the purposes of this section, the expression "forced labour" does not include -- ... (d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.</p> <p>Section 45 [Discrimination]: ... (4) Subsection (1) of this section shall not apply to any law so far as that law makes provision -- ... (e) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency;</p> <p>Section 47 [Definitions]: ... (2) In this Chapter "period of public emergency" means any period during which -- (a) Malta is engaged in any war; or (b) there is in force a proclamation by the President declaring that a state of public emergency exists; or (c) there is in force a resolution of the House of Representatives supported by the votes of not less than two-thirds of all the Members of the House declaring that democratic institutions in Malta are threatened by subversion. (3) (a) Where any proclamation of emergency has been made, the occasion therefor shall forthwith be communicated to the House of Representatives and, if the House is then separated by such adjournment or prorogation as will not expire within ten days the President shall by proclamation summon it to meet within five days and it shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or prorogued to that day. (b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following paragraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period. (c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of this paragraph) a resolution is passed by the House of Representatives approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period. (4) A resolution such as is referred to in paragraph (c) of subsection (2) of this section shall, unless sooner revoked by the House of Representatives, cease to be in force at the expiration of twelve months beginning on the date on which it was passed or shorter period specified therein, but without prejudice to the passing of another resolution ... before the end of that period.</p> <p>Section 76 [Dissolution]: ... (4) If between a dissolution of Parliament and the next ensuing general election of members of the House of Representatives an emergency arises of such a nature that, in the opinion of the Prime Minister it is necessary to recall Parliament, the President may by proclamation summon the Parliament that has been dissolved to meet, and that Parliament shall thereupon be deemed (except for the purpose of section 77 and, in relation to the next ensuing general election, section 61(3) and 66(6) of this Constitution) not to have been dissolved but shall be deemed (except as aforesaid) to be dissolved on the date on which the polls are concluded in the next ensuing general election.</p> <p>Section 104 [Emergency Budget]: Parliament may make provision under which, if the Appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister responsible for finance may authorise the withdrawal of moneys from the Consolidated Fund for the purpose of meeting such expenditure as he may consider necessary to carry on the government of Malta until the expiration of four months from the beginning of that financial year or the coming into operation of the Act, whichever is the earlier.</p> <p>Section 105 [Contingencies Fund]: (1) Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need. (2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as practicable for the purpose of replacing the amount so advanced.</p>
Mauritania	English	No	<p>Article 39 [Emergency Measures]: (1) When an imminent peril threatens the institutions of the Republic, the security or the independence of the Nation, or the integrity of its territory, and when the normal functioning of the constitutional powers is impeded, the President of the Republic shall take the measures required by these circumstances after official consultation with the Prime Minister and with the Presidents of the Assemblies and of the Constitutional Council. (2) He shall inform the nation by a message. (3) These measures, inspired by the will to assure the re-establishment, as soon as possible, of the continuous and regular functioning of the public powers, shall cease to be in effect in the same form as soon as the circumstances that have caused them will no longer exist. (3) Parliament shall meet in regular session. (4) The National Assembly may not be dissolved while the President of the Republic is exercising exceptional powers.</p> <p>Article 71 [Martial Law, State of Emergency]: (1) Martial law and a state of emergency are decreed by the President of the Republic for a maximum duration of thirty days. (2) This duration may be changed by the Parliament. The Parliament convenes in regular session if it is not in session at the time. (3) The law defines the exceptional powers granted to the President of the Republic by the declaration of martial law and a state of emergency.</p>
Mexico	Spanish	Yes	<p>Artículo 29. En los casos de invasión, perturbación grave de la paz pública, o de cualquier otro que ponga a la sociedad en grave peligro o conflicto, solamente el Presidente de los Estados Unidos Mexicanos, de acuerdo con los Titulares de las Secretarías de Estado y la Procuraduría General de la República y con la aprobación del Congreso de la Unión y, en los recesos de éste, de la Comisión Permanente, podrá suspender en todo el país o en lugar determinado las garantías que fuesen obstáculo para hacer frente, rápida y fácilmente a la situación; pero deberá hacerlo por un tiempo limitado, por medio de prevenciones generales y sin que la suspensión se contraiga a determinado individuo. Si la suspensión tuviese lugar hallándose el Congreso reunido, éste concederá las</p>

			<p>autorizaciones que estime necesarias para que el Ejecutivo haga frente a la situación; pero si se verificase en tiempo de receso, se convocará sin demora al Congreso para que las acuerde.</p> <p>Artículo 41. ... III. Los partidos políticos nacionales tendrán derecho al uso de manera permanente de los medios de comunicación social... Apartado C. En la propaganda política o electoral que difundan los partidos deberán abstenerse de expresiones que denigren a las instituciones y a los propios partidos, o que calumnien a las personas. Durante el tiempo que comprendan las campañas electorales federales y locales y hasta la conclusión de la respectiva jornada comicial, deberá suspenderse la difusión en los medios de comunicación social de toda propaganda gubernamental, tanto de los poderes federales y estatales, como de los municipios, órganos de gobierno del Distrito Federal, sus delegaciones y cualquier otro ente público. Las únicas excepciones a lo anterior serán las campañas de información de las autoridades electorales, las relativas a servicios educativos y de salud, o las necesarias para la protección civil en casos de emergencia.</p> <p>Artículo 73. El Congreso tiene facultad: ... VIII. Para dar bases sobre las cuales el Ejecutivo pueda celebrar empréstitos sobre el crédito de la Nación, para aprobar esos mismos empréstitos y para reconocer y mandar pagar la deuda nacional. Ningún empréstito podrá celebrarse sino para la ejecución de obras que directamente produzcan un incremento en los ingresos públicos, salvo los que se realicen con propósitos de regulación monetaria, las operaciones de conversión y los que se contraten durante alguna emergencia declarada por el Presidente de la República en los términos del artículo 29. Asimismo, aprobar anualmente los montos de endeudamiento que deberán incluirse en la ley de ingresos, que en su caso requiera el Gobierno del Distrito Federal y las entidades de su sector público, conforme a las bases de la ley correspondiente. El Ejecutivo Federal informará anualmente al Congreso de la Unión sobre el ejercicio de dicha deuda a cuyo efecto el Jefe del Distrito Federal le hará llegar el informe que sobre el ejercicio de los recursos correspondientes hubiere realizado. El Jefe del Distrito Federal informará igualmente a la Asamblea de Representantes del Distrito Federal, al rendir la cuenta pública; [“Sección V De la Fiscalización Superior de la Federación” consisting solely of Artículo 79 does not appear to address emergency fund mobilisation.]</p>
Mongolia	English	No	<p>Article 19 [Responsibility, Restrictions]: ... (2) In case of a state of emergency or war, the human rights and freedoms as defined by the Constitution and other laws are subject to limitation only by a law. Such a law may not affect the right to life, the freedom of thought, conscience, and religion, as well as the right not to be subjected to torture or inhuman and cruel treatment. ...</p> <p>Article 25 [Competence]: (1) The National Parliament may consider, at its initiative, any issue pertaining to domestic and foreign policies of the country, and retains within its exclusive competence the following questions and decisions thereon: ... 18) to declare a state of emergency or a state of war in the whole or some parts of the country in special circumstances described in Paragraphs (2) and (3), and to approve or nullify the President's decree to that effect.... (2) Under the following extraordinary circumstances, the National Parliament may declare a state of emergency to eliminate the consequences thereof and to restore the life of the population and society to norm, if: 1) natural disasters or other unforeseen dangers occur which threaten or may threaten directly the life, health, well-being, and security of the population in the whole or a part of the country's territory; 2) public authorities are not able to cope, within legal limits, with public disorders caused by organized, violent, illegal actions of an organization or a group of people threatening the constitutional order and the existence of the legitimate social system. (3) The National Parliament may declare a state of war if public disorders in the whole or a part of the country's territory result in an armed conflict or create a real threat of an armed conflict, or if there is an armed aggression or a real threat of such an aggression from the outside. (4) The other powers, structure, and the procedures of the National Parliament are defined by law. (2) Under the following extraordinary circumstances, the National Parliament may declare a state of emergency to eliminate the consequences thereof and to restore the life of the population and society to norm, if: 1) natural disasters or other unforeseen dangers occur which threaten or may threaten directly the life, health, well-being, and security of the population in the whole or a part of the country's territory; ...</p> <p>Article 27 [Sessions, Quorum, Majority]: ... (5) In case of the proclamation by the President of a state of emergency or war, the National Parliament convenes for an extraordinary session within 72 hours without prior announcement</p> <p>Article 33 [Powers]: (1) The President enjoys the following prerogative rights: ... 12) to declare a state of emergency or a state of war on the whole or a part of the national territory and to order the deployment of armed forces when extraordinary circumstances described in Article 25 (2) and (3) arise and the National Parliament concurrently in recess, cannot be summoned at short notice. The National Parliament considers within 7 days the Presidential decree declaring a state of emergency or a state of war and approves or disapproves it. If the National Parliament does not take decision on the matter, the Presidential decree becomes null and void.</p>
Namibia	English	Yes	<p>Article 9 [Slavery and Forced Labour {Labor}]: ... d) any labour required during any period of public emergency or in the event of any other emergency or calamity which threatens the life and well-being of the community, to the extent that requiring such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation;</p> <p>Article 24 [Derogation]: (1) Nothing contained in or done under the authority of Article 26 shall be held to be inconsistent with or in contravention of this Constitution to the extent that it authorises the taking of measures during any period when Namibia is in a state of national defence or any period when a declaration of emergency under this Constitution is in force. (2) Where any persons are detained by virtue of such authorization as is referred to in Paragraph (1), the following provisions shall apply: ... c) not more than one (1) month after the commencement of their detention and thereafter during their detention at intervals of not more than three (3) months, their cases shall be reviewed by the Advisory Board referred to in Article 26 (5)(c), which shall order their release from detention if it is satisfied that it is not reasonably necessary for the purposes of the emergency to continue the detention of such persons;</p> <p>Article 26 [State of Emergency, State of National Defence and Martial Law]: (1) At a time of national disaster or during a state of national defence or public emergency threatening the life of the nation or the constitutional order, the President may by Proclamation in the Gazette declare that a state of emergency exists in Namibia or any part thereof. (2) A declaration under Paragraph (1), if not sooner revoked, shall cease to have effect: a) in the case of a declaration made when the National Assembly is sitting or has been summoned to meet, at the expiration of a period of seven (7) days after publication of the declaration; or b) in any other case, at the expiration of a period of thirty (30) days after publication of the declaration; unless before the expiration of that period, it is approved by a resolution passed by the National Assembly by a two-thirds majority of all its members. (3) Subject to the provisions of Paragraph (4), a declaration approved by a resolution of the National Assembly under Paragraph (2) shall continue to be in force until the expiration of a period of six (6) months after being so approved or until such earlier date as may be specified in the resolution: provided that the National Assembly may, by resolution by a two-thirds majority of all its members, extend its approval of the declaration for periods of not more than six (6) months at a time. (4) The National Assembly may by resolution at any time revoke a declaration approved by it in terms of this article. (5)(a) During a state of emergency in terms of this article or when a state of national defence prevails, the President shall have the power by Proclamation to make such regulations as in his or her opinion are necessary for the protection of national security, public safety and the maintenance of law and order. (b) The powers of the President to make such regulations shall include the power to suspend the operation of any rule of the common law or statute or any fundamental right or freedom protected by this Constitution, for such period and subject to such conditions as are reasonably justifiable for the purpose of dealing with the situation which has given rise to the emergency: provided that nothing in this paragraph shall enable the President to act contrary to the provisions of Article 24. (c) Where any regulation made under Paragraph (b) provides for detention without trial, provision shall also be made for an Advisory Board, to be appointed by the President on the recommendation of the Judicial Service Commission, and consisting of no more than five (5) persons, of whom no fewer than three (3) persons shall be Judges of the Supreme Court or the High Court or qualified to be such. The Advisory Board shall perform the function set out in Article 24 (2)(c). (6) Any regulations made by the President pursuant to the provisions of Paragraph (5) shall cease to have legal force if they have not been approved by a resolution of the National Assembly within fourteen (14) days from the date when the National Assembly first sits in session after the date of the commencement of any such regulations. (7) The President shall have the power to proclaim or terminate martial law. Martial law may be proclaimed only when a state of national defence involving another country exists or when civil war prevails in Namibia: provided that any proclamation of martial law shall cease to be valid if it is not approved within a reasonable time by a resolution passed by a two-third majority of all the members of the National Assembly.</p>
Nepal	English	No	<p>Article 45 Constitution of the House of Representatives: ... (3) Unless dissolved earlier pursuant to the provisions of this Constitution, the term of the House of Representatives shall be five years. Provided that the term of the House of Representative may be extended by an Act for a period not exceeding one year during the operation of a proclamation of a State of Emergency. (4) The term of the House of Representatives as extended in pursuance of the proviso clause of clause (3) shall ipso facto stand terminated after the expiry of six months from the date on which the proclamation of the State of Emergency is withdrawn.</p> <p>Article 81 Votes of Credit: Notwithstanding anything contained in this Part, if owing a local or national emergency due to either natural cause, a threat of external aggression or internal disturbances, or other reasons, His Majesty is of the opinion that it is impractical or inexpedient in view of the security or interest of the State to specify the details required under Article 77, He may cause to be laid before the House of Representatives a Vote of Credit Bill giving only a description of the proposed expenditures.</p> <p>Article 82 Contingency Fund: An Act may create a Contingency Fund into which shall be paid from time to time such moneys as may be determined by law. Such Fund shall be under the control of His Majesty's Government, and any unforeseen expenditures shall be met out of such Fund by His Majesty's Government. The amount of the expenditures so met shall be reimbursed as soon as possible by an Act.</p> <p>Article 83 Act Relating to Financial Procedure: Matters relating to the transfer of moneys appropriated from one head to another and other financial procedures shall be regulated by an Act.</p> <p>Article 115 Emergency Power: (1) If a grave crisis arises in regard to the sovereignty or integrity of the Kingdom of Nepal or the security of any part thereof, whether by war, external aggression, armed rebellion or extreme economic disarray, His Majesty may, by Proclamation, declare or order a State of Emergency in respect of the whole of the Kingdom of Nepal or of any specified part thereof. (2) Every Proclamation or Order issued under clause (1) above shall be laid before a meeting of the House of Representatives for approval within three months from the date of issuance. (3) If a Proclamation or Order laid for approval pursuant to clause (2) is approved by a two-thirds majority of the House of Representatives present at that meeting, such Proclamation or Order shall continue in force for a period of six months from the date of issuance. (4) If a Proclamation or Order laid for approval pursuant to clause (2) is not approved pursuant to clause (3), such Proclamation or Order shall be deemed ipso facto to cease to operate. (5) Before</p>

			<p>the expiration of the period referred to in clause (3), if a meeting of the House of Representatives, by a majority of two-thirds of the members present, passes a resolution to the effect that circumstances referred to in clause (1) above continue to exist, it may extend the period of the Proclamation or Order of the State of Emergency for one other period, not exceeding six months as specified in such resolution, and the Speaker shall inform His Majesty of such extension. (6) During a dissolution of the House of Representatives, the National Assembly shall exercise the powers of the House of Representatives for the purposes of clauses (2), (3), (4) and (5) above. (7) After the State of Emergency has been declared pursuant to clause (1), His Majesty may issue such Orders as are necessary to meet the exigencies. Orders so issued shall be operative with the same force and effect as law so long as the State of Emergency is in operation. (8) His Majesty may, at the time of making a Proclamation or Order of a State of Emergency pursuant to clause (1), suspend sub-clauses (a), (b), (d) and (e) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 of this Constitution for as long as the Proclamation is in operation: Provided that the right to the remedy of habeas corpus under Article 23 shall not be suspended. (9) In circumstances where His Majesty has suspended any Article of this Constitution pursuant to clause (8), no petition may lie, nor question be raised in any court for the enforcement of the fundamental right conferred by such Article. (10) If, during the continuance of a Proclamation or Order under clause (1), any damage is inflicted upon any person by an act of any official which was done in contravention of law or in bad faith, the affected person may, within three months from the date of termination of the Proclamation or Order, file a petition for compensation for the said damage and if the court finds the claim valid, it shall cause compensation to be delivered. (11) A Proclamation or Order of a State of Emergency issued pursuant to clause (1) may be revoked by His Majesty at any time during its continuance.</p>
Netherlands	English	No	<p>Article 14 [Property]: (1) Expropriation may take place only in the public interest and on prior assurance of full compensation, in accordance with regulations laid down by or pursuant to Act of Parliament. (2) Prior assurance of full compensation shall not be required if in an emergency immediate expropriation is called for. ...</p> <p>Article 103: (1) The cases in which a state of emergency, as defined by Act of Parliament, may be declared by Royal Decree in order to maintain internal or external security shall be specified by Act of Parliament. The consequences of such a declaration shall be governed by Act of Parliament. ...</p> <p>Article 103: (1) The cases in which a state of emergency, as defined by Act of Parliament, may be declared by Royal Decree in order to maintain internal or external security shall be specified by Act of Parliament. The consequences of such a declaration shall be governed by Act of Parliament. (2) Such a declaration may depart from the provisions of the Constitution relating to the powers of the executive bodies of the provinces, municipalities, and water control boards, the basic rights laid down in Article 6, insofar as the exercise of the right contained in this article other than in buildings and enclosed places is concerned, Articles 7, 8, 9, 12 (2), 13 and 113 (1) and (3). (3) Immediately after the declaration of a state of emergency and whenever it considers it necessary, until such time as the state of emergency is terminated by Royal Decree, the Parliament shall decide the duration of the state of emergency. The two Chambers of the Parliament shall consider and decide upon the matter in joint session.</p>
Nicaragua	Spanish	Yes	<p>ARTICULO 138.- Son atribuciones de la Asamblea Nacional: Elaborar y aprobar las leyes y decretos, así como reformar y derogar los existentes. La interpretación auténtica de la ley. ... Aprobar, rechazar o modificar el decreto del Ejecutivo que declara la suspensión de derechos y garantías constitucionales o el Estado de Emergencia, así como sus prórrogas. ...</p> <p>ARTICULO 184.- Son Leyes Constitucionales: La Ley Electoral, la Ley de Emergencia y la Ley de Amparo, que se dicten bajo la vigencia de la Constitución de Nicaragua.</p> <p>ARTICULO 185.- El Presidente de la República en Consejo de Ministros podrá decretar para la totalidad o parte del territorio nacional y por tiempo determinado y prorrogable, la suspensión de derechos y garantías cuando así lo demande la seguridad de la nación, las condiciones económicas o en caso de catástrofe nacional. La Ley de Emergencia regulará sus modalidades.</p> <p>*Artículo reformado por Ley Nº 192 de 1995.</p>
Nigeria	English	Yes	<p>Article 34. ... (2) for the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include - ... (d) any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or</p> <p>Article 45. ... (2) An act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency: Provided that nothing in this section shall authorise any derogation from the provisions of section 33 of this Constitution, except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 36(8) of this Constitution. (3) In this section, a "period of emergency" means any period during which there is in force a Proclamation of a state of emergency declared by the President in exercise of the powers conferred on him under section 305 of this Constitution. ...</p> <p>Article 305. (1) Subject to the provisions of this Constitution, the President may by instrument published in the Official -Gazette of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof. (2) The President shall immediately after the publication, transmit copies of the Official -Gazette of the Government of the Federation containing the proclamation including the details of the emergency to the President of the Senate and the Speaker of the House of Representatives, each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation. (3) The President shall have power to issue a Proclamation of a state of emergency only when - (a) the Federation is at war; (b) the Federation is in imminent danger of invasion or involvement in a state of war; (c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security; (d) there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger; (e) there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation; (f) there is any other public danger which clearly constitutes a threat to the existence of the Federation; or (g) the President receives a request to do so in accordance with the provisions of subsection (4) of this section. (4) The Governor of a State may, with the sanction of a resolution supported by two-thirds majority of the House of Assembly, request the President to issue a Proclamation of a state of emergency in the State when there is in existence within the State any of the situations specified in subsection (3) (c), (d) and (e) of this section and such situation does not extend beyond the boundaries of the State. (5) The President shall not issue a Proclamation of a state of emergency in any case to which the provisions of subsection (4) of this section apply unless the Governor of the State fails within a reasonable time to make a request to the President to issue such Proclamation. (6) A Proclamation issued by the President under this section shall cease to have effect - (a) if it is revoked by the President by instrument published in the Official Gazette of the Government of the Federation; (b) if it affects the Federation or any part thereof and within two days when the National Assembly is in session, or within ten days when the National Assembly is not in session, after its publication, there is no resolution supported by two-thirds majority of all the members of each House of the National Assembly approving the Proclamation; (c) after a period of six months has elapsed since it has been in force: Provided that the National Assembly may, before the expiration of the period of six months aforesaid, extend the period for the Proclamation of the state of emergency to remain in force from time to time for a further period of six months by resolution passed in like manner; or (d) at any time after the approval referred to in paragraph (b) or the extension referred to in paragraph (c) of this subsection, when each House of the National Assembly revokes the Proclamation by a simple majority of all the members of each House.</p>
Oman	English	No	<p>Article 12 [Social Principles]: The social principles are: ... - The State guarantees assistance for the citizen and his family in cases of emergency, sickness, incapacity and old age in accordance with the social security system. It also encourages society to share the burdens of dealing with the effects of public disasters and calamities.</p> <p>Article 42 [Functions]: The Sultan discharges the following functions: ... - declaring a state of emergency, general mobilisation, or war, and making peace in accordance with the provisions of the Law.</p> <p>Article 53 [Economic Incompatibility]: Members of the Council of Ministers shall not combine their Ministerial position with the chairmanship or membership of the Board of any joint stock company. Nor may the Government departments of which they are in charge have dealings with any company or organisation in which they have an interest, whether direct or indirect. They should be guided in all their actions by considerations of national interest and public welfare and should not exploit their official positions in any way for their own benefit or for the benefit of those with whom they have special relations.</p> <p>Article 57 [Financial Laws]: The Law specifies the provisions concerning the following matters and the bodies responsible for them: ... - the general State budget and the final account; - the autonomous and supplementary budgets and their final accounts; - control of State finances; - loans extended by or obtained by the State</p>
Paraguay	Spanish	Yes	<p>Artículo 202 - DE LOS DEBERES Y DE LAS ATRIBUCIONES: ... Son deberes y atribuciones del Congreso: ... expedir leyes de emergencia en los casos de desastre o de calamidad pública; ...</p> <p>Artículo 286 - DE LAS PROHIBICIONES: Se prohíbe a la Banca Central del Estado: acordar créditos, directa o indirectamente, para financiar el gasto público al margen del presupuesto, excepto: ... en caso de emergencia nacional, con resolución fundada del Poder Ejecutivo y acuerdo de la Cámara de Senadores.</p>
Peru	Spanish	Yes	<p>Artículo 137º: El Presidente de la República, con acuerdo del Consejo de Ministros, puede decretar, por plazo determinado, en todo el territorio nacional, o en parte de él, y dando cuenta al Congreso o a la Comisión Permanente, los estados de excepción que en este Artículo se contemplan: 1. Estado de emergencia, en caso de perturbación de la paz o del orden interno, de catástrofe o de graves circunstancias que afecten la vida de la Nación. En esta eventualidad, puede restringirse o suspenderse el ejercicio de los derechos constitucionales relativos a la libertad y la seguridad personales, la inviolabilidad del domicilio, y la libertad de reunión y de tránsito en el territorio comprendidos en los incisos 9, 11 y 12 del Artículo 2º y en el inciso 24, apartado f del mismo Artículo. En ninguna circunstancia se puede desterrar a nadie. El plazo del estado de emergencia no excede de sesenta días. Su prórroga requiere nuevo decreto. En estado de emergencia las Fuerzas Armadas asumen el control del orden interno si así lo dispone el Presidente de la República. 2. Estado de sitio, en caso de invasión, guerra exterior, guerra civil, o peligro inminente de que se produzcan, con mención de los derechos fundamentales cuyo ejercicio no se restringe o suspende. El plazo correspondiente no excede de cuarenta y cinco días. Al decretarse el estado de sitio, el Congreso se reúne de pleno derecho. La prórroga requiere aprobación del Congreso.</p>

			<p>Artículo 200º: Son garantías constitucionales: ... 6. La Acción de Cumplimiento, que procede contra cualquier autoridad o funcionario renuente a acatar una norma legal o un acto administrativo, sin perjuicio de las responsabilidades de ley. Una ley orgánica regula el ejercicio de estas garantías y los efectos de la declaración de inconstitucionalidad o ilegalidad de las normas. El ejercicio de las acciones de hábeas corpus y de amparo no se suspende durante la vigencia de los regímenes de excepción a que se refiere el Artículo 137º de la Constitución. Cuando se interponen acciones de esta naturaleza en relación con derechos restringidos o suspendidos, el órgano jurisdiccional competente examina la razonabilidad y la proporcionalidad del acto restrictivo. No corresponde al juez cuestionar la declaración del estado de emergencia ni de sitio</p>
Poland	English	No	<p>Article 228: (1) In situations of particular danger, if ordinary constitutional measures are inadequate, any of the following appropriate extraordinary measures may be introduced: martial law, a state of emergency or a state of natural disaster. (2) Extraordinary measures may be introduced only by regulation, issued upon the basis of statute, and which shall additionally require to be publicized. (3) The principles for activity by organs of public authority as well as the degree to which the freedoms and rights of persons and citizens may be subject to limitation for the duration of a period requiring any extraordinary measures shall be established by statute. (4) A statute may specify the principles, scope and manner of compensating for loss of property resulting from limitation of the freedoms and rights of persons and citizens during a period requiring introduction of extraordinary measures. (5) Actions undertaken as a result of the introduction of any extraordinary measure shall be proportionate to the degree of threat and shall be intended to achieve the swiftest restoration of conditions allowing for the normal functioning of the State. (6) During a period of introduction of extraordinary measures, the following shall not be subject to change: the Constitution, the Acts on Elections to the House of Representatives (Sejm), the Senate and organs of local self-governments, the Act on Elections to the Presidency, as well as statutes on extraordinary measures. (7) During a period of introduction of extraordinary measures, as well as within the period of 90 days following its termination, the term of office of the House of Representatives (Sejm) may not be shortened, nor may a nationwide referendum, nor elections to the House of Representatives (Sejm), Senate, organs of local self-government nor elections for the Presidency be held, and the term of office of such organs shall be appropriately prolonged. Elections to organs of local self-government shall be possible only in those places where the extraordinary measures have not been introduced. [Provisions for declaration of a state of emergency (Articles 230-234) are limited to "threats to the constitutional order of the State, to security of the citizenry or public order".]</p>
Portugal	English	No	<p>Article 19 Suspension of the Exercise of Rights: (1) The organs of supreme authority may not, jointly or separately, suspend the exercise of rights, freedoms, and safeguards except in case of a state of siege or emergency declared in the form laid down in the Constitution. (2) A state of siege or emergency may be declared in all or part of the national territory, only in cases of actual or imminent aggression by foreign forces, serious threat to or disturbance of the democratic constitutional order, or public calamity. (3) A state of emergency is declared where the circumstances mentioned in the preceding paragraph are less serious; it may at most entail the suspension of some of those rights, freedoms, and safeguards that allow ground for suspension. (4) When choosing between a state of siege or a state of emergency, when deciding for one or the other, and when enforcing that decision, the principle of proportionality has to be respected; in particular, the scope of the decision, the duration and the ways and means provided for, must be limited to what is strictly necessary to promptly resuming the constitutional standards. (5) The declaration of a state of siege or emergency is to be adequately substantiated and must specify the rights, freedoms, and safeguards whose exercise is to be suspended; it is in force for no more than fifteen days or, where that declaration results from the declaration of war, for no longer than the period laid down in the law, although it may eventually be renewed within the limits above. (6) The declaration of a state of siege or emergency in no case affects the rights to life, personal dignity and identity, civil capacity and citizenship of the person, the non-retroactive nature of criminal law, the right to defense of accused persons, and the freedom of conscience and religion. (7) The declaration of a state of siege or emergency may affect the constitutional standards only within the limits set out in the Constitution and in the law; in particular, it may not affect the enforcement of the constitutional provisions concerning the powers and operation of the organs of supreme authority and the organs of self-government of the autonomous regions, as well as the rights and immunities of its members. (8) The declaration of a state of siege or emergency empowers the authorities to take the necessary and adequate measures conducive to promptly resuming the constitutional standards.</p>
Romania	English	No	<p>Article 74 [Majority, Emergency Procedure] (1) Organic laws and resolutions concerning the Standing Orders of each Chamber shall be passed by the majority vote of its members. (2) Ordinary laws and resolutions shall be passed by the majority vote of the members present in each Chamber. (3) On request by the Government or on its own initiative, Parliament may pass bills or legislative proposals under an emergency procedure, established in accordance with the Standing Orders of each Chamber.</p>
Russia	English	No	<p>Article 56 [Restrictions] Individual Restrictions of rights and liberties with identification of the extent and of their duration may be instituted in conformity with the federal constitutional law under conditions of the state of emergency in order to ensure the safety of citizens and protection of the constitutional system. (2) A state of emergency throughout the territory of the Russian Federation and in individual areas thereof may be introduced in the circumstances and in conformity with the procedures defined by the federal constitutional law. (3) The rights and liberties stipulated by Articles 20 [life, capital punishment], 21[human dignity, torture, humiliation],23 (1) [privacy, personal/family secrets, honor and good name], 24 [secret data-gathering], 28 [religious freedom], 34 (1) [economic freedom], 40 (1) [right to home], 46-54 [rights of the accused and of victims] of the Constitution are not subject to restriction.</p>
Rwanda	English	Yes	<p>Article 48 [Siege, Emergency, Danger] (1) The President of the Republic may, when the situation requires it and after consultation with the Government, with the Constitutional Court and with the Bureau of the National Assembly, proclaim a state of siege or a state of emergency. States of siege and emergency are regulated by law. (2) When the Republic's institutions, the Nation's independence or prime interests, territorial integrity, or the execution of its international commitments are threatened in a grave and imminent manner, and when the regular governmental services are interrupted, the President of the Republic shall take the measures required by these circumstances, after consultation with the Government, with the Bureau of the National Assembly, and with the Constitutional Court.</p> <p>Article 70 [Statutory Orders] (1) In case of emergency or when the National Assembly is unable to meet, the President of the Republic shall temporarily legislate by means of statutory orders adopted in the Council of Ministers. (2) Unless they are confirmed by the National Assembly in the course of the next closest session, statutory orders shall lose any mandatory effect.</p> <p>Article 74 [Urgent Examination] (1) Urgent examination of a proposal or bill may be requested by a Deputy or by the President of the Republic. (2) When it is requested by a Deputy, the National Assembly shall decide upon the urgency. (3) When it is requested by the President of the Republic, it shall always be granted. (4) In all cases when emergency is granted, the examination of the law in question shall have priority over the agenda.</p> <p>Article 75 [Constitutional Court Ruling] (1) Before promulgation, laws and statutory orders must be sent to the Constitutional Court which shall give a ruling on their constitutionality within eight days or, in case of emergency, within four days. (2) If the Court gives a ruling of incompatibility, it shall return the text to the National Assembly or the President of the Republic as the case may be.</p> <p>Article 76 [Financial Laws] (1) The National Assembly shall vote upon the financial laws which establish the resources and expenses of the State within the conditions prescribed by an organic law. (2) Any budgetary transfer must be authorized by law.</p>
Saint Christopher & Nevis	English	Yes	<p>Emergency measures derogating from s.5 of 15. 16.- Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 5 or 15 to the extent that the law authorizes the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis during that period.</p> <p>Protection of persons detained in derogation from s.5. 17.- (1) When a person is detained under emergency measures derogating from section 5 by virtue of section 16 the following provisions shall apply, that is to say- [enumerated rights of redress]</p> <p>Declaration of emergency. 19.- (1) The Governor-General may by proclamation declare that for the purposes of this chapter a state of emergency exists either in Saint Christopher and Nevis. (2) A proclamation under subsection (1) shall not be effective unless it includes a declaration that the Governor-General is satisfied that a public emergency has arisen- a) because of the possibility that Her Majesty may shortly be at war; b) because of the occurrence of any accident or natural calamity, or c) because action has been taken by any person, or there is an imminent threat of action by any person, of such a nature and on so extensive a scale as to be likely to endanger the public safety or to</p>

			<p>deprive the community or any substantial portion of the community of supplies or services essential to life.</p> <p>(3) Every declaration of emergency shall lapse- a) in the case of a declaration made when the National Assembly sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration unless it has in the meantime been approved by resolution of the Assembly. (4) A declaration under subsection (1) that a state of emergency exists in a part of Saint Christopher and Nevis that comprises or includes all or part of the island of Nevis shall, to the extent that it relates to that island, lapse- a) in the case of a declaration made when the Nevis Island Assembly is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and b) in any other case, at the expiration of a period of twenty- one days beginning with the date of publication of the declaration, unless it has in the meantime been approved by resolution of the Assembly.</p> <p>(5) A declaration of emergency may at any time be revoked by the Governor-General by proclamation. (6) Unless sooner revoked- a) a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection (3) shall cease to be in force if that resolution ceases to be in force; and furthermore b) a declaration of emergency that has been approved by resolution of the Nevis Island Assembly in pursuance of subsection (4) shall, to the extent that it relates to the island of Nevis, cease to be in force if that resolution ceases to be in force notwithstanding that a declaration of the National Assembly approving it in pursuance of subsection (3) remains in force.</p> <p>(7) A resolution of the National Assembly or the Nevis Island Assembly passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein: Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension, and any such resolution may be revoked at any time by a further resolution. (8) A resolution of the National Assembly for the purposes of subsection (3) and a resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of not less than two-thirds of all the Representatives and Senators; and a resolution revoking any such resolution shall not be passed unless it is supported by the votes of a majority of all the Representatives and Senators.</p> <p>(9) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further declaration of emergency whether before or after that time. (10) In the exercise of his powers to make or revoke any such declaration as is referred to in subsection (4) the Governor-General shall act in accordance with the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier. (11) In this section "declaration of emergency" means a declaration under subsection (1).</p> <p>Interpretation and savings. 20.- ...(2) In this Chapter "a period of public emergency" means any period during which- a) Her Majesty is at war; or b) there is in force a declaration under section 19 that a state of emergency exists in Saint Christopher and Nevis or in part of Saint Christopher and Nevis.</p>
Saint Lucia	English	Yes	<p>CHAPTER I PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS ...4.- (1) No person shall be held in slavery or servitude. (2) No person shall be required to perform forced labour. (3) For the purposes of this section, the expression "forced labour" does not include- ... d) any labour required during any period of public emergency or in the event of any accident or natural calamity that threatens the life and well-being of the community, to the extent that the requiring of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that accident or natural calamity, for the purpose of dealing with that situation.</p> <p>14.- (1) Without prejudice to the powers of Parliament, but subject to the provisions of this section, where any period of public emergency exists the Governor-General may, due regard being had to the circumstances of any situation likely to arise or exist during such period, make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any law referred to in subsection(3) of this section or instrument made under this section or any such law. (2) Without prejudice to the generally of subsection (1) of this section regulations made under that subsection may make provision for the detention of persons. (3) A law enacted by Parliament that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulation made under subsection (1) of this section shall have effect even though inconsistent with section 3 or 13 of this Constitution except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period. [Article 15 enumerates legal rights and judicial duties in this event]</p> <p>17.- (1) The Governor-General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists for the purposes of this Chapter. (2) A proclamation under this section shall not be effective unless it contains a declaration that the Governor-General is satisfied- a) that a public emergency has arisen as a result of the imminence of a state of war between Saint Lucia and a foreign state; b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.</p> <p>(3) Every declaration of emergency shall lapse- a) in the case of a declaration made when Parliament is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and b) in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declaration. unless it has in the meantime been approved by resolutions of the Senate and the House. (4) A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette.</p> <p>(5) A declaration of emergency that has been approved by resolutions of the Senate and the House in pursuance of subsection (3) of his section shall remain in force so long as both those resolutions remain in force and no longer. (6) A resolution of the Senate or the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein: Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution. (7) A resolution of the House for the purposes of subsection (3) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of majority of all the members of the House. (8) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.</p> <p>18.- ... (2) In this Chapter "period of public emergency" means any period during which- a) Her Majesty is at war, or b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists; or c) there is in force a resolution of the House supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Saint Lucia are threatened by subversion.</p>
Saint Vincent & the Grenadines			<p>4. (1) No person shall be held in slavery or servitude. (2) No person shall be required to perform forced labor. (3) For the purposes of this section, the expression "forced labor" does not include_</p> <p>...</p>

			<p>d. any labor required during any period of public emergency or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labor is reasonably justifiable in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation.</p> <p>Derogations from s. 3 or s. 13 under emergency powers 14. Nothing contained in or done under the authority of a law enacted by Parliament shall be held to be inconsistent with or in contravention of section 3 [personal liberty] or section 13 [discrimination] of this Constitution to the extent that the law authorizes the taking during any period of public emergency of measures that are reasonably justifiable for dealing with the situation that exists in Saint Vincent during that period.</p> <p>Protection of persons detained under emergency laws. 15. (1) When a person is detained by virtue of any such law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:- a. he shall, with reasonable promptitude and in any case not more than seven days after the commencement of his detention, be informed in a language that he understands and in detail of the grounds upon which he is detained and furnished with a written statement in English specifying those grounds in detail; b. not more than fourteen days after the commencement of his detention, a notification shall be published in the Official Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorized; c. not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons who are legal practitioners; d. he shall be afforded reasonable facilities for private communication and consultation with a legal practitioner of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and e. at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or to be represented by a legal practitioner of his own choice.</p> <p>(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with such recommendations. (3) Nothing contained in subsection (1)d. or subsection (1)e. of this section shall be construed as entitling a person to legal representation at public expense.</p> <p>Declaration of emergency 17. (1) The Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exist for the purposes of this Chapter. (2) A proclamation under this section shall not be effective unless it contains a declaration that the Governor-General is satisfied- a. that a public emergency has arisen as a result of the imminence of a state of war between Saint Vincent and a foreign state; b. that a public emergency has arisen as a result of the occurrence of any volcanic eruption, earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or c. that action has been taken, or is immediately threatened by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life. (3) Every declaration of emergency shall lapse- a. in the case of a declaration made when the House is sitting, at the expiration of a period of seven days beginning with the date of publication of the declaration; and b. in any other case, at the expiration of a period of twenty-one days beginning with the date of publication of the declarations, unless it has in the meantime been approved by resolution of the House. (4) A declaration of emergency may at any time be revoked by the Governor-General by proclamation which shall be published in the Official Gazette. (5) A declaration of emergency that has been approved by resolution of the House in pursuance of subsection (2) of this section shall, subject to the provisions of subsections (3) of this section, remain in force so long as the resolution remains in force and no longer. (6) A resolution of the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein; Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution. (7) A resolution of the House for the purpose of subsection(2) of this section and a resolution of the House extending any such resolution shall not be passed in the House unless it is supported by the votes of two-thirds of all the Representatives; and a resolution revoking any such resolution shall not be so passed unless it is supported by the votes of a majority of all the Representatives. (8) Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.</p> <p>Interpretation and saving. 18. ... (2) In this Chapter "period of public emergency" means any period during which- a. Her Majesty is at war; or b. a declaration of emergency is in force under section 17 of this Constitution.</p> <p>Election to House of Assembly. 49. ... (2) If, after a dissolution and before the date appointed for the nomination of candidates in the next succeeding general election of representatives, the Prime Minister advises the Governor-General that, owing to the existence of a state of war or a state of emergency in Saint Vincent, it is necessary to recall Parliament, the Governor-General shall summon the Parliament that has been dissolved to meet, but subject to the provisions of subsection (3) of this section, that general election shall proceed.</p>
Saudi Arabia	English	No	<p>Article 27 [Welfare Rights] The state guarantees the rights of the citizen and his family in cases of emergency, illness and disability, and in old age; it supports the system of social security and encourages institutions and individuals to contribute in acts of charity.</p> <p>Article 61The King declares a state of emergency, general mobilization and war, and the law defines the rules for this.</p> <p>Article 62 If there is a danger threatening the safety of the Kingdom or its territorial integrity, or the security of its people and its interests, or which impedes the functioning of the state institutions, the King may take urgent measures in order to deal with this danger And if the King considers that these measures should continue, he may then implement the necessary regulations to this end.</p> <p>Article 82 Without violating the content of Article 7, no provision of this law whatsoever may be suspended unless it is temporary such as in a time of war or during the declaration of a state of emergency. This temporary suspension will be in accordance with the terms of the law.</p>
Singapore	English	Yes	<p>Article 150 Proclamation of Emergency (1) If the President is satisfied that a grave emergency exists whereby the security or economic life of Singapore is threatened, he may issue a Proclamation of Emergency. (2) If a Proclamation of Emergency is issued when Parliament is not sitting, the President shall summon Parliament as soon as practicable, and may, until Parliament is sitting, promulgate ordinances having the force of law, if satisfied that immediate action is required. (3) A Proclamation of Emergency and any ordinance promulgated under clause (2) shall be presented to Parliament and, if not sooner revoked, shall cease to have effect if a resolution is passed by Parliament annulling such Proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the President to issue a new Proclamation under clause (1) or promulgate any ordinance under clause (2). (4) Subject to clause (5) (b), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and any provision of this Constitution (except Articles 22e, 22h, 144 (2) and 148a) or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the President for his assent, shall not apply to a Bill for such a law or an amendment to such a Bill. (5)(a) Subject to Paragraph (b), no provision of any ordinance promulgated under this article, and no provision of any Act which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution. (b) Paragraph (a) shall not validate any provision inconsistent with (i) Article 5 (2a); (ii) the provisions of this Constitution specified in Article 5 (2a) conferring discretionary powers on the President; and</p>

			(iii) the provisions of this Constitution relating to religion, citizenship or language. (6) At the expiration of a period of 6 months beginning with the date on which a Proclamation of Emergency ceases to be in force, any ordinance promulgated in pursuance of the Proclamation and, to the extent that it could not have been validly made but for this article, any law made while the Proclamation was in force, shall cease to have effect, except as to things done or omitted to be done before the expiration of that period.
Slovakia	English	No	Article 102 The president ... f) declares a state of emergency on the basis of a constitutional law,
South Africa	English	yes	Section 37 States of emergency (1) A state of emergency may be declared only in terms of an Act of Parliament, and only when - (a) the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and (b) the declaration is necessary to restore peace and order.
			(2) A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only - (a) prospectively; and (b) for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time. The first extension of the state of emergency must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly. A resolution in terms of this paragraph may be adopted only following a public debate in the Assembly.
			(3) Any competent court may decide on the validity of - (a) a declaration of a state of emergency; (b) any extension of a declaration of a state of emergency; or (c) any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.
			(4) Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that - (a) the derogation is strictly required by the emergency; and (b) the legislation - (i) is consistent with the Republic's obligations under international law applicable to states of emergency; (ii) conforms to subsection (5); and (iii) is published in the national Government Gazette as soon as reasonably possible after being enacted.
			(5) No Act of Parliament that authorises a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise - (a) indemnifying the state, or any person, in respect of any unlawful act; (b) any derogation from this section; or (c) any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table [table omitted here]
			(6) Whenever anyone is detained without trial in consequence of a derogation of rights resulting from a declaration of a state of emergency, the following conditions must be observed: (a) An adult family member or friend of the detainee must be contacted as soon as reasonably possible, and informed that the person has been detained. (b) A notice must be published in the national Government Gazette within five days of the person being detained, stating the detainee's name and place of detention and referring to the emergency measure in terms of which that person has been detained. (c) The detainee must be allowed to choose, and be visited at any reasonable time by, a medical practitioner.
			(d) The detainee must be allowed to choose, and be visited at any reasonable time by, a legal representative. (e) A court must review the detention as soon as reasonably possible, but no later than 10 days after the date the person was detained, and the court must release the detainee unless it is necessary to continue the detention to restore peace and order. (f) A detainee who is not released in terms of a review under paragraph (e), or who is not released in terms of a review under this paragraph, may apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee unless it is still necessary to continue the detention to restore peace and order.
			(g) The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention. (h) The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.
			(7) If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows a court good cause for re-detaining that person.
			(8) Subsections (6) and (7) do not apply to persons who are not South African citizens and who are detained in consequence of an international armed conflict. Instead, the state must comply with the standards binding on the Republic under international humanitarian law in respect of the detention of such persons.
South Korea	English	No	Article 34 [Welfare] ... (6) The State endeavors to prevent disasters and to protect citizens from harm therefrom.
			Article 76 [Emergency Powers] (1) In time of internal turmoil, external menace, natural calamity, or a grave financial or economic crisis, the President may take in respect to them the minimum necessary financial and economic actions or issue orders having the effect of law, only when it is required to take urgent measures for the maintenance of national security or public peace and order, and there is no time to await the convocation of the National Assembly. (2) In case of major hostilities affecting national security, the President may issue orders having the effect of law, only when it is required to preserve the integrity of the nation, and it is impossible to convene the National Assembly. (3) In the case of actions taken or orders issued under paragraphs (1) and (2), the President promptly notifies the National Assembly and obtains its approval. (4) If no approval is obtained, the actions or orders lose effect. In that case, laws which were amended or abolished by the orders in question automatically regain their original effect at the moment the orders fail to obtain approval. (5) The President has to publicize, without delay, developments under paragraphs (3) and (4).
			Article 77 [Martial Law] (1) When it is required to cope with a military necessity or to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law under the conditions as prescribed by law. (2) Martial law takes one of two types: extraordinary martial law and precautionary martial law. (3) Under extraordinary martial law, special measures may be taken with respect to the necessity for warrants, freedom of speech, the press, assembly and association, or the powers of the Executive and the Judiciary under the conditions as prescribed by law. (4) When the President has proclaimed martial law, he has to notify the National Assembly without delay. (5) When the National Assembly requests the lifting of martial law with the concurrent vote of a majority of the total members of the National Assembly, the President has to comply.
			Article 89 [Competences] The following matters are referred to the State Council for deliberation: ... 5) Emergency orders and emergency financial and economic actions or orders by the President, and declaration and termination of martial law;
Spain	Spanish	Yes	Artículo 30. 1. Los españoles tienen el derecho y el deber de defender a España. 2. La ley fijará las obligaciones militares de los españoles y regulará, con las debidas garantías, la objeción de conciencia, así como las demás causas de exención del servicio militar obligatorio, pudiendo imponer, en su caso, una prestación social sustitutoria. 3. Podrá establecerse un servicio civil para el cumplimiento de fines de interés general. 4. Mediante ley podrán regularse los deberes de los ciudadanos en los casos de grave riesgo, catástrofe o calamidad pública. Capítulo V: De la suspensión de los derechos y libertades.

			<p>Artículo 55. 1. Los derechos reconocidos en los artículos 17, 18, apartados 2 y 3, artículos 19, 20, apartados 1, a) y d), y 5, artículos 21, 28, apartado 2, y artículo 37, apartado 2, podrán ser suspendidos cuando se acuerde la declaración del estado de excepción o de sitio en los términos previstos en la Constitución. Se exceptúa de lo establecido anteriormente el apartado 3 del artículo 17 para el supuesto de declaración de estado de excepción. ...</p> <p>Artículo 86. 1. En caso de extraordinaria y urgente necesidad, el Gobierno podrá dictar disposiciones legislativas provisionales que tomarán la forma de Decretos-leyes y que no podrán afectar al ordenamiento de las instituciones básicas del Estado, a los derechos, deberes y libertades de los ciudadanos regulados en el Título 1, al régimen de las Comunidades Autónomas ni al Derecho electoral general. 2. Los Decretos-leyes deberán ser inmediatamente sometidos a debate y votación de totalidad al Congreso de los Diputados, convocado al efecto si no estuviere reunido, en el plazo de los treinta días siguientes a su promulgación. El Congreso habrá de pronunciarse expresamente dentro de dicho plazo sobre su convalidación o derogación, para lo cual el reglamento establecerá un procedimiento especial y sumario. 3. Durante el plazo establecido en el apartado anterior, las Cortes podrán tramitarlos como proyectos de ley por el procedimiento de urgencia.</p> <p>Artículo 116. 1. Una ley orgánica regulará los estados de alarma, de excepción y de sitio, y las competencias y limitaciones correspondientes. 2. El estado de alarma será declarado por el Gobierno mediante decreto acordado en Consejo de Ministros por un plazo máximo de quince días, dando cuenta al Congreso de los Diputados, reunido inmediatamente al efecto y sin cuya autorización no podrá ser prorrogado dicho plazo. El decreto determinará el ámbito territorial a que se extienden los efectos de la declaración. 3. El estado de excepción será declarado por el Gobierno mediante decreto acordado en Consejo de Ministros, previa autorización del Congreso de los Diputados. La autorización y proclamación del estado de excepción deberá determinar expresamente los efectos del mismo, el ámbito territorial a que se extiende y su duración, que no podrá exceder de treinta días, prorrogables por otro plazo igual, con los mismos requisitos. 4. El estado de sitio será declarado por la mayoría absoluta del Congreso de los Diputados, a propuesta exclusiva del Gobierno. El Congreso determinará su ámbito territorial, duración y condiciones. 5. No podrá procederse a la disolución del Congreso mientras estén declarados algunos de los estados comprendidos en el presente artículo, quedando automáticamente convocadas las Cámaras si no estuviere en período de sesiones. Su funcionamiento, así como el de los demás poderes constitucionales del Estado, no podrán interrumpirse durante la vigencia de estos estados. Disuelto el Congreso o expirado su mandato si se produjere alguna de las situaciones que dan lugar a cualquiera de dichos estados, las competencias del Congreso serán asumidas por su Diputación Permanente. 6. La declaración de los estados de alarma, de excepción y de sitio no modificarán el principio de responsabilidad del Gobierno y de sus agentes reconocidos en la Constitución y en las leyes.</p>
Suriname	English	English is a "recognised language"	<p>Article 23 In case of war, danger of war, state of siege or state of emergency or for reasons of state security, public order and good morals, the rights mentioned in the Constitution may be submitted to limitations by law, which will be in force during a certain time, depending on the circumstances, in compliance with the international rules applicable in respect thereof.</p> <p>Eighth Section RIGHT TO PROPERTY</p> <p>Article 34 1) Property, of the community as well as of the private person, shall fulfill a social function. Everyone has the right to undisturbed enjoyment of his property subject to the limitations which stem from the law. 2) Expropriation shall take place only in the general interest, pursuant to rules to be laid down by law and against compensation guaranteed in advance. 3) Compensation need not be previously assured if in case of emergency immediate expropriation is required. 4) In cases determined by or through the law, the right to compensation shall exist if the competent public authority destroys or renders property unserviceable or restricts the exercise of property rights for the public interest.</p> <p>Article 72 Without prejudice to what is reserved elsewhere in the Constitution for regulation by law, the following subjects shall certainly be determined by law: ... c. The declaration or the termination of the state of war, the civil or military state of emergency ...</p> <p>Article 102 1) The President shall not declare the Republic of Suriname to be at war, in danger of war or in state of siege, except with the previous consent of the National Assembly. This consent shall not be required when, as a result of force majeure, consultation with the National Assembly has appeared to be impossible. 2) The President shall not declare war, danger of war or state of siege between the State of Suriname and another power to be terminated, except with the previous consent of the National Assembly. This consent shall not be required when, as a result of force majeure, consultation with the National Assembly is not possible. 3) To maintain external and domestic security, in case of war, danger of war or in case of serious threat to or disturbance of the domestic order and peace which could result in substantial damage to the interests of the State, the President can declare the state of emergency in any part of Suriname, subject to previous consent of the National Assembly. 4) The President shall not declare the State of emergency to be terminated, except with previous consent of the National Assembly. This consent is not required when consultation with the National Assembly has, as a result of force majeure, appeared to be impossible.</p> <p>Article 128 There shall be a National Security Council, which can commence its activities after the duly authorized institutions have decided to declare the state of war, threat of war, or the state of siege in case of military aggression, and the state of civil and military emergency.</p>
Switzerland	English	No	<p>Article 61 Civil defence ... (2) The Federation adopts rules on the intervention of civil defence in catastrophes and emergencies. ...</p>
Syria	English	No	<p>Article 46 [Insurance, Welfare] (1) The state insures every citizen and his family in cases of emergency, illness, disability, orphanhood, and old age.</p> <p>Article 101 [State of Emergency] The President of the Republic can declare and terminate a state of emergency in the manner stated in the law.</p> <p>Article 113 [Emergency Measures] In case of a grave danger or situation threatening national unity or the safety and independence of the homeland or obstructing state institutions from carrying out their constitutional responsibilities, the President of the Republic can take immediate measures necessitated by these circumstances.</p> <p>Article 145 [Constitutional Review] The Supreme Constitutional Court looks into and decides on the constitutionality of laws in accordance with the following: 1) Should the President of the Republic or a quarter of the People's Assembly members challenge the constitutionality of a law before its promulgation, the promulgation of such law is suspended until the court makes a decision on it within 15 days from the date the appeal was filed with it. Should the law be of an urgent nature, the Supreme Constitutional Court must make a decision within 7 days. ...</p>
Taiwan	English	No	<p>Article 43 In case of a natural disaster, an epidemic, or a national financial or economic crisis that calls for emergency action, the President, if the Legislative Yuan happens to be in recess, may, by a resolution of the Executive Yuan Council and in accordance with the Law on Emergency Orders, issue emergency orders and take such measures as may be necessary to cope with the situation. But the action thus taken shall be submitted to the Legislative Yuan for confirmation within one month after issuance of the emergency orders. In case the Legislative Yuan withholds confirmation, the said orders shall immediately become null and void.</p> <p>Article 108(1) The Central Government shall be competent to legislate and execute the following matters, which, however, may also be delegated to the provincial or county government to execute:...19. Disaster relief, pension for the deceased's family, and unemployment relief.....</p>

Thailand	English	No (official translation)	<p>Section 44 A person shall enjoy the liberty to assemble peacefully and without arms. The restriction on such liberty under paragraph one shall not be imposed except by virtue of the law specifically enacted for the case of public assembling and for securing public convenience in the use of public places or for maintaining public order during the time when the country is in a state of war, or when a state of emergency or martial law is declared.</p> <p>Section 51 Forced labour shall not be imposed except by virtue of the law specifically enacted for the purpose of averting imminent public calamity or by virtue of the law which provides for its imposition during the time when the country is in a state of war or armed conflict, or when a state of emergency or martial law is declared.</p> <p>Section 159 The National Assembly shall, within thirty days as from the date of the election of members of the House of Representatives, be summoned for the first sitting. Each year, there shall be general ordinary session and a legislative ordinary session. The day on which the first sitting under paragraph one is held shall be considered as the first day of the general ordinary session, and the first day of the legislative ordinary session shall be fixed by the House of Representatives. In the case where the first sitting under in paragraph one has less than one hundred and fifty days up to the end of a calendar year, the legislative ordinary session may be omitted in that year.</p> <p>During the legislative ordinary session, the National Assembly shall hold a sitting only in such cases as prescribed in Chapter 2 or in cases of the consideration of bills or organic law bills, the approval of an Emergency Decree, the approval of the declaration of war, the approval of a treaty, the election or approval of a person for holding office, the removal of a person from office, the interpellation and the amendment of the Constitution, unless the National Assembly has passed a resolution, by the votes of more than one-half of the total number of the existing members of both Houses, for considering other matters.</p> <p>Section 218 For the purpose of maintaining national or public safety or national economic security, or averting public calamity, the King may issue an Emergency Decree which shall have the force as an Act. The issuance of an Emergency Decree under paragraph one shall be made only when the Council of Ministers is of the opinion that it is the case of emergency and necessary urgency which is unavoidable. In the next succeeding sitting of the National Assembly, the Council of Ministers shall submit the Emergency Decree to the National Assembly for its consideration without delay. If it is out of session and it would be a delay to wait for the opening of an ordinary session, the Council of Ministers must proceed to convoke an extraordinary session of the National Assembly in order to consider whether to approve or disapprove the Emergency Decree without delay. If the House of Representatives disapproves it or approves it but the Senate disapproves it and the House of Representatives reaffirms its approval by the votes of not more than one-half of the total number of the existing members of the House, the</p> <p>Emergency Decree shall lapse; provided that it shall not affect any act done during the enforcement of such Emergency Decree. If the Emergency Decree under paragraph one has the effect of amending or repealing any provisions of any Act and such Emergency Decree has lapsed in accordance with paragraph three, the provisions of the Act in force before the amendment or repeal shall continue to be in force as from the day the disapproval of such Emergency Decree is effective. If the House of Representatives and the Senate approve the Emergency Decree, or if the Senate disapproves it but the House of Representatives reaffirms its approval by the votes of more than one-half of the total number of the existing members of the House, such Emergency Decree shall continue to have the force as an Act.</p> <p>The Prime Minister shall cause the approval or disapproval of the Emergency Decree to be published in the Government Gazette. In case of disapproval, it shall be effective as from the day following the date of its publication in the Government Gazette. The consideration of an Emergency Decree by the Senate and the House of Representatives in case of reaffirmation of the Emergency Decree must take place at the first opportunity when such Houses hold their sittings.</p> <p>Section 219 Before the House of Representatives or the Senate approves an Emergency Decree under section 218 paragraph three, members of the House of Representatives or senators of not less than one-fifth of the total number of the existing members of each House have the right to submit an opinion to the President of the House of which they are members that the Emergency Decree is not in accordance with section 218 paragraph one, and the President of the House who receives such opinion shall then refer it to the Constitutional Court for decision. After the Constitutional Court has given a decision thereon, it shall notify its decision to the President of the House referring such opinion. When the President of the House of Representatives or the President of the Senate has received the opinion from members of the House of Representatives or senators under paragraph one, the consideration of such Emergency Decree shall be deferred until the decision of the Constitutional Court under paragraph one has been notified.</p> <p>In the case where the Constitutional Court decides that any Emergency Decree is not in accordance with section 218 paragraph one, such Emergency Decree shall not have the force of law <i>ab initio</i>. The decision of the Constitutional Court that an Emergency Decree is not in accordance with section 218 paragraph one must be given by votes of not less than two-thirds of the total number of members of the Constitutional Court.</p> <p>Section 220 If, during a session, it is necessary to have a law on taxes, duties or currency, which, in the interests of the State, requires an urgent and confidential consideration, the King may issue an Emergency Decree which shall have the force as an Act. The Emergency Decree issued under paragraph one must be submitted to the House of Representatives within three days as from the day following the date of its publication in the Government Gazette, and the provisions of 218 shall apply <i>mutatis mutandis</i>.</p>
Tibet			<p>Chapter IV The Executive Article 19 Executive Power The executive power of the Tibetan Administration shall be vested in His Holiness the Dalai Lama, and shall be exercised by Him, either directly or through officers subordinate to Him, in accordance with the provisions of this Charter. In particular, His Holiness the Dalai Lama shall be empowered to execute the following executive powers as the chief executive of the Tibetan people. ... (h) summon emergency and special meetings of major significance; and ...</p> <p>Article 29 Obligations of the Kashag and Removal of Kalons ... (4) His Holiness the Dalai Lama may, in cases of an emergency, dissolve the Kashag or remove a Kalon or Kalons, as the case may be. ... (6) If such a dissolution or removal takes place, as the case may be, his or her replacement shall be elected in not less than 30 calendar days from the day of dissolution or removal, if the Tibetan Assembly is in session. If an emergency session of Tibetan Assembly is required to be summoned, the replacement of a Kalon or Kalons shall be elected within 60 calendar days, as the case may be. Except in the case of a removal of a particular Kalon, his or her replacement may be elected within 6 months. (7) The Kashag shall continue to hold office in accordance with the law even after the expiration of its term until such time as the newly elected Kashag takes and subscribe its oath and affirmation of office. In the case of a removal of a particular Kalon, as specified in clauses (3) (4) (5) of this article, he or she shall cease to hold his or her office. In the case of the dissolution of the entire Kashag, the incumbent Kashag shall continue to hold office until such time as the newly elected Kashag takes and subscribes the oath and affirmation of office provided that they do not make new decisions relating to policy matters.</p> <p>Article 34 Dissolution of the Council of Regency and Removal of Regents ... (4) If two or three Regents of the Council of Regency are required to be removed from office while the Tibetan Assembly is not in session, the Kashag in consultation with the Standing Committee of the Tibetan Assembly shall summon an Emergency Meeting and recommend in that session the removal of such Regents. The Tibetan Assembly may approve the removal of two or three Regents by more than two-thirds of its total members. Provided that any or all of the Regents of the Council of Regency shall be given an opportunity to present an explanation thereof. The Tibetan Assembly shall also elect, in the same session, their replacements in accordance with article (31) of this Charter.</p> <p>Article 59 Emergency General Meeting (1) If an opinion necessitates polling of the general Tibetan public in respect to an emergency or any significant public issues, His Holiness the Dalai Lama may either promulgate an ordinance, or an Emergency General Meeting may be summoned by the joint proposal of the Kashag and the Speaker and the Deputy Speaker of the Tibetan Assembly with the consent of His Holiness the Dalai Lama. (2) The composition of the representatives for such a meeting shall include the members of the Tibetan Assembly and others appointed in this behalf; the Kashag shall jointly decide, in consultation with the Tibetan Assembly or the Standing Committee of the Tibetan Assembly, the agenda, time, and venue of its occurrence. (3) Once the agenda of the Emergency General Meeting, the number and composition of representatives, and time and venue are decided, the Office of Secretary General of the Tibetan Assembly</p>

			shall issue notification within 45 days prior to the day of such a meeting.
Trinidad & Tobago			<p>PART 3: EXCEPTIONS FOR EMERGENCIES</p> <p>EMERGENCY POWERS</p> <p>7.- 1. Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under this section or any such Act.</p> <p>2. Without prejudice to the generality of subsection (1) regulations made under that subsection may, subject to section 11, make provision for the detention of persons.</p> <p>3. An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulations made under subsection (1) shall have effect even though inconsistent with sections 4 and 5 except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.</p> <p>PERIOD OF PUBLIC EMERGENCY 8.- 1. Subject to this section, for the purposes of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists. 2. A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied- a. that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign State; b. that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not; or c. that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.</p> <p>GROUND FOR, AND INITIAL DURATION OF PROCLAMATION</p> <p>9.- 1. Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.</p> <p>2. A Proclamation made by the President for the purposes of and in accordance with this section shall, unless previously revoked, remain in force for fifteen days.</p> <p>EXTENSION OF PROCLAMATION</p> <p>10.- 1. Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, so however, that no extension exceeds three months and the extensions do not in the aggregate exceed six months.</p> <p>2. The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less than three-fifths of all the members of each House.</p> <p>3. The Proclamation may be revoked at any time by a resolution supported by a simple majority vote of the House of Representatives.</p> <p>4. In this Chapter "period of public emergency" means any period during which-</p> <p>a. Trinidad and Tobago is engaged in any war; or</p> <p>b. there is in force a Proclamation by the President declaring that a state of public emergency exists; or</p> <p>c. there is in force a resolution of both Houses of Parliament supported by the votes of not less than two-thirds of all the members of each House declaring that democratic institutions in Trinidad and Tobago are threatened by subversion.</p> <p>PROROGATION AND DISSOLUTION OF PARLIAMENT</p> <p>68.- 1. The President, acting in accordance with the advice of the Prime Minister, may at any time prorogue or dissolve Parliament.</p> <p>...</p> <p>4. Where, between a dissolution of Parliament and the next ensuing general election of members to the House of Representatives, an emergency arises of such a nature that in the opinion of the Prime Minister, it is necessary for the two Houses to be summoned before that general election can be held, the President, acting in accordance with the advice of the Prime Minister, may summon the two Houses of the preceding Parliament but the election of members of the House of Representatives shall proceed and the Parliament that has been summoned shall, if not sooner dissolved, again stand dissolved on the day on which the general election is held.</p>
Tunisia	English	NO	<p>Article 46 [Emergency Powers]</p> <p>(1) In case of imminent peril menacing the institutions of the Republic, the security and independence of the country and obstructing the regular functioning of the public powers, the President of the Republic may take the exceptional measures necessitated by the circumstances, after consultation with the Prime Minister and the President of the National Parliament.</p> <p>(2) During this period, the President of the Republic may not dissolve the National Parliament and no motion of censure may be presented against the Government.</p> <p>(3) These measures cease to have effect as soon as the circumstances that produced them come to an end. The President of the Republic addresses a message to the National Parliament on this subject.</p>
Turkey	English	No	<p>Article 15 Suspension of the Exercise of Fundamental Rights and Freedoms</p> <p>(1) In times of war, mobilization, martial law, or state of emergency, the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, to the extent required by the exigencies of the situation, which derogate the guarantees embodied in the Constitution, provided that obligations under international law are not violated.</p> <p>(2) Even under the circumstances indicated in the first paragraph, the individual's right to life, and the integrity of his or her material and spiritual entity shall be inviolable except where death occurs through lawful act of warfare; no one may be compelled to reveal his or her religion, conscience, thought or opinion, nor be accused on account of them; offences and penalties may not be made retroactive, nor may anyone be held guilty until so proven by a court judgment.</p> <p>Chapter Two -- Rights and Duties of the Individual</p> <p>Article 17 Personal Inviolability, Material and Spiritual Entity of the Individual</p> <p>...</p> <p>(4) Cases such as the act of killing in self-defence, occurrences of death as a result of the use of a weapon permitted by law as a necessary measure during apprehension, the execution of warrants of arrest, the prevention of the escape of lawfully arrested or convicted persons, the quelling of riot or insurrection, or carrying out the orders of authorized bodies during martial law or state of emergency, are outside of the scope of the provision of paragraph 1.</p> <p>Article 18 Prohibition of Forced Labour</p> <p>(1) No one shall be forced to work. Forced labour is prohibited.</p> <p>(2) Work required of an individual while serving a prison sentence or under detention, services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation do not come under the description of forced labour, provided that the form and conditions of such labour are prescribed by law.</p> <p>Article 19 Personal Liberty and Security</p> <p>...</p> <p>(5) The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in the case of offences committed collectively within at most four days, excluding the time taken to send the individual to the court nearest to the place of arrest. No one can be deprived of his or her liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, under martial law or in time of war.</p> <p>...</p> <p>Article 91 Authorisation to Enact Decrees Having the Force of Law</p> <p>(1) The Turkish Grand National Assembly may empower the Council of Ministers to issue decrees having the force of law. However, the fundamental rights, individual rights and duties included in the First and Second Chapter of the Second Part of the Constitution and the political rights and duties listed in the Fourth Chapter, cannot be regulated by decrees having the force of law except during periods of martial law and states of emergency.</p> <p>...</p> <p>(5) Provisions relating to the decrees having the force of law issued by the Council of Ministers meeting under the chairmanship of the President of the Republic in time of martial law or states of emergency, are reserved.</p> <p>(6) Decrees having the force of law shall come into force on the day of their publication in the Official Gazette. However, a later date may be indicated in the decree as the date of entry into force.</p> <p>Article 104 Duties and Powers</p> <p>(1) The President of the Republic is the Head of the state. In this capacity he or she shall represent the Republic of Turkey and the unity of the Turkish Nation; he or she shall ensure the implementation of the Constitution, and the regular and harmonious functioning of the organs of state.</p> <p>(2) To this end, the duties he or she shall perform, and the powers he or she shall exercise, in accordance with the conditions stipulated in the relevant articles of the Constitution are as follows:</p> <p>a) Those relating to legislation:</p> <p>...</p>

			<p>to proclaim martial law or state of emergency, and to issue decrees having the force of law, in accordance with the decisions of the Council of Ministers under his or her chairmanship,</p> <p>...</p> <p>[Title] IV Procedure Governing Emergency Rule</p> <p>Article 119 Declaration of State of Emergency on Account of Natural Disaster or Serious Economic Crisis In the event of natural disaster, dangerous epidemic diseases or a serious economic crisis, the Council of Ministers, meeting under the chairmanship of the President of the Republic may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.</p> <p>Article 120 Declaration of State of Emergency on Account of Widespread Acts of Violence and Serious Deterioration of Public Order In the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order established by the Constitution or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence, the Council of Ministers, meeting under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare a state of emergency in one or more regions or throughout the country for a period not exceeding six months.</p> <p>Article 121 Rules Relating to the State of Emergency</p> <p>(1) In the event of a declaration of a state of emergency under the provisions of Articles 119 and 120 of the Constitution, this decision shall be published in the Official Gazette and shall be submitted immediately to the Turkish Grand National Assembly for approval. If the Turkish Grand National Assembly is in recess, it shall be assembled immediately. The Assembly may alter the duration of the state of emergency, extend the period, for a maximum of four months only, each time at the request of the Council of Ministers, or may lift the state of emergency.</p> <p>(2) The financial, material and labour obligations which are to be imposed on citizens in the event of the declaration of state of emergency under Article 119 and, applicable according to the nature of each kind of state of emergency, the procedure as to how fundamental rights and freedoms shall be restricted or suspended in line with the principles of Article 15, how and by what means the measures necessitated by the situation shall be taken, what sort of powers shall be conferred on public servants, what kind of changes shall be made in the status of officials, and the procedure governing emergency rule, shall be regulated by the Law on State of Emergency.</p> <p>(3) During the state of emergency, the Council of Ministers meeting under the chairmanship of the President of the Republic, may issue decrees having the force of law on matters necessitated by the state of emergency. These decrees shall be published in the Official Gazette, and shall be submitted to the Turkish Grand National Assembly on the same day for approval; the time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.</p> <p>Article 122 Martial Law, Mobilization and State of War</p> <p>(1) The Council of Ministers, under the chairmanship of the President of the Republic, after consultation with the National Security Council, may declare martial law in one or more regions or throughout the country for a period not exceeding six months, in the event of widespread acts of violence which are more dangerous than the cases necessitating a state of emergency and which are aimed at the destruction of the free democratic order or the fundamental rights and freedoms embodied in the Constitution; or in the event of war, the emergence of a situation necessitating war, an uprising, or the spread of violent and strong rebellious actions against the motherland and the Republic, or widespread acts of violence of either internal or external origin threatening the indivisibility of the country and the nation. This decision shall be published immediately in the Official Gazette, and shall be submitted for approval to the Turkish Grand National Assembly, on the same day. If the Turkish Grand National Assembly is in recess, it shall be assembled immediately. The Turkish Grand National Assembly may, when it deems necessary, reduce or extend the period of martial law or lift it.</p> <p>(2) During the period of martial law, the Council of Ministers meeting under the chairmanship of the President of the Republic may issue decrees having the force of law on matters necessitated by the state of martial law.</p> <p>(3) These decrees shall be published in the Official Gazette and shall be submitted for approval to the Turkish Grand National Assembly on the same day. The time limit and procedure for their approval by the Assembly shall be indicated in the Rules of Procedure.</p> <p>(3) Extension of the period of martial law for a maximum of four months each time, shall require a decision by the Turkish Grand National Assembly. In the event of state of war, the limit of four months does not apply.</p> <p>(4) In the event of martial law, mobilization and state of war, the provisions to be applied and conduct of affairs, relations with the administration, the manner in which freedoms are to be restricted or suspended and the obligations to be imposed on citizens in a state of war or in the event of emergence of a situation necessitating war, shall be regulated by law.</p> <p>(5) The Martial Law Commanders shall exercise their duties under the authority of the Chief of the General Staff.</p> <p>Article 148 Functions and Powers</p> <p>(1) The Constitutional Court shall examine the constitutionality, in respect of both form and substance, of laws, decrees having the force of law, and the Rules of Procedure of the Turkish Grand National Assembly. Constitutional amendments shall be examined and verified only with regard to their form. However, no action shall be brought before the Constitutional Court alleging unconstitutionality as to the form or substance of decrees having the force of law issued during a state of emergency, martial law or in time of war.</p> <p>...</p> <p>Article 177 Entry into Force of the Constitution On its adoption by referendum and its publication in the Official Gazette, this Constitution shall become the Constitution of the Republic of Turkey and shall come into force in its entirety, subject to the following exceptions and the provisions relating to their entry into force:</p> <p>...</p> <p>d. The provisions of Part III relating to the functions and powers of the President of the Republic and to the State Supervisory Council under the heading of the Republic to regulations, National Defence, procedures governing emergency rule under the heading of Ministers to all other provisions under the heading except local administration, and except the Atatürk High Institution of Culture, Language and History; and all the provisions relating to the judiciary, except the Courts of the Security of the State, shall come into force on publication in the Official Gazette of the adoption by referendum of the Constitution. The provisions which belong to the President and the Council of Ministers and which do not go into effect shall come into force when the Parliament begins its new term. The provisions relating to local administrations and to the Courts for State Security shall come into force on the promulgation of the relevant legislation.</p> <p>....</p> <p>Capítulo II De las atribuciones del Presidente de la República</p> <p>Art. 190. Son atribuciones y deberes del Presidente de ;a República:</p> <p>...</p> <p>6) Declarar el estado de emergencia y decretar la restricción o suspensión de garantías en los casos previstos en esta Constitución;</p> <p>7) Adoptar las medidas necesarias para la defensa de la República, la integridad del territorio y de su soberanía en caso de emergencia internacional;</p> <p>....</p> <p>TÍTULO IX DE LA EMERGENCIA</p> <p>Art. 240. El Presidente de la República podrá decidir el estado de emergencia en caso de conflicto interior o exterior, o cuando existan fundados motivos de que uno u otro ocurran.</p> <p>Art. 241. En caso de emergencia, de conmoción que pueda perturbar la paz de la República o de graves circunstancias que afecten la vida económica o social de la República podrá restringir o suspender las garantías constitucionales, o algunas de ellas, con excepción de las consagradas en el artículo 58 y en los ordinales 3o. y 7o. del artículo 60. La restricción o supresión de garantías no interrumpe el funcionamiento ni afecta las prerrogativas de los órganos del Poder Nacional.</p> <p>Art. 242. El Decreto que declare el estado de emergencia u ordene la restricción o supresión de garantías será dictado en Consejo de Ministros y sometido a la consideración de las Cámaras en sesión conjunta o de la Comisión Delegada, dentro de los diez días siguientes a su publicación.</p> <p>Art. 243. El Decreto de restricción o supresión de garantías será revocado por el Ejecutivo Nacional, o por las Cámaras en sesión conjunta, al cesar las causas que lo motivaron. La cesación del estado de emergencia será declarada por el Presidente de la República en Consejo de Ministros y con la autorización de las Cámaras en sesión conjunta o de la Comisión Delegada.</p> <p>Art. 244. Si existieran fundados indicios para temer inminentes trastornos del orden público, que no justifiquen la restricción o supresión de las garantías constitucionales, el Presidente de la República, en Consejo de Ministros, podrá adoptar las medidas indispensables para evitar que tales hechos se produzcan. Estas medidas se limitarán a la detención o confinamiento de los indiciados, y deberán ser sometidas a la consideración del Congreso o de la Comisión Delegada dentro de los diez días siguientes a su adopción. Si éstos las declararen no justificadas, cesarán de inmediato; en caso contrario, se las podrá mantener hasta por un límite no mayor de noventa días. La ley reglamentará el ejercicio de esta facultad.</p>
Venezuela	Spanish	Yes	<p>Article 84 [Duties and Powers] The National Assembly has the following duties and powers:</p> <p>...</p> <p>12. To decide issues of war and peace; to proclaim a state of emergency and other special measures aimed at ensuring national defence and security;</p> <p>...</p>

			<p>Article 91 [Duties and Powers of the Standing Committee] The Standing Committee of the National Assembly has the following duties and powers: ... 9. To proclaim general or partial mobilisation; to proclaim a state of emergency throughout the country or in a particular region; ...</p> <p>Article 103 [Duties and Powers] The State President has the following duties and powers: ... 6. On the basis of resolutions of the Standing Committee of the National Assembly, to issue order on general mobilization or limited mobilization, to declare the state of emergency; in cases where the National Assembly Standing Committee cannot meet, to declare the state of emergency nationwide or in a locality;</p> <p>Article 112 [Duties and Powers] The Government has the following duties and powers: ... 6. To consolidate and strengthen national defence by the entire people and the people's security; to ensure national security and social order; to build the people's armed forces; to carry into effect general mobilisation, to proclaim the state of emergency and all other necessary measures to defend the country;</p>
Yemen	English	No	<p>Article 94 The Presidential Council shall exercise the following powers: ... 17) It shall declare states of emergency and general mobilization in accordance with the law.</p> <p>Article 97 The Presidential Council shall declare a state of emergency by a presidential decree in the manner stipulated by the law. The House of Representatives shall be convoked to consider such a declaration of a state of emergency within seven days after its declaration. If the House of Representatives had been dissolved, the old House shall convene by the force of the Constitution. If the House of Representatives was not convoked and did not consider the declaration of the state of emergency as specified above, the state of emergency shall cease to exist. In all cases, a state of emergency may not be declared except in case of war, internal sedition, or natural disaster. A state of emergency shall be declared only for a limited period and may not be extended except with the approval of the House of Representative.</p>
Zambia	English	Yes	<p>Article 14 [Protection from Slavery and Forced Labor] (1) No person shall be held in slavery or servitude. (2) No person shall be required to perform forced labor. (3) For the purpose of this Article, the expression "force labor" does not include-- ... (d) any labor required during any period when the Republic is at war or a declaration under Article 30 or 31 is in force or in the event of any other emergency or calamity that threatens the life and well-being of the community, to the extent that the requiring of such labor is reasonably justifiable in the circumstances of any situation arising or existing during that period, or as a result of that other emergency or calamity, for the purpose of dealing with that situation; ...</p> <p>Article 30 [Declaration of Public Emergency](1) The President may, in consultation with Cabinet, at any time, by Proclamation published in the Gazette declare that a State of public emergency exists. (2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker. (3) In reckoning any period of seven days for the purposes of clause (2) no account shall be taken of any time during which Parliament is dissolved.</p> <p>(4) A declaration made under clause (1) may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette. (5) Subject to clause (6) a resolution of the National Assembly under clause (2) will continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked at such earlier date of its being so approved or until such earlier date as may be specified in the resolution. Provided that the National Assembly may, by majority of all the members thereof, not counting the Speaker extend the approval of the declaration for periods of not more than three months at a time.</p> <p>(6) The National Assembly may, by resolution, at any time revoke a resolution made by it under this Article. (7) Whenever an election to the office of President results in a change of the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office shall cease to have effect on the expiration of seven days commencing with that day. (8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.</p> <p>Article 31 [Declaration Relating to Threatened Emergency] (1) The President may at any time by the Proclamation published in the Gazette declare that a situation exists which, if it is allowed to continue may lead to a state of public emergency. (2) A declaration made under clause (1) of this Article shall cease to have effect on the expiration of a period of seven days commencing with the day on which the declaration is made unless, before the expiration of such period, it has been approved by a resolution of the National Assembly supported by a majority of all the members thereof not counting the Speaker. (3) In reckoning any period of seven days for the purpose of clause (2) no account shall be taken of any time during which Parliament is dissolved. (4) A declaration made under clause (1), may, at any time before it has been approved by a resolution of the National Assembly, be revoked by the President by Proclamation published in the Gazette. (5) Subject to clause (6) a resolution of the National Assembly under clause (2) shall continue in force until the expiration of a period of three months commencing with the date of its being approved or until revoked on an earlier date of its being so approved or until such earlier date as may be specified in the resolution. (6) The National Assembly may by resolution, at any time revoke a resolution made by it under this Article. (7) Whenever an election to the office of President results in a change in the holder of that office, any declaration made under this Article and in force immediately before the day on which the President assumes office, shall cease to have effect on the expiration of seven days commencing with that day. (8) The expiration or revocation of any declaration or resolution made under this Article shall not affect the validity of anything previously done in reliance on such declaration.</p> <p>Article 88 [Meeting, Duration and Dissolution of Parliament and Related Matters] ... (9) If, after a dissolution of Parliament and before the holding of the general elections, the President considers that owing to the existence of a state of war or of a state of emergency in Zambia or any part thereof, it is necessary to recall Parliament, the President may summon the Parliament that has been dissolved to meet and that Parliament shall be deemed to be the Parliament for the time being, but the general election of members of the National Assembly shall proceed and the Parliament that has been recalled shall, if not sooner dissolved again stand dissolved on the day appointed for the nomination of candidates in that general election.</p>

Appendix 3

Matrix of International Instruments Addressing Emergency

0	In Force?	Adoption	Place of adoption:	relevant coverage	Most relevant sections: excerpts or summaries
Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	Yes	1998	Tampere, Finland	Communications technology for disaster-mitigation and relief	[Entire is relevant. Detailed in text.]
Cartagena Protocol on Biosafety	Yes	2000	Cartagena de Indies		<p>Clause 17.1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, relevant international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.</p> <p>... Clause 17.4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 above, occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.</p>
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	Yes	1989	Basel, Switzerland	Global; hazardous material, pollution	<p>Article 14.2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.</p> <p>Article 16.1.1. The functions of the Secretariat shall be:... (g) To receive and convey information from and to Parties on:- sources of technical assistance and training; - available technical and scientific know-how; - sources of advice and expertise; and - availability of resources with a view to assisting them, upon request, in such areas as: - the handling of the notification system of this Convention; - the management of hazardous wastes and other wastes; - environmentally sound technologies relating to hazardous wastes and other wastes; such as low- and non-waste technology;... and - emergency responses; ... (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation...</p>
Stockholm Convention on Persistent Organic Pollutants	Yes	2001	Stockholm, Sweden	Global, cooperation to control POPs and the associated risks	<p>Clause 3.6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.</p>
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade	Yes	1998	Rotterdam, The Netherlands	Global; hazardous material, pollution	[Generally focused on prevention of harm, alleviation of risk, where certain substances are transported across borders. Entire instrument addresses this concern, primarily through notice and cooperation between Party Countries.]
UN Charter	Yes	2-May-05	San Francisco, United States of America	Global	Described in ECOSOC, as follows: "States parties have a joint and individual responsibility, in accordance with the Charter of the United Nations and relevant resolutions of the United Nations General Assembly and of the World Health Assembly, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Each State should contribute to this task to the maximum of its capacities. Priority in the provision of international medical aid, distribution and management of resources, such as safe and potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population. Moreover, given that some diseases are easily transmissible beyond the frontiers of a State, the international community has a collective responsibility to address this problem. The economically developed States parties have a special responsibility and interest to assist the poorer developing States in this regard."
WHO declared the outbreak a public health emergency of international concern based on the International Health Regulations, which were revised in 2005 and went into effect in June 2007.	Yes	29-Jun-07	Geneva, Switzerland	Global; health emergency	[Extremely long document, available online at http://www.who.int/ihr/en/ Generally relevant to this Report. Stated objective: "to protect against, control and provide a mechanism to initiate a public health response to the threat of international spread of disease of biological, chemical or radio-nuclear origin."]
International Plant Protection Convention	Yes	Revised version adopted 1997	Rome, Italy	International instrument addressing environmental damage from the introduction of foreign plants	<p>Clause VII.6. Nothing in this Article shall prevent any contracting party from taking appropriate emergency action on the detection of a pest posing a potential threat to its territories or the report of such a detection. Any such action shall be evaluated as soon as possible to ensure that its continuance is justified. The action taken shall be immediately reported to contracting parties concerned, the Secretary, and any regional plant protection organization of which the contracting party is a member.</p> <p>Article VII, Clause 1. The contracting parties shall cooperate with one another to the fullest practicable extent in achieving the aims of this Convention, and shall in particular: a) cooperate in the exchange of information on plant pests, particularly the reporting of the occurrence, outbreak or spread of pests that may be of immediate or potential danger, in accordance with such procedures as may be established by the Commission; b) participate, in so far as is practicable, in any special campaigns for combating pests that may seriously threaten crop production and need international action to meet the emergencies; and c) cooperate, to the extent practicable, in providing technical and biological information necessary for pest risk analysis.</p>
International Covenant on Economic, Social and Cultural Rights (implementing statement "The right to the highest attainable standard of health" : 11/08/2000. (ECOSOC: E/C.12/2000/4)				Global; health emergency	16. "The prevention, treatment and control of epidemic, endemic, occupational and other diseases" (art. 12.2 (c)) requires the establishment of prevention and education programmes for behaviour-related health concerns such as sexually transmitted diseases, in particular HIV/AIDS, and those adversely affecting sexual and reproductive health, and the promotion of social determinants of good health, such as environmental safety, education, economic development and gender equity. The right to treatment includes the creation of a system of urgent medical care in cases of accidents, epidemics and similar health hazards, and the provision of disaster relief and humanitarian assistance in emergency situations. The control of diseases refers to States' individual and joint efforts to, inter alia, make available relevant technologies, using and improving epidemiological surveillance and data collection on a disaggregated basis, the implementation or enhancement of immunization programmes and other strategies of infectious disease control.

					65. The role of WHO, the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross/Red Crescent and UNICEF, as well as non governmental organizations and national medical associations, is of particular importance in relation to disaster relief and humanitarian assistance in times of emergencies, including assistance to refugees and internally displaced persons. Priority in the provision of international medical aid, distribution and management of resources, such as safe and potable water, food and medical supplies, and financial aid should be given to the most vulnerable or marginalized groups of the population.
Convention Concerning the Protection of the World Cultural and Natural Heritage	Yes	1972	Paris, France	Global, protection of natural and cultural areas identified as being of "outstanding universal value."	PART V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE: Article 21 1.The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible. 2.Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies. 3.Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.
Convention on Early Notification of a Nuclear Accident	Yes	1986	Vienna, Austria	Nuclear disaster/emergency	Primarily a communication-oriented instrument
Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management	Yes	1986	Vienna, Austria	Nuclear safety	Provisions address emergency preparedness and transboundary movement issues.
Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency	Yes	1986	Vienna, Austria	Nuclear incident response	Facilitation of international cooperation in nuclear emergency/disaster situations
Statute of the IAEA	Yes	1956	New York City, USA	Nuclear Safety	Article III authorises the Agency in the area of Safety and disaster/emergency management and response
Non-binding Instruments					
IASC's Operational Guidelines on Human Rights and Natural Disasters.	n/a	2006		[as described in title]	[full document is relevant.]
Hyogo Framework for Action 2005-2015	n/a	2005	Hyogo, Japan	[as described in report]	[full document is relevant.]
Principles of Humanitarian Aid and Recommended Code of Behaviour for Military and Civil Defence Personnel in International Disaster Relief Assistance in Times Of Peace, prepared by the International Federation of Red Cross and Red Crescent Societies.	n/a	2008	Geneva, Switzerland	[as described in title]	[full document is relevant.]
OAS Inter-American Strategic Plan for Policy on Vulnerability Reduction, Risk Management and Disaster Response	n/a	periodically updated		DRR	[Entire is relevant.]
FAO Constitution and Basic Texts	Yes	1945	Quebec City, Canada	FAO's organisational reach	[Generally allowing FAO to take action to address specific needs relating to health, hunger and food security]
Constitution of the World Health Organisation	Yes	1946	New York City, USA	WHO's Organizational reach	[Generally allowing WHO to take action to address specific needs relating to human health and medicine]
Regional Instruments					
Inter-American Convention to Facilitate Disaster Assistance	Yes	1991	Santiago de Chile	Disaster assistance	[Entire is relevant.]
ASEAN Agreement on Disaster Management and Emergency Response	Yes	2005	Vientiane, Lao PDR	Regional cooperation to address disaster situations	All provisions relevant, discussed in text
Council of Europe, Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine	Yes	9-Jun-05	Lisbon, Portugal	Medical and scientific activities addressing human health	Article 8 – Emergency situation. When because of an emergency situation the appropriate consent cannot be obtained, any medically necessary intervention may be carried out immediately for the benefit of the health of the individual concerned.
Fourth ACP-EEC Convention	Yes	1989	Lomé, Togo	Technical and other development assistance.	Lengthy discussion of drought and desertification, includes one relevant provision about EU aid to countries suffering: "Article 55 The correction of this situation and the sustainable development of the countries affected or threatened by such disasters require a policy encouraging the restoration of the natural environment and of the balance between resources and the human and animal population, in particular through such means as improved harnessing and management of water resources, appropriate agriculture, agroforestry and reforestation schemes and control of the causes of desertification as well as of practices that engender it." Within general provisions for assistance to partner countries: Section 6 Emergency assistance Article 254 1. Emergency assistance shall be accorded to ACP States faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects. The assistance, which is intended to make, by the most suitable means, a real contribution to remedying the immediate difficulties: (a) shall be sufficiently flexible to take any form adapted to the circumstances, including the supply of a wide range of relief goods and services and/or the distribution of cash to victims; (b) may also cover the financing of immediate measures to make damaged structures and equipment operational again and to ensure minimum viability; (c) shall be non-reimbursable and made available quickly and easily. 2. The Community shall take adequate steps to facilitate speedy action which is required to meet the immediate needs for which emergency assistance is intended. To this end: (a) funds provided under emergency assistance must be fully committed and disbursed and action completed within 180 days of the establishment of the implementation arrangements unless otherwise stipulated by common agreement; (b) where the funds made available have not all been fully disbursed within the time limit set, or such other agreed time limit as referred to in subparagraph (a), then the balance shall be paid back into the special appropriation referred to in the Financial Protocol; (c) the detailed rules for the allocation and implementation of emergency assistance shall be the subject of emergency and flexible procedures; (d) funds may be used for the retroactive financing of immediate relief measures undertaken by the ACP States themselves. Article 255 1. Assistance may be granted to ACP States taking in refugees or returnees to meet acute needs not covered by emergency assistance, to implement in the longer term projects and action programmes aimed at self-sufficiency and the integration or reintegration of such people. 2. Similar assistance, as set out in paragraph 1, may be envisaged to help with the voluntary integration or reintegration of persons who have had to leave their homes as a result of conflicts or natural disasters. In implementing this provision account shall be taken of all the factors leading to the displacement in question including the wishes of the population concerned and the responsibilities of the government in meeting the needs of its own people. 3. Underlining the developmental nature of the assistance granted in accordance with this Article, assistance may be used together with the indicative programme of the State concerned. 4. Such assistance shall be administered and implemented under procedures permitting flexibility and rapid action. Special attention shall be paid to the most effective manner of providing such assistance to the population concerned. Conditions for payment and implementation shall be laid down case by case. The assistance may be implemented, if the ACP State so agrees, in conjunction with specialized organizations, including those of the United Nations, or by the Commission direct. Article 256 Contracts under emergency assistance shall be awarded on the basis of the relevant rules provided for in Section 5 of Chapter 5. Article 257 Post-emergency action, aimed at physical and social rehabilitation consequent on the results of natural disasters or extraordinary circumstances having comparable effects, may be undertaken with Community assistance under this Convention. The post-emergency needs may be covered by other resources, in particular the counterpart funds generated by Community instruments, the special appropriation for refugees, returnees, and displaced persons, the national or regional indicative programmes or a combination of these different elements. These needs may also be covered, subject to the provisions of Article 2 of the Financial Protocol, by the unexpended balance of the special

					appropriation for emergency assistance remaining upon expiry of that Protocol.
Agreement for the establishment of a Commission for controlling the desert locust in the Western Region	Yes	2000	Rome, Italy	Sub-regional cooperation to prevent/mitigate locust damage	<p>Article II. 1. Joint Action and Assistance: The Commission shall: (a) promote, in any manner that it considers appropriate, any national, regional or international action relating to the survey and control of the desert locust and to research activities to be conducted in the Region; (b) organize and promote joint action for the survey and control of the desert locust in the Region whenever this is deemed necessary and, to this end, arrange for the necessary resources to be made available; (c) determine, in consultation with the Members concerned, the nature and extent of the assistance they need to implement their national programmes and to support the regional programmes; more specifically, the Commission will help the Nations to formulate and implement contingency action plans; (d) assist, at the request of any Member facing a desert locust situation beyond the capacity of its control and survey services, in any measure jointly decided to be necessary; (e) maintain at strategic points determined by the Commission, in consultation with the Members concerned, reserves of equipment and supplies for desert locust control, to be used in cases of emergency and to serve in particular to supplement the resources of any Member.</p> <p>2. Information and coordination: The Commission shall: (a) communicate regularly to all the Member Nations updated information on the development of locust situations, research conducted, results obtained and programmes implemented at national, regional and international level in connection with desert locust control. The Commission shall take special care to ensure that an effective communication network is established among the Member Nations, and with the International Desert Locust Information Service at FAO, in Rome, so that all parties may promptly receive any information requested; (b) support national locust research institutions and coordinate and develop research programmes in the Region; (c) encourage and coordinate joint survey programmes in the Region.</p>
Agreement for the establishment of a Commission for controlling the desert locust in North-West Africa	Yes	1970, amended 1977	Rome, Italy	Subregional cooperation to prevent/mitigate locust damage	<p>ARTICLE IV: Functions of the Commission The following shall be the functions of the Commission: 1. Joint action and assistance The Commission shall: a) plan and promote joint action for the survey and control of the Desert Locust in the Region wherever required and, to this effect, arrange means whereby adequate resources can be made available; b) assist and promote, in any manner which it considers appropriate, any national, regional or international action relating to the control or survey of the Desert Locust; c) determine, in consultation with the Members concerned, the nature and extent of assistance needed by such Members for implementing their national programmes and for supporting regional programmes; d) assist, at the request of any Member whose territory is faced with Desert Locust situations beyond the capacity of its national services to control and survey, in any measures jointly agreed to that may become necessary; e) maintain at strategic localities determined by the Commission, in consultation with</p> <p>the Members concerned, reserves of anti-locust equipment, insecticides and other supplies, to be used in cases of emergency in accordance with decisions of the Executive Committee including supplementing of the national resources of any Member. 2. Information and coordination: The Commission shall: a) ensure that all Members are provided with current information in regard to Desert Locust infestations, and collect and disseminate information on experience gained, research conducted and programmes adopted on the national, regional and international levels in connection with the control of the Desert Locust; b) assist the national research organizations of Members and coordinate research in the Region by arranging visits of research and survey units from Members and by other appropriate means.</p> <p>3. Cooperation: The Commission may: a) enter into arrangements or agreements, through the Director-General of the Organization, with nations in the Region that are not Members of the Commission, for common action in connection with the survey and control of locusts in the Region; b) enter into or encourage arrangements, through the Director-General of the Organization, with other United Nations Specialized Agencies or other international organizations concerned, for common action on the study and control of locusts and for the mutual exchange of information on problems concerning locusts.</p>
Agreement for the establishment of a Commission for controlling the desert locust in the Central Region (1965)	Yes	1965, amended 1995 & 2005	Rome, Italy	Sub-regional cooperation to prevent/mitigate locust damage	<p>1. Joint action and assistance The Commission shall: (a) plan and promote joint action for the survey and control of the desert locust in the Region wherever required and, to this effect, arrange means whereby adequate resources can be made available; (b) assist and promote, in any manner which it considers appropriate, any national, regional or international action relating to the control or survey of the desert locust; (c) determine, in consultation with the Members concerned, the nature and extent of assistance needed by such Members for implementing their national programmes and for supporting regional programmes; (d) assist, at the request of any Member whose territory is faced with desert locust situations beyond the capacity of this national services to control and survey, in any measures jointly agreed to that may become necessary;</p> <p>(e) maintain at strategic localities determined by the Commission, in consultation with the Members concerned, reserves of anti-locust equipment, insecticides and other supplies, to be used in cases of emergency in accordance with decisions of the Executive Committee including supplementing of the national resources of any Member.</p> <p>2. Information and Coordination The Commission shall: (a) ensure that all Members are provided with current information in regard to desert locust infestations, and collect and disseminate information on experience gained, research conducted and programmes adopted on the national, regional and international levels in connection with the control of the desert locust; (b) assist the national research organizations of Members and coordinate research in the Region by arranging visits of research and survey units from Members and by other appropriate means.</p>
Agreement for the establishment of an FAO Commission for controlling the desert locust in South-West Asia	Yes	1963, amended 2000	Rome, Italy	Sub-regional cooperation to prevent/mitigate locust damage	<p>Article II embodies the convention's approach -- emphasising their respective duties to take preventive measures. "Members undertake to carry out all possible measures for preventive control of the Desert Locust within their countries and to reduce crop damage by adopting at least the following essential procedures: (a) maintaining a permanent locust information and reporting service; (b) maintaining an adequate permanent locust control service; (c) holding reserves of insecticides and application equipment; (d) encouraging and supporting such training, survey and research work, including where appropriate the maintenance of national research stations for the study of the Desert Locust, as may be considered desirable by the Commission and as are compatible with the resources of the country; (e) participating in the implementation of any common policy of locust control or prevention which may be approved by the Commission; (f) facilitating the storage of any items of anti-locust equipment and insecticides held by the Commission and permitting the duty-free import or export without hindrance of such goods and equipment as well as the free movement within the country of such goods and equipment; (g) providing the Commission with any information it may request to carry out its functions effectively."</p> <p>Article IV.1 describes the Commission's duty to "(a) plan and implement joint action for the survey and control of the Desert Locust in the Region wherever required and, to this effect, arrange means whereby adequate resources can be made available; (b) assist and promote, in any manner which it considers appropriate, any national, regional or international action relating to the control or survey of the Desert Locust; (c) determine, in consultation with the Members concerned, the nature and extent of assistance needed by such Members for implementing their national programs and for supporting regional programs; (d) assist, at the request of any Member whose territory is faced with Desert Locust situations beyond the capacity of its national services to control and survey, in any measures jointly agreed to that may become necessary; maintain at strategic localities determined by the Commission, in consultation with the Members concerned, reserves of anti-locust equipment, insecticides and other supplies, to be used in cases of emergency in accordance with decisions of the Commission including supplementing of the national resources of any Member"</p>
Convention for the Establishment of the Desert Locust Control Organization for Eastern Africa (2003))	Yes	2003	Rome, Italy	Sub-regional cooperation to prevent/mitigate locust damage	<p>Agreement completely revised in 2003. Copy of new instrument not available.</p>
Cooperation Agreement for the protection of the coasts and waters of the north-east Atlantic against pollution	?	20-Oct-93	Lisbon, Portugal	International instrument on marine issues	<p>Primary focus of negotiations was petroleum spill. Relevant to disasters, the instrument requires Parties to take "all appropriate measures" to deal with pollution at sea. The Parties are entitled to demarcate areas of joint interest and to set up national systems to prevent and combat incidents of pollution at sea. To this end, they agree to "maintain the appropriate equipment and exchange information and jointly establish an International Centre that will assist Parties in reacting swiftly and effectively to pollution incidents. Regarding the costs of emergency action, the instrument provides as follows "In the absence of any bilateral or multilateral agreement which may be concluded on the financial provisions governing action taken by the Parties to combat pollution at sea, the Parties shall bear the costs of their respective action to combat such pollution in accordance with the following principles: (a) if action is taken by one Party at the express request of another, the</p> <p>Party which had requested the help shall refund to the other Party the expenses entailed by its action; (b) if action is taken solely upon the initiative of one Party, that Party shall bear the costs entailed by its action; (c) if action is taken in an area of joint interest by the Parties</p>

					concerned by that area, as defined in Article 9, each Party shall bear the costs entailed by its own action." In this connection, it also states that "The Party which requested assistance shall be free to terminate its request at any time but shall, in that case, bear the expenses already disbursed or incurred by the assisting Contracting Party" and "Unless otherwise agreed, expenses entailed by action undertaken by one Party at the express request of another shall be calculated by a responsible person or body, where appropriate on the basis of an expert report, in accordance with the legislation and current practice of the assisting country for the reimbursement of such expenditure."
Convention for the Protection of the Natural Resources and Environment of the South Pacific Region and Related Protocols		1986	Noumea, New Caledonia	pollution emergencies affecting marine and coastal environment	Article 15 : (Co-operation in combating pollution in cases of emergency): The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area. ... When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organisation. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.
Convention on hazardous waste (the Waigani Convention)	Yes	1995	Waigani Papua New Guinea	hazardous wastes in and around member states	ARTICLE 14 Secretariat 1. A Secretariat for this Convention is hereby established. The functions of the Secretariat shall be: ... (k) To cooperate with countries concerned and with relevant and competent international organisations and agencies in the provision of experts and equipment for the purpose of rapid assistance in the event of an emergency situation in the Convention Area; ARTICLE 15 Revolving Fund. The Conference of the Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimise damage from disasters or accidents arising from transboundary movement or disposal of hazardous wastes within the Convention Area.
ASEAN Agreement on Transboundary Haze Pollution	Yes	10-Jun-02	Kuala Lumpur, Malaysia	Regional instrument. Objective: To prevent and monitor transboundary haze pollution resulting from land and/or forest fires, and to cooperate to address problems and develop solutions	Articles 13 - 15 discuss the Parties' responsibility to one another, to provide assistance in the event of an atmospheric disaster of the type addressed by the Agreement. It allows each Party to request assistance, without giving up its right to "exercise the overall direction, control, co-ordination and supervision of the assistance within its territory." In regard to such requests, "the requesting or receiving Party shall provide, local facilities and services for the proper and effective administration of the assistance [and] ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the assisting Party." That party is also required to provide "the necessary exemptions and facilities" for assistance providers, including specifically "exemptions from taxation, duties or other charges on the equipment and materials brought into the territory ... for the purpose of the assistance." It shall also "facilitate the entry into, stay in and departure from its territory of personnel and of equipment and materials involved or used in the assistance." Finally, this instrument requires all Parties to "seek to facilitate the transit through its territory of duly notified personnel, equipment and materials involved or used in assistance" to any other party.
Framework Convention for the Protection of the Marine Environment of the Caspian Sea	Yes	4-Nov-03	Tehran, Iran	Regional instrument. Objective: Protection and conservation of Caspian Sea biodiversity	Relevant to disasters and emergencies, Article 13 addresses duties to cooperate in the creation of early warning system as regards industrial accidents and ecological disasters; and Articles 15 and 18 to take measure to reduce to minimum the losses in the process of industrial fisheries and bycatch. The Parties are also obliged to cooperate in the fields of data collection and reporting, and monitoring of water quality and quantity.
MERCOSUR Environmental Protocol (Protocolo adicional al Acuerdo Marco sobre Medio Ambiente del MERCOSUR)	No	3-Nov-05	Florianopolis, Brazil	Additional provisions to the Convention establishing the MERCOSUR Economic Regional body, to address cross-boundary environmental issues	Measures to address environmental emergencies, including, especially duties to notify other parties when such an emergency arises.
Convention on the Transboundary Effects of Industrial Accidents	Yes	1992	Helsinki, Finland	UNECE (Europe and North America)	[Industrial hazards and transboundary commitments]
Vienna Convention on Road Traffic	Yes	1968	Vienna, Austria	[European road regulations, including emergency and hazards]	[European road regulations, including emergency and hazards]
Agreement between Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan in the sphere of hydrometeorology	?	17-Jun-99		Regional instrument focused on flood disasters	Available only in Russian. Summary indicates that the instrument includes requirements to collaborate on the implementation of an early warning system of hydrometeorological disasters; and on the prevention of dangerous natural phenomena
Agreement on transboundary cooperation	No	26-Feb-99		Regional instrument (Eastern Europe and CIS countries) on energy resources	Available only in Russian. Summary indicates that the instrument includes requirements to render mutual assistance in case of natural disasters and to implement jointly regional ecological programmes.
Agreement of the Heads of State of CIS Member States regarding cooperation in the sphere of ecological monitoring	No	13-Jan-99		Regional instrument on environmental cooperation.	Available only in Russian. Summary indicates that the instrument includes measures for creation of an inter-governmental system of environmental monitoring; timely exposure of unfavourable ecological situations.
CIS Environmental Monitoring Agreement	Yes	13-Jan-99		Regional instrument on environmental cooperation.	Available only in Russian. Summary indicates that the instrument includes provisions relating to elaboration and implementation of ecological safety and sustainable development strategy.
Agreement on eternal friendship between Uzbekistan, Kazakhstan and Kyrgyzstan	Yes	10-Jan-97		Regional instrument on ecological safety	Available only in Russian. Summary indicates that the instrument focuses on ecological safety, with particular attention to the Aral Sea and hydraulically connected waters. It includes duties to render mutual assistance in case of natural disasters and cooperate for the rehabilitation of disturbed regional ecosystems.
Agreement between the Government of the Russian Federation, the Government of Ukraine and the Government of the Republic of Hungary on cooperation in the field of transportation of nuclear fuel between the Republic of Hungary and the Russian Federation across the territory of the Ukraine	Yes	29-Dec-92		Regional instrument focused on nuclear safety	Available in Russian. Summary indicates that the parties agree to regulate nuclear safety matters, and, in case of nuclear disaster during transportation of nuclear fuel, special provisions for the compensation of damage are provided.
Protocolo sobre el Programa para el estudio regional del fenómeno El Niño en el Pacífico Sudeste	?	6-Nov-92	Callao, Perú	Regional Protocol on marine research	No copy available online, waiting for response to e-mail requests. Collaboration in the multidisciplinary study of <i>El Niño phenomena in the Southeast Pacific</i> .
Constitutive Act of the African Union	Yes	22-Jun-05	Lome, Togo	Cooperation in safety, health and welfare matters.	Cooperation in safety, health and welfare matters.
Protocol Concerning Regional Cooperation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency	?	14-Feb-82		Regional Protocol (North Africa) on marine issues	Available only in Arabic. Summary indicates that the Protocol deals principally with an effective response to emergencies caused by pollution by oil and other harmful substances of the marine environment and coastal zones in the area to which the Convention applies. Among other provisions, the Parties agree to establish the Marine Emergency Mutual Aid Centre. Parties are required to assist the Centre and to cooperate with other Contracting Parties to prevent, mitigate and respond to emergencies; and to establish and maintain an appropriate authority to carry out fully its obligations under this Protocol
SADC Protocol on Politics, Defence and Security Co-operation	?	2001	Blantyre, Malawi	Security and trade issues, Southern Africa region	Article 2.2 The specific objectives of the Organ shall be to: ... (l) enhance regional capacity in respect of disaster management and co-ordination of international humanitarian assistance.
Regional Seas					
The Convention on the Protection of the Black Sea Against Pollution		21-Apr-92	Bucharest, Romania	Black Sea and countries bordering on it	Article IX: "Cooperation in combating pollution in emergency situations" focuses on the Parties duties under the Pollution Protocol to the Convention, addressing only emergencies causing harm to marine ecosystems.
Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region	Yes	24-Mar-82	Cartagena de Indias, Colombia	Wider Caribbean Region	Pollution-caused emergencies addressed in article 11
Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region		21-Jun-85	Nairobi	East African Seas	Article 11 "Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region" addressing only pollution-caused pollution of marine ecosystems.
Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution	Yes	24-Apr-78	Kuwait	ROPME Sea area	Obligations relating to emergencies caused by pollution and harming or threatening marine areas, addressed in .Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency
Convention for the Protection Of The Mediterranean Sea Against Pollution	Yes	16-Feb-76, revised 10-Jun-	Barcelona, Spain	Mediterranean Sea	Article 26 opens the Protocol for the prevention of pollution of the Mediterranean Sea by dumping from ships and aircraft, and the Protocol concerning co-operation in combating pollution of the Mediterranean Sea by oil and other harmful substances in cases of emergency .

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Bilateral Instruments*				
Agreement between the Government of the Russian Federation and the Government of the People's Republic of China on cooperation in the sphere of prevention of emergency situations and mitigation of the consequences thereof	No	21-Mar-06		Bilateral Agreement on transborder emergency situations. Only available in Russian. According to summary, emergency situation shall be considered the conditions on a given territory as a result of natural hazard, accident, natural disaster or any other calamity. Cooperation between the Parties shall be carried out in the following forms: (a) monitoring of hazardous technological and ecological processes, and also of natural phenomena; (b) exchange of information; (c) exchange of practical experience; (d) mutual assistance in the mitigation of consequences of emergency situations; (e) organization of joint conferences, seminars and workshops; and (f) other activity by the competent bodies of the Parties for the prevention of emergency situations and mitigation of the consequences thereof.
Memorandum of intents between the Ministry of Civil Protection, Emergency Situations and Mitigation of the Consequences of Disasters of the Russian Federation and the Ministry of Interior of the Czech Republic on cooperation in the sphere of prevention and mitigation of the consequences of disasters, fire safety and protection of the population	Yes	1-Mar-06		Bilateral instrument on Cooperation in the areas of (a) exchange of environmental information; (b) monitoring and forecasting of emergency situations, assessment of the consequences thereof with the use of the advanced technologies; (c) environmental risk assessment due to natural and technological disasters and fires; (d) scientific research; (e) professional training of the personnel; and (f) conferences and symposia. Document is only in Russian. Available summary does not provide detail about relevant provisions
Memorandum of Understanding on environment protection between Iran and Syria	Yes	23-Feb-06		Bilateral instrument on Cooperation in the area of environmental protection Document available only in Arabic. Available summary does not detail the provisions relating to mutual support in cases of environmental disaster.
Agreement between the Government of Lithuania and the Government of Belarus on border inspectors	?	27-Oct-05		Bilateral agreement on border control and powers of border inspectors Only available in Russian. Summary indicates that one party may apply to the others for help in border inspections in case of fire, flood, pollution or other environmental disasters risks within border areas.
Agreement in sea transportation between Cuba and Syria	Yes	24-Sep-05		Bilateral agreement on marine issues Only available in Russian. According to the Summary, it includes sanitary and security measures in the countries' respective ports, and specifies measures to be taken in case of emergency, accident or catastrophe at sea. It also addresses the protection of marine environment and sea insurance.
Cooperation Agreement in Commercial Sea Transportation and Ports between Oman and Syria	?	14-Sep-05		Bilateral agreement on marine issues Only available in Arabic. According to the Summary, it includes provisions specifies measures to be taken in case of sea accidents and the establishment of the Joint Sea Committee for the implementation of this Agreement
Cooperation Agreement between Syria and Switzerland on facing and prevention of natural catastrophes	?	7-Jul-05		Bilateral instrument on disaster prevention Text only available in Arabic. Summary notes that Agreement specifies the competent authorities collaborating under this Agreement, and also addresses collaboration among rescue and salvaging units in case of catastrophes.
Agreement between the Cabinet of Ministers of Ukraine and the Government of Romania on timely warning of nuclear accidents and exchange of information in the sphere of nuclear and radiation safety	Yes	22-Sep-04		Bilateral instrument negotiated in response to the Chernobyl incident. Available in Ukrainian. Summary indicates that the instrument focuses on notice to other party in case of a nuclear accident on a Party's territory and specifies the information that must be included in the notification.
Bilateral Agreement in sea transportation and marine affairs between Lebanon and Yemen	?	28-Jul-04		Bilateral agreement on Marine issues Only available in Arabic. Summary indicates that this Agreement addresses measures to be taken in case of a sea disaster and safety and security measures for ships.
Agreement between the Government of Kazakhstan and the Government of Ukraine on oil supply to Ukraine and transit thereof on the territory of Ukraine	?	1-Jun-04		Bilateral agreement on petrochemical transport Only available in Russian. Summary indicates that this Agreement includes specific provisions regarding mutual assistance to mitigate the consequences of natural disasters, accidents, emergency situations and calamities on main pipelines by sending specialists, material and equipment.
Agreement on cooperation between Tashkent (Republic of Uzbekistan) and Riga (Latvian Republic)	Yes	7-Apr-04		Bilateral agreement for cooperation and exchange of information in the sphere city and regional land use planning and environmental protection. Only available in Russian. Summary indicates that the Agreement includes mutual responsibilities to protect the population against emergency situations and natural disasters.
Agreement between the Governments of the Republic of Hungary and the Republic of Latvia regarding the cooperation and mutual aid in case of disasters or other relevant accidents	Yes	19-Nov-03		Bilateral agreement for collaboration in the event of transborder disaster and/or accident. Only available in Hungarian. Summary simply notes without detail that "this Agreement provides for the granting of mutual aid in case of catastrophe, and aims to the prevention and neutralization of consequences, and includes terms of procedure of asking help and types of cooperation are determined by the Agreement."
Agreement between the Cabinet of Ministers of Ukraine and the Government of Bulgaria on information exchange in the event of a nuclear disaster and cooperation in the sphere of nuclear and radiation safety	Yes	31-Jan-03		Bilateral instrument negotiated in response to the Chernobyl incident. Available in Ukrainian. Summary indicates that the instrument focuses on notice to other party in case of a nuclear accident on a Party's territory and specifies the information that must be included in the notification.
Agreement between the Cabinet of Ministers of Ukraine and the Government of Azerbaijan on the prevention of disasters and mitigation of the consequences thereof	Yes	29-Aug-02		Bilateral instrument on environmental disasters Available in Ukrainian. Summary indicates agreement on general guidelines for the prevention of disasters and mitigation of their consequences, as well as the exchange of information and monitoring and assessment of transboundary effects of environmental pollution.
Agreement between the Government of the Russian Federation and the Government of Kazakhstan on transit of oil	Yes	7-Jun-02		Bilateral agreement on petrochemical transport Only available in Russian. Summary indicates that this Agreement includes specific provisions regarding mutual assistance to mitigate the consequences of natural disasters, accidents, emergency situations and calamities on main pipelines by sending specialists, material and equipment.
Treaty on good neighbourhood, friendship and co-operation between the Russian Federation and the People's Republic of China	?	16-Jul-01		Bilateral instrument on transboundary environmental matters. Available in Russian and Chinese. Summary indicates that parties must cooperate for protection and improvement of environment, prevention of transborder pollution, just rational use of frontier waters, live biodiversity in the Northern part of the Pacific Ocean and within the basins of frontier rivers. In particular, parties must undertake joint efforts in the field of protection of rare flora, fauna and ecosystems within transborder areas, and must cooperate to prevent environmental and technological disasters and respond to their consequences.
Agreement between the Government of the Russian Federation and the Government of Azerbaijan on cooperation in the sphere of prevention of emergencies and mitigation of the consequences thereof	Yes	9-Jan-01		Bilateral agreement on emergencies and disasters Only available in Russian. Summary indicates that the Agreement is based on a list of "dangerous technological processes, natural phenomena and disasters" to be monitored and calls for ; exchange of information, joint research and planning; as well as the provision of mutual assistance in case of emergency with a view of mitigation of consequences.
Agreement between the Government of Uzbekistan and the Government of Tajikistan on joint arrangements and interaction regarding early warning in case of water inrush from Sarez Lake	Yes	30-May-00		Bilateral instrument on flood control Available only in Russian. Summary indicates that the instrument focuses on measures to prevent flooding, cooperation in the event of floods, and development of an early warning system.

NOTE: *Bilateral instruments are not collected in any systematic way. Many countries contacted were unable or unwilling to provide copies of such instruments.

Appendix 4

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[Individual laws cited or referred to include complete citations in the footnotes, to minimize confusion.]

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CHAPTER 3

Best Practices and Recommendations

EXECUTIVE SUMMARY

Over the past decade, there have been numerous natural and manmade disasters within the Americas that have exposed the need for tailored legislation and institutional reorganization in the area of disaster preparedness and management. The Caribbean region is especially vulnerable with regards to natural disasters as a result of its lack of relevant legislation to support both operational and financial responsiveness.

The adequacy and efficacy of the existing legal and institutional framework in the Caribbean in facilitating efficient and coordinated preparation and response activities to natural disasters requires, but is not limited to, warning and communications systems, declarations of emergency, identification and mitigation of hazards and risks, emergency funding, evacuation, international humanitarian relief and recovery. The existing framework is below the standard required to meet the desired responsiveness for, and in some instances, curtails the ability of the government to aptly manage the numerous types of natural disasters in the region.

The primary objective of this chapter is to identify the best practices in benchmarked jurisdictions and institutions with regard to the legal and institutional framework for disaster preparedness and management and evaluate existing framework for the region. Among other things, this chapter conducts a comparative and gap analysis of the legislation related to the prevention and management of natural disasters within the target countries. It is the first step in realizing the objectives of the terms of reference in relation to “analyzing the use of state of emergency and disaster declaration in disaster response, and identifying best practices.” Accordingly, a myriad of topics related to disaster management in the target countries was analyzed

OVERALL SCOPE AND METHODOLOGY

The following activities were conducted pursuant to the Terms of Reference:

- A comparative analysis of the best practices (pre-disaster and post-disaster) in the following operational and legislative areas in benchmarked jurisdictions and institutions:
 - Declarations of State of Emergency
 - Funding, Infrastructure & Investment
 - International Aid, Relief & Recovery Efforts
 - National Security
 - Health
 - Communication Systems
- Situational analysis of the practices in the target countries measured against the identified best practices in the benchmarked jurisdictions;
- Analysis of the proposed and model legislation and the economic, social and political framework affecting implementation of legislation; and
- Recommendations for revisions to proposed solutions and model legislation.

In order to facilitate the comprehensive analysis required for the identification of best practices and recommendations Component, benchmarked jurisdictions were selected based on the following criteria:

Table 1

CRITERIA	DESCRIPTION
Disaster Type	The target countries are affected by a myriad of natural disasters including hurricanes, earthquakes, flooding, landslides, volcanoes and tsunamis. This criterion requires that benchmark countries be faced by some or all of these types of natural disasters.
Geographic Conditions	The target countries are, for the most part islands, with a mixture of low lying coastal areas and mountainous regions. The Caribbean lies in the equatorial zone and boasts a tropical annual climate. For most countries, the majority of the population resides in the coastal region and is thus most vulnerable to water related disasters. The countries are also greatly affected by climatic conditions that affect sea temperature and levels such as global warming, El Nino and La Nina.
Governance Structures	The target countries, with the exception of the Dominican Republic and Haiti, are all democratic common law jurisdictions which have adopted in some variation the Westminster style of government. Haiti and Dominican Republic are civil law territories. St. Lucia has a mixture of both common law and civil law systems.
Small Island Developing States (SIDS)	Small island and low-lying coastal countries that share similar sustainable development challenges, including small population, lack of resources, remoteness, susceptibility to natural disasters, excessive dependence on international trade and vulnerability to global developments. In addition, they suffer from lack of economies of scale, high transportation and communication costs, and costly public administration and infrastructure ²⁹⁶ . All target countries are listed as SIDS. ²⁹⁷

²⁹⁶ Small Island Developing States Network - <http://www.sidsnet.org/2.html>

²⁹⁷ <http://www.un.org/special-rep/ohrls/sid/list.htm>

Economy A majority of the target countries are considered developing nations.²⁹⁸ Most rely on tourism and agriculture as the main contributors to gross domestic product. All are net importers of goods, with the main trading partner being the United States. As such, the target countries are sensitive to economic trends and movements in the U.S. economy.

Disaster Related Developments This criterion requires recent analysis or study of fundamental issues related to disaster preparedness and management including legislative and policy amendments or development, institutional capacity building and/or adoption of best practices with relation to disaster risk reduction.

The selected benchmark countries met at least three out of six of the above stated criteria and are classified below in two categories 1) developing countries and 2) developed countries, as defined by the International Monetary Fund.

Table 2

DEVELOPING COUNTRIES	DEVELOPED COUNTRIES
❖ The Gambia	❖ Australia
❖ South Africa	❖ USA
❖ India	❖ Canada
❖ Singapore	❖
❖ Marshall Islands	
❖ Colombia	
❖ Vanuatu	
❖ Philippines	
❖ Fiji	
❖ Micronesia	
❖ Indonesia	

A comprehensive analysis of the practices was undertaken with respect to disaster management activities in each of the benchmarked countries. From that analysis, the best practices were isolated, dissected and analyzed for application in the target countries.

²⁹⁸ Antigua & Barbuda, Bahamas, Barbados, Trinidad and Tobago are considered high income economies.
http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html#High_income

PART I

1.0 Best Practices in Benchmarked Jurisdictions

1.1 Introduction

This part highlights the practices in benchmark countries specifically regarding declarations of states of emergencies and of funds. It is intended to be the first step in realizing the objectives of the terms of reference in relation to “*analyzing the use of state of emergency and disaster declaration in disaster response, and identifying best practices.*” The emphasis of this component of the project has been identified to be declarations of states of emergencies and funding and budget appropriation among benchmark countries. In addition to these main areas of emphasis, other areas have emerged to provide lessons for the Caribbean region. These include: international aid relief and recovery efforts; emergencies and national security; emergencies and public health and emergency communications.

1.2 Emergency and Disaster Declarations

In assessing the extent and scope of the powers to be exercised by benchmark countries, much of the analysis comes from the circumstances under which emergencies and or disasters are seen to emerge. The circumstances cover both emergencies and disasters; two terms that are used to refer to similar situations throughout the world.²⁹⁹ The United States of America and Canada use the term emergency, while other benchmark countries use the word disaster. The Micronesia Act uses State of Emergency as the means of addressing a disaster as defined. Section 5 provides “*State of Emergency*” means a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster”. A similar approach is also adopted by Section 70 of the Gambia National Disaster Management Bill/Act 2008. It provides “*the President may, by order in writing, declare that a State Of Emergency exists in the whole, or a specified part or parts, of The Gambia in relation to that disaster.*”

1.2.1 Disasters defined³⁰⁰

- **India** - Disaster Management Act 2005 (hereinafter referred to “the India Act”)– “(d) “*disaster*” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;”
- **The Philippines** - Presidential Decree No. 1566: Strengthening the Philippine Disaster Control, Capability and Establishing the National Program on Community Disaster Preparedness (hereinafter referred to “the Philippines Act”) (d) “*Disaster*” -- an event, natural or man-made, sudden or progressive, which impacts vulnerable communities with such severity on lives and properties, basic services, infrastructures and the environment that the affected community has to respond with exceptional measures.

²⁹⁹ “The use of the terms disaster and emergency: While many countries are using these terms interchangeably, they are different and can have different implications for a planning and legislative framework. A move toward best emergency management practice in a national disaster management context need not necessarily mean a change in terminology. The MCDEM/SOPAC Disaster Management Planning guidelines suggest that Pacific nations should use the term that is best suited to their people’s recognition and understanding.” Noted in Key Features and Best Practice Principles of Generic Disaster / Emergency Management Legislation available at

<http://www.mnre.gov.ws/projects/siam-2/documents/C4%20Component/EMERGENCY%20MANAGEMENT/Disaster%20Management%207a-Discussion%20Document%202%20-%20Legislation%20B.pdf>

³⁰⁰ Accurate translations of Colombia Law 47 of 1988 which addresses this issue are still to be sourced at the time of writing this deliverable. These will be inserted in subsequent revisions.

- **Vanuatu** – National Disaster Act 2000 (hereinafter referred to “the Vanuatu Act”) *A disaster is an actual or imminent occurrence of one of the following: (a) an earthquake, tsunami, cyclone, storm, flood, volcanic eruption, drought, bush fire or other natural happening; (b) an explosion, fire, oil spill, chemical spill, air disaster, maritime disaster or accident of any other kind; (c) an infestation, plague or epidemic; being an occurrence that: (d) endangers, or threatens to endanger, the safety or health of people in Vanuatu; or (e) destroys or damages, or threatens to destroy or damage, property in Vanuatu.*
- **The Marshall Islands-** Disaster Assistance Act 1987 (hereinafter referred to “the Marshall Islands Act”) *(a) 'disaster' means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, or civil disturbance;*
- **Micronesia** - Disaster Relief Assistance Act 1989 (hereinafter referred to “the Micronesia Act”) **§ 703.** (1) *“Disaster” means the imminent threat or the occurrence of widespread injury or death to persons, or severe widespread injury to, or destruction of, property caused by a natural or man-made catastrophe.*
- **Indonesia** – Law 24 of 2007 concerning Disaster Management Act (hereinafter referred to “the Indonesia Act”) Article 1 (1). Disaster is an event or series of events that threatens and disrupts lives and livelihoods caused either by natural and/or non-natural and man-made factors to claim toll, environmental damage, loss of assets, and psychological impact.
- **South Africa** - Disaster Management Act 2002 (hereinafter referred to “the South Africa Act”) “disaster” means a progressive or sudden, widespread or localised. natural or human-caused occurrence which - (a) causes or threatens to cause – (i) disease; damage to property; infrastructure or the environment; or (iii) disruption to the life of a community; and (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.
- **Fiji** – National Disaster Management Act 1998 (hereinafter referred to “the Fiji Act”) - “disaster” means a natural disaster and includes the occurrence of a major misfortune which disrupts the basic fabric and normal functioning of the society or community, or an event or series of events which give rise to casualties, and/or damage or loss of property, infra-structure, essential services or means of livelihood on a scale which is beyond the normal capacity of the affected communities to cope with unaided, but does not include man-made disasters;
- **The Gambia** – National Disaster Management Bill/Act - 2008 (hereinafter referred to as “The Gambia Act” - “disaster” means a progressive or sudden, widespread or localized actual or imminent occurrence of a natural or human-caused occurrence, or by accident or negligence which results or can result [in substantial loss of life or human suffering] or damage to, and destruction of infrastructure or, property, or damage to or degradation of environment arising from, but not limited to – (a) a flood or tidal waves, (b) a drought, (c) an air disaster, (d) a maritime disaster, (e) a major civil accident (such as a major fire or bush fire or explosion), (f) man-made disasters such as, but not limited to, industrial accidents, oil spillage, mass movement of persons who are internally displaced persons or refugees or (g) a pest and insect infestation, (h) a plague or epidemic, (i) disease disasters; or (j) any other similar natural or manmade event; and is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources.”

1.2.2 Emergencies Defined

- **United States of America - Sec. 102. Definitions (42 U.S.C. 5122)** “Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State

and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

- (2) “Major disaster” means any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this chapter to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.
- **Canada** – Emergencies Act 1985 (hereinafter referred to “the Canada Act”) For the purposes of this Act, a “national emergency” is an urgent and critical situation of a temporary nature that (a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or (b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada and that cannot be effectively dealt with under any other law of Canada.
- **Canada** - “public welfare emergency” means an emergency that is caused by a real or imminent (a) fire, flood, drought, storm, earthquake or other natural phenomenon, (b) disease in human beings, animals or plants, or (c) accident or pollution and that results or may result in a danger to life or property, social disruption or a breakdown in the flow of essential goods, services or resources, so serious as to be a national emergency.
- **The Micronesia Act § 703.** (5) “State of Emergency” means a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster.
- **The Fiji Act** – “emergency situation” means a situation in the whole of the Fiji Islands, or any part of them, which has resulted in a natural disaster being declared under section 17.
- **Singapore** - Civil Defence Act 1986 (hereinafter referred to “the Singapore Act”) - “civil defence emergency” means any fire, explosion, earthquake, oil spill, eruption, flood, storm or other happening (whether or not attributable to an attack by an enemy or to any warlike act) that causes or may cause destruction of or damage to property or loss of life or injury or distress to persons or that in any way endangers the safety of the public in Singapore or in any part thereof.
- The Singapore Act - “state of emergency” means the period when a Proclamation of Emergency issued by the President under Article 150 of the Constitution of the Republic of Singapore is in force.

The approaches of Canada, the United States of America, Gambia and Micronesia indicate that states of emergencies are used in the wider context to include disasters. For the Caribbean region, this presents an interesting approach as most circumstances in which disasters occur will fall under the exercise of emergency powers.

Several lessons can be gleaned from the various definitions of disasters as well as emergencies. These definitions are important as they provide the scope and basis for all other powers and consequences which follow. If the event which occurs does not fall within the definitions, then there is no basis for the necessary action.

1.2.2.1 Disaster Events

With regards to events and circumstances, the approach is to cover both natural and man-made causes. These are present in the definitions of all benchmark countries. These definitions create a non-exhaustive list of events which will qualify as disasters, separating them into natural and man-made/non-natural categories.³⁰¹

1.2.2.2 Natural Disasters

- *Earthquakes, tsunamis, volcanic eruptions, floods, droughts, hurricanes, landslides, mud slides, cyclones, storms, bush fires, tornadoes, high water, wind driven water, tidal wave, or other natural happening;*

1.2.2.3 Man-Made/Non Natural Disasters

- *Civil disturbance, pollution, explosion, fire, oil spill, chemical spill, air disaster, maritime disaster, or accident of any other kind;*

1.2.2.4 Timing

The importance of timing in this regard is related to the happening or occurrence of the event. Some laws come into operation after an event has occurred while others come into effect when the event is imminent or threatened.³⁰²

Lessons from countries suggest that the greater point of intervention is where the event is imminent, particularly where the emphasis is on the prevention of certain disasters.

1.3 Declaration Procedure

The accountability framework commences with the authority making the declaration, and filters down to those carrying out the functions, duties and responsibilities pursuant to the declaration.

In benchmarked countries these are either made through the executive branch of Government – the President,³⁰³ the Cabinet,³⁰⁴ Ministers³⁰⁵ and Governors.³⁰⁶ Supporting this process would initiate the activities of the executive branch. The factors to initiate action can be summaries based on the actual occurrence and the scale of the disaster,³⁰⁷ with or without recommendations,³⁰⁸ advice,³⁰⁹ requests³¹⁰ and consultation.³¹¹

The recommending, advising and requesting authorities are specifically identified. The greatest detail in this process among benchmark countries appears to be in the United States of America Act, which requires a finding to be made regarding the magnitude of the disaster. Section 401 provides:

“Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply

³⁰¹ These are specifically excluded in The Fiji Act.

³⁰² This is seen in the laws of Vanuatu, Micronesia, Indonesia, Canada.

³⁰³ The Philippines Act, Section 17; The Vanuatu Act Section 13; The Micronesia Act section 705; United States of America – Section 401; The Indonesia Act - Article 51. The Gambia Act – Section 70.

³⁰⁴ The Marshall Islands Act Section 1005; The Fiji Act – Section 17.

³⁰⁵ The South Africa Act - Section 27; Singapore – Section 102(1).

³⁰⁶ The Canada Act - Section 14.

³⁰⁷ The Marshall Islands Act - Section 1005; The Indonesia Act section 51; The South Africa Act - Section 27.

³⁰⁸ The Philippines Act Section 17.

³⁰⁹ The Vanuatu Act - section 13; The Fiji Act - section 17; The Gambia Act – Section 70.

³¹⁰ The United States of America Act = section 401.

³¹¹ The Canada Act - Section 14.

with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.”

In some countries, with an established framework, the declarations are made through a ministerial body of the Agency empowered under the relevant legislation. The guiding principles which appear in new laws appear to be the need for consultation and advice. Note the use of requests as part of the process. In granting the declarations, these provide the starting point of the authority.

1.3.1 The Manner of the Declaration

The practices in countries illustrate that the manner of declaration should be by Order in writing,³¹² Executive Order of Proclamation,³¹³ Gazette Notice;³¹⁴ in some instances no procedure is prescribed.³¹⁵ The lesson learnt from the knowledge and accountability perspective is that the Order should be in some written form. Even further, the strongest and most effective method of declaration appears to be the Executive Order. This has been utilized in the United States of America to implement far reaching measures in response to an emergency situation. This is illustrated by the Executive Order which accompanied the United States of America declaration of a national state of emergency in response to the September 11, 2001 terrorist attacks on that Country.

The Executive Order³¹⁶ was intended to be part of the United States of America's:

“Commitment to lead the international effort to bring a halt to the evil of terrorist activity. In general terms, it provides additional means by which to disrupt the financial support network for terrorist organizations by blocking the U.S. assets not only of foreign persons or entities who commit or pose a significant risk of committing acts of terrorism, but also by blocking the assets of their subsidiaries, front organizations, agents, and associates, and any other entities that provide services or assistance to them. Although the blocking powers enumerated in the order are broad... The specific terms of the Executive Order provide for the blocking of the property and interests in property, including bank deposits, of foreign persons designated in the order or pursuant thereto, when such property is within the United States or in the possession or control of United States persons. In addition, the Executive Order prohibits by transaction or dealing by United States persons in such property or interests in property, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of such designated persons.”

1.3.2 Content of Declaration

For clarity, provisions regarding the content of the declarations appear to be an accepted practice. This is seen in several of the bench mark countries. An example is the Marshall Islands Act in Section 1006 which makes specific provisions for the form of the declaration *in the following manner: “(1) All executive orders or proclamations issued under this Chapter shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have caused such declaration or termination of the state of disaster.”*

A similar approach is adopted in the Canada Act Section 6(2) which provides:

³¹² The Vanuatu Act - section 17. The Gambia – Section 70.

³¹³ The Marshall Islands Act - Section 1005.

³¹⁴ The South Africa Act - Section 27. The Fiji Act – Section 18. Singapore – Section 102(2)

³¹⁵ Philippines; Micronesia; Indonesia and Fiji.

³¹⁶ The complete text of the Declaration and Executive Order can be accessed at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_documents&docid=f:hd126.107.pdf

“(2) A declaration of a public welfare emergency shall specify (a) concisely the state of affairs constituting the emergency; (b) the special temporary measures that the Governor in Council anticipates may be necessary for dealing with the emergency; and (c) if the direct effects of the emergency do not extend to the whole of Canada, the area of Canada to which the direct effects of the emergency extend.”

1.3.3 Publication of Declaration

The objective must be for the declaration to be communicated to the widest possible audience by all available means of communication in the promptest manner. This is suggested as the best practice regarding publication of the declaration. Provisions in this regard can be found in the Marshall Islands Act which provides in section 1006(2):

(2) An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public,

The Vanuatu Act provides in Section 14 that:

As soon as practicable after the President makes a declaration of a state of emergency, the Minister must cause notice of the declaration to be broadcast throughout Vanuatu by public broadcasting networks and other media outlets

The Fiji Act in Section 18 provides that: *The declaration or revoking of a natural disaster must - (a) be announced by public broadcast on television and radio; (b) be published in the Gazette*

1.3.4 Duration of Declaration

Having been proclaimed or issued, the declarations of emergencies or of disasters in some instances are prescribed to last for a time set out by Statute. The maximum duration among benchmark countries appears to be 3 months³¹⁷ unless terminated, while the average duration of a declaration appears to be 30 days³¹⁸. In some instances, no provision is made, setting a minimum time for the effect of the declaration.³¹⁹

The response to specific emergencies and disasters tend to have an impact on the duration of the declaration. An example of a declaration, which first had a one year duration and has been subsequently extended annually, is the United States of America’s response to terrorist attacks.

With respect to the far reaching powers which are exercised, a time limit or a review of the order appears to be an important requirement. Furthermore, making the duration relevant to the nature of the disaster is an intelligent practice. Some disasters and emergencies, by their very nature, require declarations of longer than 90 days.

1.4 Powers Related to the Declaration

Declarations of state of emergency or disasters carry with them the exercise of wide ranging powers, and these powers include the power to make regulations, rules, and orders³²⁰. Powers also relate to the suspension of the effect of certain laws, and the exercise of other powers by other agencies of government³²¹ and state.

³¹⁷ The South Africa Act – Section 27(5); The Canada Act section 7(2) of the Emergencies Act. *“A declaration of a public welfare emergency expires at the end of ninety days unless the declaration is previously revoked or continued in accordance with this Act”.*

³¹⁸ See for example The Fiji Act – section 19; The Micronesia Act – Section 705(1) The Marshall Islands Act – Section 1005(3)

³¹⁹ See The Vanuatu Act section 15; No provision is made in the Philippines Act. The Gambia Act - Section 71

³²⁰ See for Example the South Africa Act – Section 27(2); The Canada Act Section 8.

Examples are seen in the provisions of the Micronesia Act which provides that:

“During a state of emergency, the President is authorized to suspend any regulatory statutes, or any order, rule, or regulation of an executive agency of the National Government. The President shall exercise this authority only if strict adherence to the provisions of the regulatory statute, order, rule, or regulation would substantially prevent, hinder, or delay actions needed to prevent, prepare for, or recover from a disaster”³²²

A practical example of this is also seen in the Executive Order accompanying the United States of America Declaration with respect to the 11 September, 2001 terrorist attacks. The Executive Order expressly “made determinations to suspend otherwise applicable exemptions for certain humanitarian, medical, or agricultural transfers or donations.”³²³

The far reaching impact of these powers also supports the need for collaboration and coordination among the various institutions involved in addressing disasters and emergencies. This is seen by the approach in South Africa in Section 27(2) which provides for the making of a wide range of regulations after consultation with the responsible cabinet member.

The matter for consideration is whether the range of activities, which would be brought about by the powers exercisable during declarations, would apply to the following:³²⁴

- the regulation or prohibition of travel to, from or within any specified area, where necessary for the protection of the health or safety of individuals;
- the evacuation of persons and the removal of personal property from any specified area and the making of arrangements for the adequate care and protection of the persons and property;
- the requisition, use or disposition of property;
- the authorization of or direction to any person, or any person of a class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;
- the authorization and making of emergency payments;
- the establishment of emergency shelters and hospitals;
- the assessment of damage to any works or undertakings and the repair, replacement or restoration thereof;
- the assessment of damage to the environment and the elimination or alleviation of the damage;
- the imposition of fines and penalties for contravention of orders and regulations;

- the entering and search of any premises;
- the supply and distribution of essential relief supplies, medical assistance, shelter and other resources;
- the maintenance of the means of transportation by land, sea or air and the control of the transport of persons and resources;
- the payment of compensation and remuneration to persons affected by government action or under special powers;

³²¹ See Section 16(1) of the Vanuatu Act “While a declaration of a state of emergency is in force, the Minister may, on the advice of the National Disaster Committee, direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function.”

³²² See too section 1007(a) of the Marshall Islands Act.

³²³ See page 3 of the Declaration accessible at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_documents&docid=f:hd126.107.pdf

³²⁴ Detailed Provisions regarding specific activities can be found in the laws of the following countries - The Fiji Act section 25, The Marshall Islands Act - Section 1007. Additional powers of the Cabinet, The Vanuatu Act – Section 18; The South Africa Act – Section 27(2); The Canada Act – Section 8; The Gambia Act – Section 72.

- directing the movements of persons by land, sea or air in the interests of safety;
- prohibiting the unjustified exploitation of a disaster for profit;
- utilize all available resources, as reasonably necessary, to cope with the disaster;
- subject to any constitutional requirements for just compensation, commandeer or utilize any private property found necessary to cope with the disaster;
- suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles;
- make provisions for the availability and use of temporary emergency housing;
- give due recognition to the license, certificate or other permit issued by any government evidencing that a person has met qualifications for professional, mechanical, or other skills, and such persons may render aid involving that skill to meet a disaster
- to take possession of, and remove, any material or thing in a disaster area that may be dangerous to life or property.

The list above provides the scope of powers to which orders and regulations can relate in benchmark countries. The cumulative list suggests the extent to which provisions could be made in regional laws.

Provisions regarding powers should also not derogate from established rights and should also be proportionate to the gravity of the emergency situation. Their important powers conferred under the legislation in some jurisdictions which can be identified as part of best practices also relate to the following:

- The granting of immunities.³²⁵ In this regard among benchmark jurisdictions see for example:
The Vanuatu Act – Section 20 “*A person (‘the first mentioned person’) may not bring legal proceedings against the State, a Minister or any other person or body for any damage, loss, death or injury sustained by the first mentioned person if it was sustained: (a) during a state of emergency; and (b) because of anything done or omitted to be done in good faith under this Act by an emergency services officer, a volunteer, a police officer or any other person acting in accordance with this Act;”*

The Canada Act – Section 47 “*(1) No action or other proceeding for damages lies or shall be instituted against a Minister, servant or agent of the Crown, including any person providing services pursuant to an order or regulation made under subsection 8(1), 19(1), 30(1) or 40(1), for or in respect of anything done or omitted to be done, or purported to be done or omitted to be done, in good faith under any of Parts I to IV or any proclamation, order or regulation issued or made thereunder;”*
- the expressed authorisation of the request for foreign aid,³²⁶ and
- specific provisions for international institutions and persons providing aid. This can be found in the Indonesia Act in the following terms. “*Article 30 (1) International agencies and foreign nongovernmental agencies may participate in disaster management activity and obtain guarantee of protection from Government towards their employees. (2) International agencies and foreign nongovernmental agencies in implementing disaster management activity as mentioned in clause [1] may perform individually, in federation, and/ or in cooperation with working partner from Indonesia by heeding local social, cultural, and religious background.*

1.5 Coordination Prescribed in Declarations

Coordination in the context of disasters has a specific meaning,³²⁷ the presence or absence of coordination among governments, agencies, and other institutions can account for the success or failure of many responses to

³²⁵ See too The Micronesia Act – Section 710; The South Africa Act - section 61. Though not a benchmarked country see also Bangladesh – Section 34.

³²⁶ See The Micronesia Act section 705(5).

emergencies and disasters. The objective of coordination should be adequate preparation for and carrying out of all emergency functions so as to prevent, minimize, and repair damage resulting from the disaster or emergency. Regarding coordination, it has been noted by the International Federation of Red Cross and Red Crescent Societies that:

“The need for coordination is also reflected in the treaty law, some of which attempt to specifically define the concept of coordination for the purposes of a particular treaty. With or without a specific definition, the common understanding of this term includes the general elements of interaction between the States Parities or their competent bodies, mutual assistance in the provision of technical facilities and equipment, and the planning and carrying out of activities related to emergency response.”³²⁸

Coordination is a central element in effectively addressing the impacts of disasters and emergencies. This has been noted as a critical action in the Kingston Declaration 2005³²⁹.

Practices among countries illustrate that provisions regarding coordination should be prescribed in legislation. This is seen in the laws of most benchmark countries. The functions are shared among established National Centres³³⁰ and agencies³³¹ as well as among institutions acting at the time of emergencies. Notable examples which highlight an overall overarching responsibility of the central government include the United States of America and India.

The United States of America is exemplified in the following manner: *“The Federal Government shall provide necessary direction, coordination, and guidance, and shall provide necessary assistance, as authorized in this title so that a comprehensive emergency preparedness system exists for all hazards”*³³² and the India Act in greater detail in Section 35.

Central Government to take measures.-(1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management. (2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:- (a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act

In other countries, the role is retained by the executive; this is seen in the Micronesia Act by virtue of the provisions of Section 705 - (5) which provides that *“The President or his designee shall coordinate National Government activities to assist the States to prevent, prepare for, and recover from disasters.”*

³²⁷ A detailed discussion of this issue can be found at “Disaster Response Principles of Preparation and Coordination” at <http://orgmail2.coe-dmha.org/dr/PDF/DisasterResponse.pdf>

³²⁸ http://www.ifrc.org/docs/pubs/disasters/idrl_lawtreaty.pdf

³²⁹ Note Action item (g) To improve Coordination between government, non government and donor agencies to promote CDM available at http://www.acs-aec.org/Disasters/CANREDES/docs/Declaracion_Kingston-EN.pdf.

³³⁰ See for example The South Africa Act – Section 9 *The objective of the National Centre is to promote an integrated and co-ordinated system of disaster management, with special emphasis on prevention and mitigation by national, provincial and municipal organs of state, statutory functionaries other role-players involved in disaster management and communities*; The Vanuatu Act – Section 8 (1) *The National Disaster Operations Centre is established. (4) The Centre has the following functions in relation to the current disaster: (a) to coordinate the actions of all government and non-government agencies; (c) to coordinate requests for aid*; and The Fiji Act – Section 9.

³³¹ See The Indonesia Act Article 13.

³³² See Sec. 601. Declaration of policy (42 U.S.C. 5195).

1.6 Declaration Responsibilities

An additional element which has emerged as a best practice among countries is the statutory prescription of responsibilities of respective institutions during emergencies. This is not common in all laws but can be found in the laws of India,³³³ Indonesia,³³⁴ the Philippines,³³⁵ South Africa,³³⁶ Micronesia³³⁷ and Fiji.³³⁸

The Disaster Management Act of Bangladesh is also an example of primary legislation setting out the responsibilities of authorities. These responsibilities include: implementation of plans; taking measures necessary towards disaster risk reduction in accordance with the approved guidelines; integrating disaster risk reduction measures into its development plans and projects; reviewing and revising legislation, policies, rules and regulations under its jurisdiction with a view to incorporate disaster risk reduction considerations; allocating funds for disaster risk reduction and emergency response management within the limit of its jurisdiction.

The Bangladesh Act provides in Part 6 for Powers and Responsibilities of Various Authorities, Organisations and Individuals. Accountability has emerged as a core concern in the activities and actions related to emergencies. The identification of clear lines of responsibility provides a foundation of clearer lines of accountability.

1.7 Regulations Related to Declarations

In situations where there is no prescription, regulation making powers have been utilised as an effective stop-gap measure. These have been effectively used in Indonesia to address matters which were not covered by Law 24 of 2007. As noted “*The Law has been further clarified with government regulations: PP 21/2008 – regarding DM Arrangements at National and Sub-national level; PP22/2008 - regarding DM Funding and Management of Relief Aid; and, PP23/2008 – regarding the Participation of International and Non- Government actors in all phases of the DM cycle*”.³³⁹ The laws of some benchmark countries retain this power.³⁴⁰

The prescription of this power therefore emerges as a best practice. This was also part of the Executive Order adopted by the United States of America which allowed for the making of regulations, orders, directives, and licenses. Specifically section 7 of the order provided:

“The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may re-delegate any of these functions to other officers and agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.”

1.8 Summary of Best Practices

³³³ See Section 36 and 39.

³³⁴ See Articles 5, 6 and 8.

³³⁵ See Section 14.

³³⁶ See Section 26, Section 40(1) and Section 54.

³³⁷ Section 705 and Section 706.

³³⁸ See Section 5.

³³⁹ Lessons Learned: Disaster Management Legal Reform, Indonesia Experience. Available at

<http://www.undp.or.id/pubs/docs/Lessons%20Learned%20Disaster%20Management%20Legal%20Reform.pdf>. As noted at page 18

“Imperfect Law passed at the right time has provided the basis for subsequent ancillary regulations that can repair and refine the Law in its future implementation. There have been numerous critical assessments of the ‘gaps’ in the DM Law 24/2007, however, few ‘gaps’ have been found that cannot be ‘filled’ by further regulation”

³⁴⁰ See The South Africa Act – Section 59; The Indonesia Act Articles 17, 30(3), 43, 50(2), 58(2), 59(2), 63, 69(4) and 70; India Section 76; The Philippines Act – Section 25 and The Vanuatu Act – Section 2.

Definitions

- Countries should not be tied to specific labels of disasters or emergencies, which ever term is utilized in legislation, the specifics of the events intended to be encompassed by the definition should be provided;
- Emphasis should be placed on the impacts, causes and results of the particular activities which constitute disasters;
- Categories of natural and man-made disasters should be maintained, combined with the impacts, causes and results, holistic definitions can be developed; and
- Emphasis should be placed on threats of disasters and threats of emergencies in definitions. This emphasis will allow for effective pre-emptive action to be taken to address disasters before they occur.

Declaration Procedures

- The authority to make the necessary declarations should be clearly spelt out in legislation;
- Provisions requiring acting on advice and recommendations support accountability, reduces arbitrariness in the exercise of powers and prohibits abuse;
- The declaration should be in writing with as many particulars and specifics as are necessary to address the specific situation; and
- Provisions should be made for the declaration to be communicated to the widest possible audience in the shortest period of time.

Duration of the Declaration

- Flexibility should be provided regarding the duration of the declaration having regard to the actual circumstances which originally caused the declaration to be made.

Powers and Responsibilities related to Declarations

- The declaration and accompanying instruments should be specific as regards the powers to be exercised and the person or agency exercising those powers;
- Powers which have been suspended or varied should be clearly identified in the declaration documentation; and
- Powers of coordination should also be clearly expressed in the instrument used for declaration.

Regulations related to Declarations

- The preservation where in existence or the introduction where absent of regulation-making powers is an essential for the effective introduction of supporting and enabling measures; and
- The scope and vesting authority must be clearly spelt out in the declaration related documentation.

1.9 Preliminary Conclusion

These elements of declarations can provide the basis for comparison with the laws of Caribbean Countries as they relate to emergency and disaster declarations. The elements also provide the basis for the analysis of “*existing proposed solutions and model legislation for the region*” as required by the terms of reference for the component of the project.

PART II

2.0 Budget Appropriation

Natural disasters pose one of the most significant threats to economic and social stability for both developing and developed countries.³⁴¹ Funding issues are at the very core of whether nations can effectively and efficiently prepare for and respond to natural disasters. In 2007, there were 960 global natural disasters which resulted in economic losses in excess of US\$64 billion of which \$40 billion were uninsured.³⁴² In the Caribbean, adverse natural events are responsible on average for losses equivalent to more than two per cent of the Caribbean region's annual gross domestic product, based on historical financial data gathered since 1970.³⁴³

Likewise, funding plays a central role in disaster response and management activities for institutional bodies and local and community organizations. Governments need stable and predictable funding programs that can provide critical assistance to strengthen systems and facilities both pre and post disaster. However, to date, there is no clear consensus with respect to the proper design of disaster funding mechanisms. Funds are usually in two main forms, reimbursable and non-reimbursable, and can be sourced from various types of entities including, but not limited to, international funding and development institutions, federal or local level funding, private funds, and philanthropic organizations.

The most commonly recognized disaster financing sources are:

- a) **International Financing** – This may be sourced from international funding and/or development institutions, such as the World Bank, Inter-American Development Bank (IDB), Canadian International Development Agency (CIDA), United States Agency for International Development, just to name a few. International funding presents the broadest types of financing and can include reimbursable and non-reimbursable funding for both pre and post disaster projects and initiatives. In addition to supporting recovery efforts, international financing has played a critical role in developing national policies and strategies, establishing adequate institutional and regulatory frameworks, conducting studies of vulnerability and risk assessment, reinforcing vulnerable structures, adjusting building and zoning codes, and acquiring hazard-reduction technology. Examples of international disaster funds include:
 - i. **Inter-American Development Bank Disaster Prevention Fund (DPF)** – The DPF is intended to provide non-reimbursable financing for: i) project preparation and public goods aspects of disaster prevention projects or components; and ii) risk assessments that serve to inform the programming of projects within the countries. The DPR held an initial contribution of US\$ 4 million in 2006 which was slated to be raised to US\$ 10 million in 2007 and is to be replenished when its resources reach a low level of US\$2 million.
 - ii. **Canadian International Development Agency (CIDA) Emergency Disaster Assistance Fund (EDAF)** – The EDAF was initiated as a mechanism to increase the effectiveness and timeliness of assistance provided to disaster affected people. The EDAF disburses monies to support emergency operations when: 1) the government of the affected country requests international assistance; 2) the International Federation of Red Cross & Red Crescent Societies (IFRC) has issued an Emergency Appeal; 3) the affected country is on CIDA's list of countries eligible to receive Canadian Overseas Development Assistance support; and 4) the IFRC emergency appeal is less than CHF 3 million.

³⁴¹ Inter-American Development Bank, *Disaster Prevention Fund: Operational Guidelines*, 2006, accessible at <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=785814>

³⁴² Swiss Re, *Disaster Risk Financing: Reducing The Burden on Public Budgets*, 2008 available at http://www.swissre.com/resources/e4a130004a0b80af80b4d31e1ecc54e8-Publ08_FR_Disaster_risk_financing.pdf

³⁴³ Francis Ghesquiere, *Caribbean Catastrophe Risk Insurance Facility: A solution to the short-term liquidity needs of small island states in the aftermath of natural disasters*, available at <http://siteresources.worldbank.org/PROJECTS/Resources/Catastrophicriskinsurancefacility.pdf>

- b) Government and Municipality Funding** – National disaster funds have become the main disaster funding mechanisms for national and local/state governments. In this area, government appropriates funds in the national budget directly to a fund for pre and post disaster activities, including, but not limited to, financing the activities of the institutional body responsible for disaster management. Budgetary allocation of funds and execution are critical components of government funding.
- c) Insurance & Reinsurance** – This is a financing mechanism that allows for the transfer of risk from one country or individual to a collective, and if needed, to an international collective. This mechanism can be used mainly for reconstruction and recovery of insured assets. The advantages of capital market solutions and re-insurance arrangements include:³⁴⁴ 1) ensuring quick availability of funds during recovery and rebuilding efforts; 2) promoting prevention and mitigation actions through discounts and reductions in premiums to nations or entities that mitigation and prevention systems and policies in place; 3) protecting national financial budgets and reducing volatility as premiums are pre-determined and provide for budget certainty; and 4) funds are non-reimbursable and allow for dedicated funding to disaster sites, as opposed to the diversion of funds from other budgeted projects. Examples include:
- i. **Caribbean Catastrophe Risk Insurance Facility** is the first regional risk pooling mechanism which provides the sixteen participating governments from the Caribbean with immediate liquidity upon the occurrence of hurricane or earthquake of a specified intensity or greater.
 - ii. **MAIPARK** is an Indonesian government, private insurers and reinsurers risk pool which allows for the distribution of risk associated with the cost of earthquake recovery and reconstruction activities.
- d) Community Financing** - Philanthropic and volunteer organizations and foundations³⁴⁵ have played an increasingly significant role in funding disaster risk reduction and management and recovery programmes. These types of funds provide the following advantages and thus are favoured by both private and public disaster organizations:
- i. Funds are quickly mobilized and accessible after a major disaster and allow institutions to quickly set up operations.
 - ii. Foundations also support disaster management projects of longer duration, of 18 to 24 months rather than the typical six to 12 months of governmental/ international institution grants.
 - iii. The grants tend to be more flexible than is the case with government funding, allowing the recipient organizations to fill gaps and the need to fund indirect costs such as training, recruitment, and monitoring and evaluation.

Despite the myriad funding choices available to countries to finance the costs of natural disaster risk reduction and mitigation, this paper focuses on government and municipality funding and the best practices with respect to budget appropriation and execution in the benchmarked territories.

2.1 Benchmarks & Best Practices

a) **CARIBBEAN CATASTROPHE RISK INSURANCE FACILITY (CCRIF)**

The CCRIF is the first ever regional pooling mechanism for disaster risk financing and is being lauded as a revolutionary and timely method for providing the short-term disaster funding that is necessary for immediate response and recovery activities, as well as the maintenance of essential government services.³⁴⁶ Despite its current

³⁴⁴ Clarence Wong, *Disaster Risk Financing: A Paradigm Shift*, 2009, available at http://www.swissre.com/pws/locations/asia-pacific/news/issue5/disaster_risk_financing.html

³⁴⁵ Martin, Fagen, Poole, and Karim, *Philanthropic Grantmaking for Disaster Management: Trend Analysis and Recommended Improvements* accessible at

[http://isim.georgetown.edu/Publications/SusanPubs/Grantmaking%20for%20disaster%20management%20\(gates%20foundation\).pf](http://isim.georgetown.edu/Publications/SusanPubs/Grantmaking%20for%20disaster%20management%20(gates%20foundation).pf)

³⁴⁶ Francis Ghesquiere, *Caribbean Catastrophe Risk Insurance Facility: A solution to the short-term liquidity needs of small island states in the aftermath of natural disasters*, available at <http://siteresources.worldbank.org/PROJECTS/Resources/Catastrophicriskinsurancefacility.pdf>

application in the target countries, this mechanism is being included for discussion as a best practice with respect to disaster funding and budget appropriation.

i. Background

The CCRIF which came in to effect on June 1, 2007 is the Caribbean's regional response to the disaster funding issues which stemmed from the 2004 natural disasters which devastated several islands. Participating members of the CCRIF include Anguilla, Antigua & Barbuda, Bahamas, Barbados, Belize, Bermuda, Cayman Islands, Dominica, Grenada, Haiti, Jamaica, St Kitts & Nevis, St. Lucia, St. Vincent & The Grenadines, Trinidad & Tobago and Turks & Caicos. Approximately US\$47 million was pledged by Canada, France, United Kingdom, the World Bank and the Caribbean Development Bank to cover the CCRIF's start-up costs and to allow the facility to retain some of the risk, as well as to access the reinsurance markets where and when it was most financially efficient. The CCRIF is not a legislatively adopted financing mechanism for member countries.

CCRIF acts as a risk aggregator by allowing participating countries to pool their country-specific risks into one, better-diversified portfolio. The CCRIF uses a parametric model, whereby the insurer will pay claims based on the occurrence of a pre-defined event of a particular size or magnitude, such as wind speed or ground tremors. Once a trigger event occurs, the CCRIF payouts can quickly be disbursed to cover the short term costs of responding to the disaster. CCRIF is designed solely to cover the short term financing needs until other primary funding can be accessed. As such, participating countries can only purchase coverage of up to 20 percent of their estimated disaster losses, an amount deemed sufficient to cover the short term funding needs.

Participating countries pay an annual premium, which vary from US\$200,000 to US\$4 million, proportionate to their specific risk exposure, for payouts from US\$10 million to US\$50 million.³⁴⁷ Each participating country must make budgetary appropriation or source funding to pay its premium obligation. For example, in 2009, Jamaica, budgeted J\$439 million or approximately US\$4.9 million to pay its CCRIF premiums, an amount which represented a 52.6 percent increase on the previous budget allocation of US\$3.6 million, in order to secure J\$9.6 billion, approximately US\$107.5 million, of coverage, split US\$57.5 million for hurricanes and US\$50 million for earthquakes.³⁴⁸

The CCRIF funds are held in a Multi-Donor Trust Fund (MDTF) and it also maintains its own cash reserves. The MDTF is financed by donor contributions and is managed by the World Bank. As of the end of CCRIF's first fiscal year, the total income of the MDTF was US\$52,392,793 while income from various donors totalled around US\$50,469,600. Disbursements made from the MDTF during its first fiscal year, were US\$10,278,552 and included the administrative cost of the fund totalling US\$809,392 and payments to the CCRIF totalling US\$9,369,160.³⁴⁹

The CCRIF has several benefits and advantages over traditional funding mechanisms, which generally suffer from a scarcity of funds. CCRIF allows for immediate budget support in the aftermath of a natural disaster; enables risk pooling and economies of scale (i.e. a larger, more diversified portfolio) that have driven market prices down prices, for the risk instrument, for the participating countries by an estimated 40%; enables low administrative and operational costs by sharing a facility; and permits donor support which allows the CCRIF to obtain optimal pricing from re-insurers by allowing the facility to retain a portion of the risk associated with the insured subjects.

ii. Application

In 2007 the CCRIF was called upon, for the first time, to provide funding to Jamaica in response to the category 5 Hurricane Dean which passed to the south of the island. The total losses were estimated at US\$300 million while the losses to the government caused by wind damage were estimated by the CCRIF model at US\$30 million, which

³⁴⁷ www.ccrif.org

³⁴⁸ <http://www.jamaica-gleaner.com/gleaner/20090617/business/business5.html>

³⁴⁹ CCRIF Annual Report 2008-2009, available through <http://www.ccrif.org/main.php?main=27>

was well below the deductible of US\$226 million selected by the Government of Jamaica in its insurance policy. Assessments were conducted by an independent auditor and the Planning Institute of Jamaica which confirmed that the short-term loss for the government which was insured by CCRIF and estimated between US\$33 million and US\$49 million was well below the deductible or attachment point chosen by the Government of Jamaica in its insurance policy. As such, the damages caused by Hurricane Dean with respect to Jamaica did not trigger a payout by the CCRIF. Notwithstanding, the CCRIF made two payouts in its first year to the St. Lucian government who received US\$418,976, and the Dominican government who received US\$528,021. Both payouts stemmed from the magnitude 7.4 earthquake which shook the eastern Caribbean on 29th November, 2007.

More recently, the CCRIF paid the Government of Haiti US \$7,753,579 following the January 12, 2010 magnitude 7.0 earthquake which struck Port-au-Prince causing catastrophic damage and loss of life. The payout which represented Haiti's full payment eligibility, upon its US\$385,500 premium, was made on January 26, 2010 exactly fourteen days after the trigger event. This Haitian scenario illustrates the main benefits of the facility, the speedy access to short-term funding.³⁵⁰

iii. Lessons Learned

CCRIF represents a paradigm shift in the way governments treat risk and incorporates an emerging principle that disaster risk funding is generally unpredictable, expensive and should be shared amongst a variety of stakeholders, where feasible. The CCRIF is an ideal response to the short term liquidity issues that countries face in the aftermath of a catastrophic natural disaster. As such, there are attempts to duplicate its use in the Pacific island countries of Asia. Although it has not been in existence for very long or has been heavily used since 2007, the following are the key observations and lessons learned:

- ❖ The facility is an effective mechanism for pooling the funds and risks of the major disaster funding sources, including countries, donors, and private markets to effectively finance catastrophic risks.
- ❖ The CCRIF has allowed participating countries to leverage economies of scale and thereby obtain competitive prices for their individual premiums. Estimates indicate that CCRIF members are paying up to 40 percent less than what be required for individual premiums.
- ❖ Countries must select, based on their individual abilities to cover short-term disaster costs, deductibles or attachment points that do not result in them being denied needed payouts. Likewise, they must balance their ability to pay the increased premium for a lower attachment point. Jamaica's example with Hurricane Dean which resulted in actual losses in excess of US\$300 million is illustrative of this.
- ❖ The CCRIF currently only provides coverage for disasters of a scale and magnitude which are low in frequency. As such, many of the natural disasters which occur on an annual basis, such as floods, which can be quite catastrophic and devastating for participating countries, are not covered by the CCRIF. Therefore, insurance facilities such as the CCRIF must be combined with other disaster funding mechanisms and incorporated in an overall country-specific catastrophe risk financing strategy.

b) BENCHMARK: U.S.A.

The USA has a complex disaster funding process which is carried out on at both the state and federal level. Each state has designed its own internal procedures for funding disasters which for the most part is based on the federal model. As such, this discussion speaks directly to the budget appropriation and execution methods applicable on the federal level for both national disasters and state level disasters where federal assistance has been sought.

i. Background & Applicable Legislation

³⁵⁰ <http://www.reliefweb.int/rw/rwb.nsf/db900SID/MYAI-8242DR?OpenDocument>

The primary legislation with respect to disaster funding in the USA is the Robert T. Stafford Disaster Relief and Emergency Assistance Act.³⁵¹ The Stafford Act constitutes the statutory authority for most federal disaster response and recovery activities. The Act authorizes the President to issue major disaster or emergency declarations³⁵² which in turn authorizes federal agencies to provide assistance to state and local governments overwhelmed by catastrophic disasters.

Stafford Act disaster assistance is provided through funds appropriated to the Disaster Relief Fund (DRF) which is managed by the Federal Emergency Management Agency (FEMA).³⁵³ Federal assistance is limited either to a fixed dollar amount or to a percentage of eligible costs. DRF funds may be used by states, localities, and certain non-profit organizations and are distributed based on three broad categories of disaster aid:

1. **Individual Assistance.** Individual Assistance which includes disaster housing for displaced individuals, grants for needs not covered by insurance, crisis counselling, and disaster-related unemployment assistance.
2. **Public Assistance.** Public assistance for activities such as removing debris and repairing or replacing structures such as public buildings, roads, bridges, and utilities.
3. **Hazard Mitigation.** FEMA funds mitigation measures to prevent or lessen the effects of a future disaster through the Hazard Mitigation Grant Program

The DRF may be accessed without a declaration of emergency for activities, such as FEMA's phone centers, finance centers, and housing inspectors, which are supported by the Disaster Readiness and Support Account. This allows for certain critical facilities to be in place prior to a state of emergency declaration.³⁵⁴

To receive FEMA funding for disaster recovery, the state government of affected areas must enter a disaster relief funding agreement. Such an agreement for FEMA funding entails that the state government share eligible costs with the federal government; that the state government define the bounds of the eligible costs; that the state government implement procedures that documents the permissible uses and measures involved in dispensing the FEMA funding; and that there is a clearly defined timeframe for the use and dispensation of FEMA funding. In most instances, when the president declares a disaster, the federal government reimburses at least 75% of a state's disaster relief expenses.³⁵⁵

ii. Funding the Disaster Relief Fund

The DRF is funded through annual budgetary appropriations. FEMA along with the Office of Management and Budget (OMB) submit, each fiscal year, a request to the President for the amount of funding required for the DRF. The President in turn submits the request, using the amount suggested by FEMA and the OMB or an amended amount, to Congress for approval.³⁵⁶ The U.S. Congress has traditionally appropriated funds to maintain the DRF at a certain level, and then provided additional financing assistance through supplemental appropriations following a specific large disaster. Since 1989, the average initial request for the DRF has been \$1.7 billion dollars (in 2009 dollars). By comparison, the average actual annual appropriation to the DRF approved by Congress is roughly \$1.1 billion dollars. Since 1989, the US government has appropriated roughly \$322.7 billion for disaster assistance in 34 separate appropriations acts. Funds in the DRF are rolled over annually and are held until expended.³⁵⁷

³⁵¹ Congressional Research Service, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, 2006 available at http://cip.gmu.edu/archive/StaffordAct_EligibleActivities.pdf

³⁵² See Declarations of Emergency in U.S.A section for specifics on the process of declaring an emergency

³⁵³ Funding from the DRF is released after the President has issued a declaration pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (Stafford Act), 42 USC 5121 et seq.

³⁵⁴ Congressional Research Service, *Disaster Relief Funding and Emergency Supplemental Appropriations*, 2009 available at http://assets.opencrs.com/rpts/R40708_20090715.pdf

³⁵⁵ Congressional Research Service, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities and Funding*, 2005 available at <http://ftp.fas.org/sgp/crs/homesecc/RL33053.pdf>

³⁵⁶ Congressional Research Service, *Disaster Relief Funding and Emergency Supplemental Appropriations*, 2009 available at http://assets.opencrs.com/rpts/R40708_20090715.pdf

³⁵⁷ Congressional Research Service, *Disaster Relief Funding and Emergency Supplemental Appropriations*, 2009 available at http://assets.opencrs.com/rpts/R40708_20090715.pdf

The amount appropriated to the DRF is generally determined using the following four criteria:

1. **Available Appropriation.** The available appropriation is a combination of prior year funds that are carried-over, the current fiscal year appropriation, and any supplemental appropriation funding.
2. **DRF Monthly Average.** The calculation for the DRF monthly average is based on a five-year rolling average of normal disasters.
3. **Monthly Cost Estimates for Catastrophic Events.** Estimates obtained from the field on pending (still open) disaster projects are routinely used in calculating monthly cost estimates.
4. **Estimated Recoveries.** Estimated recoveries represent the recovery of obligated funds that have not been used, including, but not limited to, duplicated benefit funds such as when a the state receives an insurance payment for disaster damages after obtaining federal funding for the same damages, as well as long-term projects for mitigation that either were not finished, or were completed at a lower cost.

The end-of-fiscal-year projection is estimated by subtracting the cumulative DRF monthly averages and cost estimates for incidents from the available appropriation. Then, the cumulative recoveries are added. The DRF end-of-fiscal-year estimate is revised monthly, based on the actual obligations that are recorded in lieu of the monthly estimates, and new estimates submitted for open incidents, whose activities are currently being funded by FEMA.

The DRF funds disaster relief for “normal disasters” that cost 500 million dollars or less. Major disasters costing more than 500 million dollars are generally funded with emergency supplemental appropriations.³⁵⁸ Supplemental appropriations provide additional budget authority during the current fiscal year to: (1) finance activities not provided for in the regular appropriation; or (2) provide funds when the regular appropriation is deemed insufficient. Supplementary budgetary appropriations require the government to reallocate funds or cut pre-planned programs to meet the supplementary demands. This mechanism may be suitable for highly industrialized countries with large cash reserves that can be expeditiously accessed. However, this method of meeting disaster funding requirements that exceed the primary funding mechanism may not be ideal for the target countries, as most are unable to meet the primary funding needs. Likewise, a supplementary budget process which would require governmental approval in the target countries would unreasonably delay getting necessary funds to the disaster afflicted areas.

c) BENCHMARK: SOUTH AFRICA

Disaster funding in South Africa is completely decentralized. The national government does not provide an annual budget for disaster management and the Disaster Management Act 2002 only provides for funding of post-disaster recovery and rehabilitation on very strict terms. The Act requires that provincial and municipal government bear the brunt of disaster recovery costs at the local level. Specifically, the Act assigns the responsibility for repairing or replacing infrastructure to the organ of state responsible for the maintenance of such infrastructure.³⁵⁹

Funding at the national level is reserved for disasters that overwhelm the capacities of the national government and is contingent on several factors including whether prevention and mitigation measures were undertaken by the local government and the exhaustion of resources at the local level. The Act encourages local and provincial governments to budget for natural disasters by permitting the responsible Minister to prescribe a percentage of the provincial or local budget as a threshold for accessing national funding for disaster response efforts.³⁶⁰ As such, provincial and municipal governments must earmark funds from their budgets for disaster activities.

³⁵⁸ Congressional Research Service, *Disaster Relief Funding and Emergency Supplemental Appropriations*, 2009 available at http://assets.opencrs.com/rpts/R40708_20090715.pdf

³⁵⁹ No. 57 of 2002: Disaster Management Act, 2002 available at <http://www.info.gov.za/view/DownloadFileAction?id=68094>

³⁶⁰ No. 57 of 2002: Disaster Management Act, 2002 available at <http://www.info.gov.za/view/DownloadFileAction?id=68094>

In addition to the Disaster Management Act, the Municipal Systems Act, as amended, places additional obligations on local government to fund disaster activities. The Municipal Systems Act, as amended requires the responsible Cabinet member or other organ of state to take appropriate steps to ensure sufficient funding and capacity-building initiatives for disaster risk management at the municipal level. As defined, disaster risk management includes a broad range of activities, including disaster risk reduction, preparedness, response and recovery. As such, funding mechanisms must be designed to allocate optimal resources to each of these activities.³⁶¹

The South Africa model seeks to eliminate the problem of moral hazard at the municipal and provincial level by placing most of the responsibility for disaster management on the local level. As such, provincial and municipal governments are forced to incorporate adequate funding into their respective budgets. Additionally, the funding mechanism used in South Africa encourages local governments to implement prevention and mitigation measures that will reduce their exposure to the liability associated with natural disasters, as a condition precedent to obtaining national assistance. This is in keeping with South Africa's paradigm shift from a disaster recovery driven framework to a risk reduction and management framework.

d) BENCHMARK: INDIA

i. Background & Applicable Legislation

India's disaster funding mechanism is divided between the state and national government. In 2005, India enacted the Disaster Management Act (DMA), which makes provisions for the creation of dedicated funds for Disaster Response and Mitigation measures at the national, state and district levels. Pursuant to the DMA, the National Disaster Response Fund should be applied, by the National Executive Committee (NEC), towards meeting the expenses for emergency response, relief, and rehabilitation, in accordance with the guidelines set out by the Central Government in consultation with the National Disaster Management Authority (NDMA). Similarly, the DMA mandates that a National Disaster Mitigation Fund (NDMF) may be created for projects exclusively for the purpose of mitigation. NDMF shall be applied by the NDMA and shall be as recommended by the Finance Commission from time to time.³⁶² To date, those funds have not been constituted and the pre-2005 Calamity Relief Fund (CRF) and the National Calamity Contingency Fund (NCCF) are the primary sources of meeting India's disaster funding requirements.³⁶³ Notwithstanding, India has had a dedicated disaster funding mechanism in place since the 1950s. The money margin scheme which was constituted in 1957 by the Second Financial Commission was, prior to the establishment of the CRF and the NCCF, the primary source of disaster funding in India.

India practices a federal structure of governance similar to the United States. Under this system, the primary responsibility of providing immediate emergency relief in a post-disaster situation rests with the state/local government concerned. The national government of India supplements state level efforts by providing requisite logistical and financial support.³⁶⁴

The Finance Commission appointed by the government of India is the primary body with portfolio for reviewing the policy and funding mechanisms for provision of relief assistance every five years.³⁶⁵ The Finance Commission is responsible for making recommendations regarding the division of tax and non-tax revenues between the national and state governments and also regarding policy for provision of relief assistance and their share of expenditures.³⁶⁶

³⁶¹ No. 32 of 2000: Municipal Systems Act, 2002 available at http://www.ppp.gov.za/Documents/ppp_legis/Municipal_Systems_act_32-00.pdf

³⁶² National Disaster Management Policy of India available at <http://ndmindia.nic.in/NPDM-101209.pdf>

³⁶³ Disaster Management Division, Ministry of Home Affairs, *India: National Progress Report on the Implementation of the Hyogo Framework for Action*, available at http://www.preventionweb.net/files/9808_India.pdf

³⁶⁴ Government of India, Ministry of Home Affairs, *Disaster Management in India*, available at <http://www.unisdr.org/eng/country-inform/reports/India-report.pdf>

³⁶⁵ <http://nidm.net/Calamity%20Relief%20Fund.asp>

³⁶⁶ Disaster Management Division, Ministry of Home Affairs, *India: National Progress Report on the Implementation of the Hyogo Framework for Action*, available at http://www.preventionweb.net/files/9808_India.pdf

ii. Funding Mechanism

- **Margin Money Scheme**

The CRF and NCCF are the successors to what was referred to as a “margin money scheme,” which operated from 1957-1990 and was designed to help local states meet the relief expenditure necessitated by natural disaster. Under this scheme, a specified sum, determined by the Finance Commission, was set aside by local government as margin for relief expenditure, while the central government would supply the excess funding required to meet the disaster relief needs. The state government would then transfer the allocated amount to a separate account annually.

This mechanism was originally designed to place the bulk of the responsibility for funding disasters on the local/state government, with the central government playing an ancillary or secondary role. However, it failed to adequately meet the funding requirements as the scale of natural disasters combined with the economic and infrastructural shortcomings of the local government usually exhausted the capacity of the local government and resulted in the central government carrying most of the relief burden. Likewise, the state would have to complete a long, time consuming and cumbersome claims procedure, which included an assessment by a central government team, to access the necessary financial assistance. Further, under the margin money scheme, state requests for funding were heavily over exaggerated and the funds provided by the central government failed to meet the actual funding needs of the state.

In order to remedy the funding inadequacies under the money margin scheme and to effectuate the decentralization of disaster relief funding, the Finance Commission in 1990 devised the CRF. The CRF was designed to enable the local government to meet the requisite levels of expenditure on relief in the wake of natural disasters with very little government subvention; avoid delays in disaster response activity; provide greater autonomy to the local government; allocate responsibility to the states in the relief operations; and discourage inflationary demands and wasteful spending.³⁶⁷

- **The Calamity Relief Fund (CRF)**

The Calamity Relief Fund (CRF), which is used for meeting the expenses associated with immediate relief to the victims of cyclone, drought, earthquake, fire, flood and hailstorm, is a state level funding mechanism set up per the recommendations of the Eleventh Finance Commission. The Finance Commission designates and fixes the size of the CRF after taking into account the expenditure on relief and rehabilitation over the past ten years. There is a cost-sharing formula that is applied to the provision of funds in the CRF. The government of India contributes 75% of the corpus of the CRF in each state while the other 25% is contributed to by the by the respective state.³⁶⁸ Government share of the CRF is distributed in two installments, May and November.³⁶⁹

The following table indicates the fixed amount, in U.S. dollars, allocated to the CRF for each state for the current five-year period.

Table 3

Allocation to India Calamity Relief Fund 2005 - 2010³⁷⁰

US\$ in Millions (2009)

³⁶⁷ Center for Budget and Governance Accountability, Public Policy Towards Natural Disasters in India: Disconnect Between Resolutions and Realities, 2005 available at

http://www.cbgaindia.org/publications/working_papers/Public%20Policy%20towards%20Natural%20Disasters%20i%20India.pdf

³⁶⁸ Department of Expenditure, Scheme for Constitution and Administration of the Calamity Relief Fund available at

http://www.finmin.nic.in/the_ministry/dept_expenditure/plan_finance/FCD/Guidelines-CRF.html

³⁶⁹ Report of the Twelfth Finance Commission available at

http://fincomindia.nic.in/writereaddata/html_en_files/Report_of_12th_Finance_Commission/Chapter%2009.pdf

³⁷⁰ Report of the Twelfth Finance Commission available at <http://www.taxindiaonline.com/RC2/pdfdocs/fincomm/12thfc/Annexure9.pdf>

State	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	Total 2005-2010
Andhra Pradesh	75.22	78.98	82.93	87.07	91.42	415.617
Arunachal Pradesh	6.19	6.37	6.55	6.75	6.95	32.806
Assam	42.20	43.42	44.70	46.04	47.45	223.815
Bihar	32.56	33.50	34.48	35.52	36.61	172.659
Chhattisgarh	24.43	25.13	25.87	26.65	27.46	129.544
Goa	0.46	0.48	0.51	0.53	0.56	2.545
Gujarat	53.78	56.47	59.29	62.25	65.36	297.147
Haryana	27.19	28.55	29.98	31.48	33.05	150.242
Himachal Pradesh	22.01	22.65	23.31	24.02	24.75	116.736
Jammu & Kashmir	18.90	19.45	20.02	20.62	21.25	100.238
Jharkhand	27.56	28.36	29.19	30.07	30.99	146.160
Karnataka	25.07	26.32	27.63	29.02	30.46	138.496
Kerala	18.69	19.62	20.61	21.64	22.72	103.272
Madhya Pradesh	55.58	57.18	58.87	60.64	62.49	294.758
Maharashtra	48.73	51.16	53.72	56.41	59.23	269.249
Manipur	1.22	1.25	1.29	1.32	1.37	6.444
Meghalaya	2.47	2.54	2.61	2.69	2.77	13.081
Mizoram	1.44	1.48	1.52	1.57	1.62	7.629
Nagaland	0.84	0.86	0.89	0.91	0.94	4.435
Orisa	65.92	67.82	69.82	71.91	74.11	349.581
Punjab	31.92	33.52	35.19	36.95	38.80	176.386
Rajasthan	90.86	95.40	100.17	105.18	110.44	502.061
Sikkim	3.83	3.94	4.06	4.18	4.31	20.324
Tamil Nadu	45.71	47.99	50.39	52.91	55.55	252.548
Tripura	2.81	2.89	2.98	3.06	3.16	14.896
Utar Pradesh	64.69	66.56	68.52	70.58	72.74	343.095
Uttaranchal	20.70	21.11	21.55	22.01	22.26	107.636
West Bengal	51.31	52.79	54.35	55.98	57.69	272.130
Total	862.26	895.79	931.00	967.97	1006.52	4663.533

The CRF is administered by the respective state level committees. The committee then coordinates matters related to financing the relief expenditure, arranging contributions from the concerned governments; administering the fund; and investing the interest of the fund as per the norms approved by the central government. The balance in the fund at the end of the five-year plan period is made available to the states and rolled over for the next plan period.³⁷¹

Relief assistance to individuals affected by natural calamities is generally granted from the CRF. The requirements for access to funding or norms for relief assistance are laid down by a national committee with representatives of states as members. States may outline specific norms to be recommended by a state level committee, which seeks to further protect against waste and misuse of CRF funds. Where the calamity is of such proportion that the funds available in the CRF are inadequate to meet the relief and rehabilitation requirements, the state may seek supplementary funding assistance from the national government through the National Calamity Contingency Fund (NCCF).³⁷²

• The National Calamity Contingency Fund

The NCCF is a fund created at the central government level. The NCCF is successor to the National Fund for Calamity Relief (NFCR), which functioned from 1995-2000 as the central government contingency fund for providing assistance to states in the wake of natural disasters of 'rare severity.' The NCCF, which replaced the NFCR, is functionally similar and also provides assistance to states in excess of their CRF money, on a case-by-case basis for natural disasters of 'rare severity.'

³⁷¹ Report of the Twelfth Finance Commission available at

http://fincomindia.nic.in/writereaddata/html_en_files/Report_of_12th_Finance_Commission/Chapter%2009.pdf

³⁷² Department of Expenditure, Scheme for Constitution and Administration of the Calamity Relief Fund available at http://www.finmin.nic.in/the_ministry/dept_expenditure/plan_finance/FCD/Guidelines-CRF.html

A request for funding from the NCCF is typically initiated by the state government affected by the natural disaster. However, the National Centre for Calamity Management (NCCM), organized under the Ministry of Home Affairs, is expected to monitor the occurrences of natural disasters on a regular basis, assess their impact on the area and the population, and to assess whether the state would be in a position to provide relief in a specific case of a severe natural disaster from the CRF and its own resources. The NCCM should then make a recommendation to the central government, on its own, and independent of the state, as to whether the calamity is of a severe nature, and therefore, eligible for national level assistance from the central government and other state governments. The central government should then take appropriate action on the recommendation of the NCCM. When a state request for additional resources is received, the requirements are assessed by a team from the central government and thereafter the assessed requirements are cleared by a High Level Committee chaired by the Deputy Prime Minister.³⁷³

The initial corpus amount of the NCCF was fixed by the Eleventh Finance Commission at Rs. 500 crore or approximately US\$109 million which was funded directly by an appropriation from the government of India. The NCCF Fund shall be financed by levy of a special surcharge on the central taxes for a limited period. Collection from such surcharge shall be initially credited to the Consolidated Fund and thereafter transferred to the NCCF. Each outgo of funds from the NCCF is immediately accompanied by imposition of the special surcharge so that it is immediately recouped. The unspent balance in the NCCF at the end of the financial year is made available to the central government for being used as a resource for the next plan.³⁷⁴

• **Lessons Learned**

India's disaster funding mechanism, although well established, includes several potential and actual pitfalls that are worth consideration and discussion. These flaws in the disaster system range from administrative to systemic inherent design or implementation flaws. These include:³⁷⁵

- ❖ The funding mechanism does not make provision for pre-disaster preparedness, mitigation or prevention activities, nor does the scheme make provision for financing the restoration of damaged public assets or vital infrastructure.
- ❖ The last decade of natural disasters have demonstrated that CRF allocations are inadequate to meet local disaster funding needs. As a result, states have almost always had to tap into the NCCF or its predecessor.
- ❖ The CRF definition of disaster is too rigid and exclusive preventing states from providing needed assistance in the case of some natural disasters, such as the tsunamis of 2004, which are not covered under the definition.³⁷⁶
- ❖ All states regardless of financial ability must contribute their respected fixed rate of 25 % to the CRF. This fixed formula does not make allowances for states with little to no financial resources.

The India disaster funding mechanism is well defined but not without flaw. More consideration should be given to adopting a more proportionate system that looks at each state's proneness to natural disasters, losses suffered in the past, occurrence of disasters in quick succession, and population below the poverty line. These factors would lend to formulating a CRF fund amount that is more keeping with the anticipated demands and lessen the burden on the government run NCCF.

India's national model for financing national disasters is novel with respect to the other benchmarked territories. India's NCCF seeks to shift or off-set some of the expenses associated with disaster recovery to the private sector,

³⁷³ Report of the Twelfth Finance Commission available at

http://fincomindia.nic.in/writereaddata/html_en_files/Report_of_12th_Finance_Commission/Chapter%2009.pdf

³⁷⁴ Department of Expenditure, Revised Scheme for Constitution and Administration of the National Calamity Contingency Fund available at <http://nidm.net/National%20Calamity%20Contingency%20Fund.asp>

³⁷⁵ Department of Expenditure, Scheme for Constitution and Administration of the Calamity Relief Fund available at http://www.finmin.nic.in/the_ministry/dept_expenditure/plan_finance/FCD/Guidelines-CRF.html

³⁷⁶ CRF funding was used to fund the Tsunami disaster recovery efforts without objection, however it is technically not covered under the CRF.

through taxation, thereby reducing the burden on public coffers. This approach to sharing disaster related costs with the private sector, though interesting, may pose a problem for the target countries in that their citizens, for the most part, have a very low threshold and capacity for additional taxation. As such, this method, as applied in India, may not be politically palatable. The target countries may, however, consider a modified version of this whereby the tax burden is placed on corporate entities by marginal increases in corporate taxes as opposed to a general public tax. Likewise, a decentralized funding mechanism such as the CRF is also not feasible given that the target countries do not have a bifurcated system of government with both federal and local state government. The target countries for the most part, with the exception of Guyana, are small territories that have only a unilateral system of governance and thus all funding must be centralized. Further, the size and economic capabilities of each country does not lend to a localized versus national system of disaster funding.

e) BENCHMARK: MARSHALL ISLANDS (RMI)

The RMI system for funding natural disasters is centralized through the national government. The Disaster Assistance Act 1987 establishes the Disaster Assistance Account (DAA) which is a special revenue account within the National Treasury which is administered by the RMI Ministry of Finance, in accordance with the Financial Management Act 1990.³⁷⁷ The DAA is the primary source for funding natural disasters in the RMI. Additionally, the RMI has a Compact of Free Association with the United States which directs USAID and FEMA to collaborate in providing additional disaster response and recovery assistance.³⁷⁸

The DAA has a corpus of US\$200,000. When a disaster occurs, funds are expended from the DAA, in accordance with the terms laid out by the Ministry of Finance, to cover the cost.³⁷⁹ The DAA is funded through an appropriation in the Annual Appropriation Act for the next financial year in order to maintain a continuous balance of US\$200,000. As such, the amount appropriated annually is equal to the amount expended from the DAA in the current year for disaster response activities. Where disaster recovery costs exceed the funds available in the DAA, the government may authorize that additional funds be released from the Contingencies Fund or be reprogrammed from other areas of the national budget.³⁸⁰

The RMI also uses a stationary fund to supplement its disaster funding needs. The stationary fund can only be accessed in response to an actual disaster situation and not for preparedness or mitigation initiatives. Funds in the stationary fund accumulate and remain until expended. Money for the stationary fund is appropriated in the Annual Appropriation Act, for the following year, based on the amount utilized in the current year.³⁸¹ However, if the disaster exhausts the capacity of the fund, the Chief Secretary in consultation with the National Disaster Committee will submit his/her request to the Ministry of Finance for the release of additional funding to meet the demands of the recovery effort.³⁸²

Pursuant to the Compact Agreement, as amended, the RMI may access a specially created Disaster Assistance Emergency Fund (DAEF) and request disaster assistance from USAID in a declared state of emergency. The Compact provides that of the total grant assistance provided under the agreement to the RMI, an amount of US\$200,000 shall be provided annually, with a match from the RMI government, as a contribution to the DAEF. Administration of the DAEF is governed by the Fiscal Procedures Agreement.³⁸³

³⁷⁷ Disaster Assistance Act 1987 [7 MIRC Ch 10] available at http://www.paclii.org/mh/legis/consol_act_new/daa1987208/

³⁷⁸ http://pdf.usaid.gov/pdf_docs/PNADQ561.pdf

³⁷⁹ Global Facility for Disaster Reduction and Recovery, *Disaster Risk Management Programs for Priority Countries: East Asia and Pacific*, available at <http://gfdrr.org/ctrydrmnnotes/MarshallIslands.pdf>

³⁸⁰ Disaster Assistance Act 1987 [7 MIRC Ch 10] available at http://www.paclii.org/mh/legis/consol_act_new/daa1987208/

³⁸¹ Global Facility for Disaster Reduction and Recovery, *Disaster Risk Management Programs for Priority Countries: East Asia and Pacific*, available at <http://gfdrr.org/ctrydrmnnotes/MarshallIslands.pdf>

³⁸² Global Facility for Disaster Reduction and Recovery, *Disaster Risk Management Programs for Priority Countries: East Asia and Pacific*, available at <http://gfdrr.org/ctrydrmnnotes/MarshallIslands.pdf>

³⁸³ Compact of Free Association as Amended (Implementation) Act 2004 [41 MIRC Ch 1] available at http://www.paclii.org/mh/legis/consol_act_new/cofaaaa2004457/

f) BENCHMARK: MICRONESIA (FSM)

FSM has both national and state level mechanisms for funding natural disasters. The Disaster Relief Assistance Act is the primary disaster related legislation in the FSM. The Act provides that in the event of a threatened or existing disaster, the President may provide immediate assistance from the Disaster Relief Fund (DRF), Public Law No. 2-64 (subchapter II, chapter 6 of title 55 of the Code of FSM), to save lives, preserve property, and protect public health and safety. The DRF is funded by budget appropriations of the congress of FSM and state legislatures as well as United States grants.³⁸⁴

States affected by a natural disaster must petition the President of FSM to make a determination that the emergency or disaster is of national concern. According to the Act, the governor is required to present evidence that the disaster exceeds the capabilities of the state or local government and that national assistance is required to effectively respond to the disaster. Upon declaring that a disaster or emergency exists, the President may authorize such expenditure of money from the DRF as, in his opinion, are necessary to carry out the recovery activities, providing that the expenditure is consistent with the type and extent of aid requested by the governor of the affected State. DRF disbursements to affected states may be used for necessary food, clothing, shelter, medical supplies, compensation for crop damage, transportation, debris clearance, reconstruction and repair of seawalls and other damaged property, building materials and such other matters as the President determines to be necessary and occasioned by the emergency or disaster.³⁸⁵

The individual states of FSM, Chuuk, Kosrae, Pohnpei and Yap, have distinct localized legislation to address the funding requirements of natural disasters. Pohnpei, home of the FSM capital, Palikar, is the largest and most industrialized state of FSM. As such, this paper addresses the specific disaster funding mechanisms in Pohnpei.

The Economic Development Act of Pohnpei provides for the creation of an Emergency Relief and Rehabilitation Fund (ERRF). The ERRF is designed to assist developmental endeavors within the state of Pohnpei to overcome physical and economic losses sustained from storm, flood, fire or other natural disasters. The ERRF is funded by an annual appropriation from the general fund of Pohnpei in a sum to be determined annually in the Comprehensive Budget Act.³⁸⁶

g) BENCHMARK: CANADA

i. Background & Applicable Legislation

The Emergency Management Act (EMA) authorizes Public Safety and Emergency Preparedness Canada (PSEPC) to provide financial assistance to provincial governments for activities associated with disaster management, primary of which includes recovery efforts in declared emergencies.³⁸⁷ PSEPC administers two (2) funding programs, the Joint Emergency Preparedness Program (JEPP) and the Disaster Financial Assistance Arrangements (DFAA), to address the pre and post disaster needs of provincial governments.³⁸⁸

ii. Joint Preparedness Program

³⁸⁴ Federated States of Micronesia Code, Title 55. Government Finance & Contracts available at http://www.fsmlaw.org/fsm/code/title55/T55_Ch06.htm

³⁸⁵ Federated States of Micronesia Code, Title 55. Government Finance & Contracts available at http://www.fsmlaw.org/fsm/code/title55/T55_Ch06.htm

³⁸⁶ Digital Code of the State of Pohnpei, Division V, Title 36: Economic Development available at <http://www.vanuatu.usp.ac.fj/library/Paclaw/FSM/Code%20of%20the%20State%20of%20Pohnpei/Digital%20Code/Division%20V/Title%2036%20final.htm#C4>

³⁸⁷ Emergency Management Act 2007, c. 15, available at <http://laws.justice.gc.ca/eng/E-4.56/20100112/page-1.html?rp2=HOME&rp3=SI&rp1=emergency%20management&rp4=all&rp9=cs&rp10=L&rp13=50>

³⁸⁸ See Public Safety Canada at <http://www.publicsafety.gc.ca/prg/em/jepp/index-eng.aspx#avai> and <http://www.publicsafety.gc.ca/prg/em/dfaa/index-eng.aspx>

The JEPP funding program is primarily geared towards prevention and mitigation initiatives. Under JEPP, the federal government, in conjunction with local and provincial governments, formulates projects and initiatives that ensure emergency preparedness and protection of critical infrastructure. Projects under the JEPP program are proposed by the provincial and territorial governments and are selected for funding based on national and regional priorities on an annual basis. The costs of JEPP projects are shared between the federal and provincial governments with a maximum federal contribution of 75%. These projects are selected based on their nature, other projects under consideration, and the amount of funds available. Approximately \$8.4 million is made available annually for emergency preparedness, urban search and rescue, and critical infrastructure protection initiatives under the JEPP program.³⁸⁹

iii. The Disaster Financial Assistance Arrangements

The DFAA, established in 1970, is the primary mechanism by which the government of Canada provides assistance to Canadians affected by disaster. The DFAA provides *ex post facto* payments to provincial and territorial governments to assist them in meeting extraordinary expenditures resulting from a major disaster. The aim of the DFAA is to provide basic assistance to restore public works to their pre-disaster condition and to facilitate the restoration of basic essential personal property of private citizens, farmsteads, and small businesses.³⁹⁰ Where the circumstances of a disaster fall outside of normal parameters of the DFAA requirements, the government may, on an ad hoc basis, establish supplementary disaster assistance programs.³⁹¹

The DFAA shares the costs of responding to and recovering from disasters when the costs of doing so exceed the fiscal capacity of provincial and territorial governments. Canada does not make budgetary appropriations for the DFAA on the premise that there is no way to predict the amount that might be needed in any given year. Funds for the DFAA are obtained, as needed, by means of a submission to the Treasury Board.³⁹² The funds are received through an application and the claim process is administered by the province, subject to federal eligibility requirements.³⁹³

The cost share arrangement between the federal and provincial government with respect to eligible DFAA funds are as follows:³⁹⁴

Table 4: Federal – Provincial Cost Share Per DFAA

Eligible Provincial / Territorial Expenditures	Government of Canada Share
First \$1 per capita	Nil
Next \$2 per capita	50%
Next \$2 per capita	75%
Remainder	90%

Canada’s disaster financing model is bifocal with primary emphasis on preparedness and recovery. As such, it has established two distinct disaster funding programs geared to addressing pre and post disaster needs. Unlike many of the benchmarked territories, Canada does not appropriate funds for disaster recovery or related initiatives as a result of the impossibility of accurately calculating the funding requirements of any given disaster. Although feasible for Canada given their large budgetary coffers, it can be argued that this approach is impractical for the target countries and other third world countries that have limited resources which are generally expended through routine and

³⁸⁹ See Public Safety Canada at <http://www.publicsafety.gc.ca/prg/em/jepp/index-eng.aspx#avai>

³⁹⁰ See Public Safety Canada at <http://www.publicsafety.gc.ca/prg/em/dfaa/index-eng.aspx>

³⁹¹ Government of Canada, *National Report: Canada, 2004* available at <http://www.unisdr.org/eng/country-inform/reports/Canada-report.pdf>

³⁹² Disaster Preparedness Canada, *Disaster Financial Assistance: Manual to Assist in the Interpretation of Federal Guidelines* available at <http://dsp-psd.pwgsc.gc.ca/Collection/D82-57-1988E.pdf>

³⁹³ http://www.gov.nl.ca/fes/publications/FESNL_Annual_Report_200809.pdf

³⁹⁴ See Public Safety Canada at <http://www.publicsafety.gc.ca/prg/em/dfaa/index-eng.aspx#a04>

recurrent expenditures. The sudden onset of natural disasters and limited resources require target countries to have reserve funds to meet their immediate disaster preparedness needs.

h) BENCHMARK: INDONESIA

i. Background & Applicable Legislation

Law No. 24/2007 on Disaster Management, which is the primary legislation on disaster funding in Indonesia, stipulates that disaster management funding is the joint responsibility of the national and regional governments. As such, Indonesia has adopted a comprehensive local and national system for disaster funding. Additionally, Law No. 24/2007 authorizes, during emergency response situations, the National Disaster Management Agency (BNPB) to utilize available funds allocated under the disaster management budget as immediately disburseable funds. This fund is prepared by the government, within the BNPB budget, and the terms of its management are as stipulated in Law No. 24/2007. BNPB holds significant public funds that can be used for mitigation, recovery and reconstruction activity.

While Government Regulation No. 22/2008 on Funding and Management of Disaster Assistance allows for disaster financing from three main resources: local and national government; community/private financing; and donor financing. The regulation has also stipulated three categories of funding namely: a contingency fund, an on-call budget, and social assistance funds.³⁹⁵ The Government allocates the budget based on the Mid-term Development Plan (RPJM) and the Government Annual Plans (RKP). The funds are further regulated through Government Regulation (GR) No. 22/2008 on Funding and Management of Disaster Assistance.³⁹⁶ In 2007, the government allocated IDR 2 trillion, or approximately US\$214 million, for the handling of natural disasters and another IDR 3 trillion, or approximately US\$320 million, in 2008 as disaster contingency fund.

ii. Risk Pooling Financing Mechanism

Additionally, in 2004, Indonesia adopted a risk pooling disaster funding mechanism through the Special Catastrophe Risk Reinsurance Company or MAIPARK. The Indonesian government encourages all general insurance and reinsurance companies licensed to operate to become shareholders of MAIPARK, in conjunction with the national government. The goal of MAIPARK is to encourage insurance companies to insure individual private sector risks associated with natural disasters by pooling the risks of all insurance companies. MAIPARK will accept by way of reinsurance a compulsory share between 5% and 25%, with a maximum exposure of USD\$2.5 million, of the liability for the sum insured, for any one risk of all earthquake written by its shareholders. MAIPARK shareholders must issue a standard earthquake policy, in addition to the basic fire and property coverage, which conforms to the MAIPARK's technical guidelines in order to be eligible for reinsurance. MAIPARK is owned by the insurance industry and the amount of shareholding is determined by the Indonesian Ministry of Finance, Directorate of Insurance, and varies according amount of funds invested by the insurers and reinsurers.³⁹⁷ The total paid up capital to MAIPARK is approximately USD\$4.5 million. The government is actively seeking alternative funding methods and/or sources to increase funding capability of MAIPARK.

i) BENCHMARK: PHILIPPINES

i. Background & Applicable Legislation

The National Disaster Coordinating Council (NDCC) is a national statutory body,³⁹⁸ comprised of members of key

³⁹⁵ Global Facility for Disaster Reduction and Recovery, *Disaster Risk Management Programs for Priority Countries: East Asia and Pacific* available at <http://gfdrr.org/ctrydrmmnotes/Indonesia.pdf>

³⁹⁶ Government of Indonesia, *Implementation of Disaster Reduction in Indonesia 2007-2008*, available at

³⁹⁷ Werner G. Bugl, *Natural Catastrophe Risk Management Policy in Indonesia*, 2005 available at

http://info.worldbank.org/etools/library/latestversion_p.asp?objectID=205654&lprogram=4.

³⁹⁸ S.2, Presidential Decree 1566, Philippines, http://www.lawphil.net/statutes/presdecs/pd1978/pd_1566_1978.html

governmental departments and agencies,³⁹⁹ including national defense, public works and highways, transportation and communication, social welfare and development, and budget and management, with primary responsibility for emergency policy development, implementation of national and community disaster preparedness plans, and overall emergency relief and recovery at the national level. The NDCC is supported in its efforts at the regional level by the Regional Disaster Coordinating Councils (RDCC), which help to ensure the national government's ability to act effectively and respond quickly in emergency situations.⁴⁰⁰ Interestingly, while the NDCC plays a central role in the disaster management framework in the Philippines, it does not have its own budget and must operate through its member agencies, the RDCC and local government units.⁴⁰¹

ii. Disaster Funding and Source of Funds

- National Calamity Fund & Quick Response Fund

The Philippines operates a National Calamity Fund (NCCF) which is accessed to provide the necessary financial resources for disaster recovery efforts. The NCCF is funded by a lump-sum amount included in the annual budget of the national government. Releases from the fund are made directly to the appropriate implementing departments or agencies and/or local government units in accordance with the recommendation of the NDCC and upon approval of the president of the Philippines.⁴⁰²

To respond immediately to an emergency or disaster, 25% of the NCCF is released to leading departments, such as social welfare and development, public works and highways, and national defense departments, as a Quick Response Fund (QRF). The amount released is a stand-by fund which is utilized in times of calamities to provide relief and rehabilitation to affected communities and areas. The primary goal of the QRF stand-by fund is to quickly normalize the situation and living conditions of the people in affected communities and areas.⁴⁰³

At the local level, local governments operate their own calamity fund. These funds are financed by money set aside by local government units from their annual local budgets. This amount is a mandatory budgetary item equivalent to 5% of the estimated income of local government units from regular sources.⁴⁰⁴

- Local Government Calamity Fund

The NDCC, a seemingly aberrant regulatory power without attendant budgetary/fiscal powers, arises by way of the Philippine Presidential Decree No. 477, or the Decree on Local Fiscal Administration (DLFA). The DLFA was enacted as a means of stemming the squandering of local government funds and as a mechanism to better manage local government resources. It is entrenched with certain fundamental principles of transparency, accountability, and develops the corresponding procedural mechanisms to be applied in all budgetary matters. The principles and provisions of the DLFA are mirrored at the regional level in the Local Government Code of the Philippines 1991 (LGCP), or the Republic Act 7160. The LGCP effectively decentralized resource allocation and budgetary appropriation from the national level to the local government with respect to matters of development and disaster relief.⁴⁰⁵ The DLFA and the LGCP provide the legislative basis for budgetary provisions for emergency situations.

Section 27(e) of the DLFA provides that 2% of estimated annual national revenue from regular sources is to be set aside annually to provide for natural calamities and any financial dislocation arising therefrom. Section 324(d) of

³⁹⁹ "The Secretary of National Defense heads the NDCC with the heads of 18 departments/ agencies as members. These include the Chief of Staff, Armed Forces of the Philippines; Secretary-General, Philippine National Red Cross; Philippine Information Agency; Executive Secretary and the Administrator, Office of Civil Defense who is the Executive Officer of the Council.",

http://ndcc.gov.ph/home/index.php?option=com_content&task=view&id=12&Itemid=26

⁴⁰⁰ Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁴⁰¹ About NDCC- http://ndcc.gov.ph/home/index.php?option=com_content&task=view&id=12&Itemid=26

⁴⁰² Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁴⁰³ Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁴⁰⁴ Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁴⁰⁵ Asian Disaster Management News, Vol. 5, No. 1, February 1999 <http://www.adpc.net/irc06/1999/theme-1.htm>

the LGCP stipulates that 5% of estimated annual local government revenue from regular sources is to be put aside for the same purposes. However, this appropriation may only be used in the areas where there is a presidential declaration of a state of calamity. This 5% is known as the Local Government Calamity fund.

Additionally, Section 25 of the DLFA allows for supplemental budgets to be enacted in times of emergency and for certain appropriation guidelines to be set aside to allow for the urgent purchase of emergency supplies and/or materials. Similarly, Section 337 of the LGCP allows for disbursements in excess of the 5% budgeted for in case of local emergencies. This section also provides that any overdraft occurring as a result of such emergency expenditures must be repaid immediately succeeding the fiscal year. Sections 368 and 373(b) of the LGCP further provide that certain emergency purchases may be made without adhering to the standard public bidding requirements and procurement procedures provided that such purchases are properly requisitioned thereafter.

Of interest is the further provision under Section 368 of the LGCP which holds that any goods purchased without public bidding not utilized within 15 days of availability will be viewed as improperly purchased and the procurement officer may face suspension or dismissal. While making provisions for the practical administration of public funding in emergency situations, the Philippine government legislatively entrenched mechanisms to curb possible attempts at misappropriation of public funds.

- Catastrophe Loss Reserve

In addition to institutionalizing public relief funding structures the Philippine government has also been instrumental in the establishment of a National Catastrophe Insurance Scheme (NCIS). This move is in response to the difficulties faced by insurance companies operating in areas struck by catastrophic events. The Catastrophe Loss Reserve (CLR) is a special reserve fund introduced in 1996 and taken from the retained premiums of earthquake insurance and allied perils item lines. “In the year 2005, the catastrophe loss reserve account of the private insurance industry amounted to PHP 276,726,660.00,⁴⁰⁶ or US\$6,075,721.95. The CLR funds are capable of being invested in acceptable securities, as provided for by Section 200 of the Insurance Code XX, and are released to augment funding for the relief and rehabilitation efforts at the local government level. The NDCC Memo No 4, Series of 1998, outlines the procedures for having a national state of calamity declared and also sets out the criteria for establishing whether a state of calamity exists.⁴⁰⁷

The Philippines employs a complex funding mechanism within many component parts to finance natural disasters. There is a combination of governmental funds, both national and local, and private sector funding instruments that allow for the sharing of disaster costs across a broad section of society with both public and private sector actors.

j) BENCHMARK: VANUATU

i. Background & Applicable Legislation

In Vanuatu, the Ministry of Internal Affairs is charged with the responsibility for disaster risk management and supports the efforts of the National Task Force (NTF) for Disaster Risk Reduction and Disaster Management. The National Disaster Act 31 of 2000 (NDA) of the Republic of Vanuatu establishes the National Disaster Committee,⁴⁰⁸ which is charged with certain key duties in the management of disasters, including co-chairing the NTF. Of present relevance is its duty to advise the Minister responsible for disaster management on the need for aid to areas affected by disaster, and to provide advice to the government in relation to any agreements to be entered into in order to facilitate such aid.⁴⁰⁹

⁴⁰⁶ Financial Management of large-scale catastrophes in the Philippines, www.oecd.org/dataoecd/26/11/38155664.pdf, p.4

⁴⁰⁷ http://210.185.184.53/ndccWeb/images/ndccWeb/publication/ndcc_issuances/1998_issuances/Memo%20Order%20No%204%20Amended%20Policies,%20Procedures%20and%20Criteria%20for%20Declarations%20of%20a%20State%20of%20Calamity.pdf

⁴⁰⁸ National Disaster Act, Part 2, 5

⁴⁰⁹ National Disaster Act, Part 2, 4(2)(c)

In addition to existing legislative provisions, and in recognition of past inadequacies of national resource allocation in disaster situations, Vanuatu has developed a ten-year National Action Plan (NAP) for Disaster Risk Reduction and a National Adaptation Programme of Action (NAPA). A key component of the NAP is mainstreaming disaster risk and disaster management into the national planning and budgetary process.⁴¹⁰

When the NAP was adopted by the government in 2007, it resulted in a three-year Provisional Indicative Implementation Program (PIIP) from 2008 to 2010, being identified as the means to implement the NAP. The then Vanuatu Council of Ministers committed VT\$25 million (US\$220,887) towards this end and pledged to continue to raise funds for the full cost of the PIIP, an estimated US\$3.3 million.⁴¹¹ This commitment did not reach the NAP as it was not sponsored by the appropriations committee and as such was not presented to donors for consideration. To date, the NAP is still largely unfunded and ineffective.

ii. Funding Mechanism

The national government budget has a line item for disaster risk reduction; however, it is currently in abeyance as the required donor funds have not been forthcoming. And while the Department of Social and Economic Planning is responsible for monitoring Government decisions and budget developments, disaster risk reduction is viewed as the responsibility of specific departments.⁴¹² As such, the process is not streamlined and governmental departments and agencies are required to apply for additional funding on an as-needed basis. The situation is undesirable as Vanuatu's fledgling economy must rely heavily on international aid to support national disaster relief efforts. There is no national disaster relief reserve fund.

Vanuatu does not have a national disaster insurance scheme and current legislation does not require the government to insure public assets.⁴¹³ A joint World Bank-USAID pilot found that a national scheme would be financially unfeasible and suggested an alternative regional disaster insurance system. Vanuatu's current budget for disaster response is sought almost entirely from international agencies and as such their "budget appropriation" procedures are dictated by the applicable funding agency.

- **Pacific Catastrophe Risk Pool (PCRP)**

Vanuatu is a proposed member of the Pacific Catastrophe Risk Pool, a proposed risk financing vehicle similar to the CCRIF that would allow Pacific island states to pool the risk associated with disaster recovery activities. The PCRP is still, however, a concept financing mechanism and has not yet been fully adopted.

k) BENCHMARK: FIJI

The past two decades have seen a significant transformation in the Fijian national disaster management program from an ad hoc government committee for emergency response to a comprehensive national program covering preparedness, prevention, mitigation and rehabilitation activities with expressed emergency response mechanisms and procedures.

In 1998, the government passed the Natural Disaster Management Act 1998 (NDMA) which contains the legislative provisions for increasing the performance of relevant public and private organizations in relation to natural disaster relief efforts and related matters. Of particular relevance are sections 4, 11 and 16 of the NDMA which establish a National Disaster Management Council (Council), appoint the Permanent Secretary as the

⁴¹⁰ Vanuatu Disaster Risk Reduction and Disaster Management and National Action Plan (2006 -2016) (Mainstreaming DRM in Vanuatu) 13th Regional DM Meeting, Majuro –RMI 26th-29th Jun 2007, Job ESAU, Director NDMO, <http://www.pacificdisaster.net/pdnadmin/data/original/Vanuatu%20NAP.pdf>

⁴¹¹ Disaster Risk Management Programs For Priority Countries, East Asia and Pacific, p.105

⁴¹² Disaster Risk Management Programs For Priority Countries, East Asia and Pacific, p.111

⁴¹³ National Disaster Act, Part 5, 20

National Disaster Controller and stipulate the need for budgetary allocation within the Ministry responsible for disaster management of funds for administration by the Council to finance disaster management.

In the 2008 Fijian budget, sectoral allocations for disaster management were made in two line items. Specifically, FJ\$5 million, or approximately US\$ 2,636,464, was allocated to the National Disaster Relief and Rehabilitation Fund (DRRF), and FJ\$40,000, or approximately US\$21,000, was appropriated to the National Disaster Management Office.⁴¹⁴ Once a disaster has been declared, in accordance with the NDMA emergency powers, the disaster management plans and Emergency Operation Centres are activated.

The DRRF was established in the 2004 budget with a sum of FJ\$2 million, or approximately US\$1,054,585. It is managed by the President's National Disaster Committee (a Cabinet Sub-Committee) and was created to support disaster operations.⁴¹⁵ While the DRRF was set up to solicit funding from international aid organizations and the private sector, it was also designed to be self-sustaining with the significant inclusion of an investment arm of its operations. Furthermore, it was designed to offer tax incentives for private sector contributors.⁴¹⁶

l) BENCHMARK: SINGAPORE

Pursuant to the Civil Defense Act 1995, the disaster response system in Singapore is led by the Singapore Civil Defence Force (SCDF). The SCDF is mandated to activate the national response plan code; the Operations Civil Emergency Plan (OCEP). OCEP is the national contingency plan for civil emergencies and outlines the operation of the SCDF and all related agencies. The SCDF retains primary responsibility for the multi-agency response with the assistance of the Joint Planning Staff (assemblage of representatives from all agencies).⁴¹⁷

While information is not readily available on the amounts of funding, Part XI, Section 148C of the Constitution of the Republic of Singapore, provides the legislative basis for the creation of a contingency fund for both the Consolidated Fund and the Development Fund. The Minister responsible for finance may make advances from such funds if it satisfies that there is some critical and unanticipated need for such expenditure and there is no sufficient provision made for such expenditure, under existing supply laws.

m) BENCHMARK: AUSTRALIA

Australia has a federal legislative framework supported by local government structures including individual state legislatures. Natural Disaster Relief and Recovery Arrangements (NDRRA) was selected as the primary means to provide assistance, support and funding for emergency disaster relief responses at the state and local government level. NDRRA is administered by Emergency Management Australia (EMA), an arm of the Australian Government Attorney-General's Department.⁴¹⁸

The NDRRA is based on the terms and conditions of a Determination made by the Australian Government Minister

⁴¹⁴ 2008 Fiji Islands Budget Summary, "An Overview of the Fiji Government 2008 Budget", 23rd November 2007

http://www.afbc.org.au/Economic_2008%20Budget_KPMG_Commentary.pdf, p.27

⁴¹⁵ "Fiji National Disaster Risk Management Plan Overview", Presented by Joeli Rokovada, Director National Disaster Management Office, Sub Regional Public Health and Emergency Management for Asia and the Pacific (PHEMAP) Training Course, Tanoa Hotel, Nadi, Fiji. 20.11.06- 01.12.06,

<http://www.wpro.who.int/internet/files/eha/dir/Subregional%20PHEMAP/Fiji%20National%20Disaster%20Risk%20Management%20Plan%20Overview.pdf>

⁴¹⁶ "Working Towards Good Governance For Effective Risk Reduction –Fiji Experience" Joeli Rokovada, Director, National Disaster Management Thematic Session -National Systems for Disaster Risk Management in the Context of Governance: World Conference on Disaster Reduction, 20 January 2005, Kobe Japan, <http://www.unisdr.org/wcdr/thematic-sessions/presentations/session1-3/fiji-mr-rokovada.pdf>

⁴¹⁷ Total Disaster Risk Management, "Disaster Management in a City State- Singapore," Asian Disaster Reduction Centre, p. 87- http://www.adrc.asia/publications/TDRM2005/TDRM_Good_Practices/PDF/PDF-2005e/Chapter3_3.3.8.pdf

⁴¹⁸ See Emergency Management Australia at

http://www.ema.gov.au/www/emaweb/emaweb.nsf/Page/EmergencyManagement_RecoveringfromEmergencies_NaturalDisasterReliefandRecoveryArrangements_AbouttheNDRRA

for Local Government, Territories and Roads. The NDRRA is applicable to a wide cross-section of natural disasters including bushfires, earthquakes, floods, storms, cyclones, storm surges, landslides, tsunamis, meteorite strikes or tornados. However, drought, frost, heat wave, epidemic, and disasters resulting from poor economic planning, commercial development and personal intervention are ineligible for assistance through NDRRA.

Under the NDRRA, the federal government disburses its financial support to state and territorial governments through a partial reimbursement of their demonstrable expenditures on disaster relief and recovery. The NDRRA also provides partial funding for the Community Recovery Fund (CRF) which becomes applicable when a community is severely affected by a natural disaster event.⁴¹⁹

NDRRA funding is available to states for relief and recovery expenditure for events that exceed AU\$240,000. The onus is on the state or territory to notify EMA of the emergency event and their eligibility for reimbursement. The amount of NDRRA reimbursement for natural disaster expenditure for each state is dependent on set thresholds.⁴²⁰

An example of the government's fiscal responsiveness and willingness to employ various approaches to challenges brought by various disaster scenarios is evidenced through the response to the 2009 bushfires which recently activated an Australian Government Disaster Recovery Payment (AGDRP). The AGDRP is a form of federal funding made available to people who have been adversely affected by bushfires. The AGDRP provides a one-off, immediate payment of AU\$1,000 per eligible adult and AU\$400 per child. In further response to the recent spate of bushfires, the Australian government has also enacted the Income Recovery Subsidy to provide assistance to those members of the workforce who have lost income as a result of the bushfires, in the form of fortnightly payments over a period of 39 weeks at rates that vary depending on the individual circumstances. Finally, financial assistance was given to pay up to AU\$5,000 for the funeral/memorial costs of each of those who died or were missing as a result of the disaster.⁴²¹

While Australia takes a more "hands off" approach at the federal level, certain mechanisms have been put in place to stem concerns surrounding misappropriation of budgeted funds. Indeed, the Australian Government may, acting through the Department of Transport and Regional Services, hold membership on any panel, committee or board that has delegable authority regarding the distribution of packaged federal funding.⁴²² Likewise, the Australian funding mechanism is designed as reimbursable assistance and is not intended to supplant, or operate as a disincentive for self-help, by way of either commercial insurance or appropriate strategies of disaster mitigation.

n) BENCHMARK: COLOMBIA

In Colombia the disaster management system is decentralized and is based on a system of coordinated intra-governmental cooperation at the national and local levels. The legislative framework for this system is found in the Decree Law 919 of 1989 and the National Plan Decree of 1998. The chief organizational body responsible for disaster preparedness and management at the national level is the National System for Disaster Prevention and Response (SNPAD).

⁴¹⁹ Natural Disaster Relief and Recovery Arrangements, COMMUNITY RECOVERY PACKAGE GUIDELINES 2007, The Australian Government, Department of Transport and Regional Services

[http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~NDRRA_Guideline_4-Community_Recovery_Package.pdf/\\$file/NDRRA_Guideline_4-Community_Recovery_Package.pdf](http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~NDRRA_Guideline_4-Community_Recovery_Package.pdf/$file/NDRRA_Guideline_4-Community_Recovery_Package.pdf)

⁴²⁰ See Emergency Management Australia at

http://www.ema.gov.au/www/emaweb/emaweb.nsf/Page/EmergencyManagement_RecoveringfromEmergencies_NaturalDisasterReliefandRecoveryArrangements_AbouttheNDRRA

⁴²¹ http://www.disasterassist.gov.au/vic_fires_09/assistance.htm#3

⁴²² Natural Disaster Relief and Recovery Arrangements, COMMUNITY RECOVERY PACKAGE GUIDELINES 2007, The Australian Government, Department of Transport and Regional Services available at

[http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~NDRRA_Guideline_4-Community_Recovery_Package.pdf/\\$file/NDRRA_Guideline_4-Community_Recovery_Package.pdf](http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~NDRRA_Guideline_4-Community_Recovery_Package.pdf/$file/NDRRA_Guideline_4-Community_Recovery_Package.pdf)

Under Colombian law, local governments must set aside resources to implement disaster risk reduction and relief efforts.⁴²³ In some local municipalities, such as the second most populous municipality of Medellin, City Emergency Committees funded by the state budget have been implemented. This measure is held to give a greater degree of autonomy at the local government level, which directly impacts the responsiveness capabilities of the state bodies in emergency situations. In fact, in 2008 in Medellin, US\$5 million was put aside from the municipal budget for risk management purposes. Further support is given to Colombia by international funding institutions.

o) BENCHMARK: GAMBIA

The National Disaster Management Act of 2008 provides funding mechanisms for disasters via the National Disaster Management Agency (NDMA), the institutional body tasked with managing Gambia's national disaster management program, and other regional and district committees.

Pursuant to the Act, disaster funds are set up at the national, regional and district levels. The national disaster fund and the regional disaster funds are funded by appropriations to the office of the Vice President by the National Assembly and by appropriations to the governor's office for the region either by the National Assembly or Department of State responsible for Local Government, respectively. District level disaster funds are funded by appropriations by the District Chief for the district from district taxes, levies and commissions. Money in these funds is designated for the purpose of preventing, responding to, mitigation of, or recovery from any threatening disaster, situation or actual disaster.⁴²⁴ Money in national, regional and district funds are exempt from taxation and are subject to audits by the auditor general. The Gambian national disaster funding mechanism has recently been adopted via the Act. It is the first disaster management related legislation in the African nation.

⁴²³ "Colombia: Integrating disaster risk reduction at the local level" Sistema Nacional de Prevención y Atención de Desastres (SNPAD), Luz Amanda Pulido, p.2, http://www.eird.org/wikien/images/Colombia_NP_Good_practice_-_02_07_08.pdf

⁴²⁴ Available at <http://www.gm.undp.org/Reports/diaster%20management%20strategic%20action%20plan.doc>

2.2 Funding & Budget Appropriation Best Practices Analysed

Natural disasters have increased exponentially in both frequency and severity, putting pressure on national governments to meet the skyrocketing costs associated with prevention, mitigation and recovery activities. There are a myriad of financing mechanisms that can be used to finance disaster mitigation and response activities. Additionally, national and local governments determine their funding requirements using distinct and diverse formulas and appropriate funds for disaster recovery in various ways.

This section of the deliverable discusses the components for consideration in constituting a disaster funding and budget appropriation mechanism. It extracts from the previous section the key elements of an appropriate disaster funding mechanism and discusses the implications and challenges of those elements for the target countries. The desired characteristics and underlying principles for disaster funding methods include the following key elements:

- ❖ **Adequacy.** Disaster related activities both pre and post disaster involve considerable expenses for both regional and national governments. Moreover, these expenses continue to rise as a result of the frequency and increased magnitude of natural disasters. As such, national governments, and their attendant institutional bodies, will require adequate resources to effectively and efficiently discharge their disaster related functions and legislative responsibilities. In addition to being adequate, disaster funding mechanisms should be designed to provide continued and sustainable funds for both pre and post disaster projects. Adequacy has remained an issue for all benchmarked territories as forecasting disaster costs is not an exact science and in almost all circumstances, the forecasts have fallen short of the actual funding needs.

In addition to the primary funding mechanism, each benchmark country has also adopted a supplementary mechanism for providing additional funding to support disaster response activities for natural disasters that exhaust the primary funds. For example, the U.S.A. uses supplementary budget appropriations to the DRF to augment its disaster funding needs; India, Singapore and Indonesia all have contingency or rainy day funds with dedicated, pre-budgeted funds, which are accessed on once the primary funding source is exhausted.

Adequacy of disaster funds will undoubtedly present a major hurdle for target countries, whose national budgets are generally grossly underfunded and tend to be supplemented by international funding arrangements, including aid and loans. Notwithstanding, target countries must adopt a dedicated disaster funding source, such as a disaster relief fund, which is a recurrent line item on the national budget. Likewise, appropriate legislation and regulation should also be adopted to secure the integrity of that primary funding source by preventing funds from being re-allocated to other purposes and to prevent misappropriation and mismanagement of disaster funds.

Key Imperative: There should be dedicated funds allocated on a routine basis to support both mitigation and recovery efforts. Further, supplemental or contingency funding methods should be adopted for instances where the disaster event surpasses the capabilities of the primary funding mechanism. This overall scheme ensures that countries are prepared, to the best extent possible to unilaterally fund its disaster management needs. Likewise, the incorporation of private sector funding is recommended to fill the gaps that exist for disaster funding.

- ❖ **Risk Analysis.** Because resources are not unlimited, governments should develop mechanisms and procedures to assess their potential financial exposure to natural disasters. Risk analysis assists countries in making a good faith estimate of the costs that will be required to fund disasters of various scales and to make appropriations that are better geared to financing the actual costs of a disaster. Likewise, post-disaster risk assessments are required immediately subsequent to an event so that adequate funding can quickly be released to assist disaster victims and restore critical infrastructure.

The benchmark countries employ different risk assessment methods. For example, the U.S. attempts to estimate their disaster cost based on, among other things, a five-year rolling average of normal disasters and estimates obtained from the field on pending (still open) disaster projects. Meanwhile, India's Finance Commission designates and fixes the size of the Calamity Relief Fund after taking into account the expenditure on relief and rehabilitation over the past ten years.

Risk analysis both pre and post disaster will be critical in the target countries as developing accurate or near accurate forecasts of funding requirements is essential to determining the adequacy of funding. Risk analysis will serve to put target countries on notice of the potential disaster funding short falls and can serve as an impetus for target countries to seek additional funding on the international market or through alternative funding schemes to supplement their disaster funding reserves ex-ante. Likewise, risk analysis post disaster is critical to ensure that an appropriate amount of funding is quickly distributed to affected areas in order to adequately address the recovery and reconstruction efforts.

Key Imperative: Funds allotted for disaster recovery should be based on a realistic risk assessment.

- ❖ **Efficiency.** The disaster fund and its attendant administrative requirements should not result in costly expenditures for the national or regional government. The costs associated with management, investment and administration of the funding mechanism should be minimised or eliminated, if possible. Likewise, the procedures for accessing the funds and ensuring accountability, such as the application procedures and reporting obligations, should be streamlined to avoid creating a complex bureaucratic process or institution

Key Imperative: Disaster funds should be supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard.

- ❖ **Risk Pooling.** Disaster costs exert a huge economic burden on the national economy. Traditionally, developing countries have either relied on their own limited financial resources and international assistance to cover their disaster losses. The traditional approach, due to the limited resources of developing nations, places a strain on the ability of the countries to adequately fund immediate disaster needs, post-disaster reconstruction, and longer-term economic and social development programs. Risk pooling mechanisms, such as insurance and public private partnerships, allow countries to transfer some of the risk associated with disaster recovery activities, although the individual nation may lack the scale necessary to transact cost-effectively in the global marketplace, and is being used as financing alternative to overcome the funding shortcomings of the traditional approach. Participation in insurance pools may be mandated by law or regulation, as with Indonesia's MAIPARK. As such, desirable disaster funding mechanisms should seek to distribute the burden of disaster risk financing among both the public and private sector, and if possible the international marketplace.

In Indonesia government and private insurers and reinsurers share the cost of earthquake disaster risks through MAIPARK, a legislated risk pooling mechanism involving both the private sector and government.

The Caribbean Catastrophe Risk Insurance Facility (CCRIF), a pioneer in regional disaster risk pooling, allows CARICOM governments to pool their country specific disaster risk and purchase insurance coverage to finance immediate post-disaster recovery needs at a deeply discounted rate.

Key Imperative: Given the scarcity of resources, all target countries should seek to defray the risks and costs associated with disaster risk reduction, response and recovery by pooling risks between the public and private sectors, as well as regional and international counterparts, where feasible.

- ❖ **Elimination/Reduction of Moral Hazard.** The funding mechanism should hold all the stakeholders responsible for their actions or inactions. Specifically, the funding requirements should be designed in such a way to encourage the adoption of mitigation measures, use of insurance and proper financial planning for

disaster management activities. The goal is reduce or eliminate the moral hazard behaviour of funding recipients, including, but not limited to, individuals and local government.

The CCRIF, for example, includes mechanisms to avoid moral hazard. Participating countries to the CCRIF who implement mitigation strategies will overtime reduce the cost of their annual insurance premium. This mechanism provides incentives for participating countries to take a proactive approach at adopting mitigation techniques that will reduce the costs and risks associated with natural disasters.

Key Imperative: The funding mechanism should encourage, by inclusion of incentives, the adoption of mitigation programs and initiatives, by key government and private sector stakeholders, which will lessen the risks and costs of disaster events, thereby reducing the funding burden on the national government.

- ❖ **Legislative Entrenchment** - Funding mechanisms should be properly entrenched in national or local law with the adoption of appropriate regulations. The legislative framework, in addition to providing for the establishment of the funding mechanism and the supporting institutional framework, should seek to ensure non-discriminatory and equitable distribution of disaster funds and implementation of funding programs. Likewise, any legislation adopted with respect to disaster funding should clearly define the roles, responsibilities and obligations of the main stakeholders.

All benchmarked jurisdictions have adopted legislation which specifically provide for the constitution of a specific disaster funding mechanism. As such, legislative entrenchment of a determined funding mechanism is an observed and critical best practice recommended for adoption in the target countries. Notwithstanding, the requirement for legislative authority, budget allocation formulas and procedures are generally determined based on the recommendation of disaster management agency or a delegated state financing authority.

Key Imperative: Disaster funding mechanisms should be supported by sound legislative enactments that clearly define the parameters of any disaster management funding scheme, secures the integrity of the funding mechanism by protecting the funding source from budgetary re-allocation and by legislatively penalising misappropriation.

PART III

3.0 International Aid, Relief & Recovery Efforts

International aid and relief plays a significant role in handling most severe natural disasters. In most cases, natural disasters are of such a size and magnitude that they can successfully be addressed domestically by national authorities and the local civil society. However, the costs, frequency and magnitude of natural disasters continue to rise, putting significant strain on local and national governments to meet pre and post disaster management needs. In the ten years between 1980 and 1990, 2073 disasters affected 1.3 billion people and caused an estimated damage of over 186 billion USD. In just the first six years of the new millennium, the figures have risen to 3520 disasters, affecting 1.7 billion people with damage exceeding 450 billion USD.⁴²⁵ Disasters are sometimes so large that they overwhelm national coping capacities and need the assistance of international actors in order to ensure that critical humanitarian needs are promptly and adequately met.⁴²⁶ Globally, annual humanitarian aid allocations from all recorded sources are estimated at 10 billion US dollars.⁴²⁷

International aid, relief and recovery are thus an essential element of any disaster risk reduction programme and governments should adopt comprehensive legal, policy, and institutional frameworks which facilitate the role of international and regional aid organizations. Specifically, these frameworks should adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance.⁴²⁸

Currently, there is no central treaty regime for international disaster response. However, disaster relief has developed at the global level on separate tracks in many sectors or areas of international law, as well as in many “soft law” instruments, such as resolutions, declarations, codes, models, and guidelines, that are not formally binding but nevertheless exercise varying levels of moral authority as evidence of international consensus and/or best practice.⁴²⁹

3.1 Best Practices

The International Federation of Red Cross and Red Crescent Societies (IFRC) is the world's largest humanitarian organization. The IFRC, through the International Disaster Response Laws, Rules and Principles (IDRL) Programme and its numerous studies and consultations with stakeholders, has formulated guidelines for the best practices with respect to the legal and institutional framework for international aid and recovery. As such, this portion of the deliverable will address the best practices as formulated by the IDRL as opposed to the practices of the individual benchmarked territories. According to the IFRC, the following are the key areas and policy imperatives that underlie the framework for international aid and recovery efforts in disaster management.⁴³⁰

❖ Initiation & Termination of International Relief Efforts

When a disaster strikes, time is generally of the essence with respect to recovery efforts. National governments should therefore clearly outline, through legislation or administrative procedures, the processes through which international aid and recovery efforts are initiated and can be terminated. Affected states will have to enact laws

⁴²⁵ Katrien Beeckman, *IDRL and the Domestic Legal Framework for International Disaster Relief and Initial Recovery*, Address at the 2007 Webster University Humanitarian Conference in Geneva available at <http://www.ifrc.org/docs/news/speech07/kb150207.asp>

⁴²⁶ International Federation of Red Cross and Red Crescent Societies, *Law and Legal Issues in International Disaster Response: A Desk Study*, 2007

⁴²⁷ http://www.ari.nus.edu.sg/docs%5CAceh-project%5Cfull-papers%5Caceh_fp_johntelford.pdf

⁴²⁸ International Federation of Red Cross and Red Crescent Societies, *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* available at <http://ocha.unog.ch/drptoolkit/PreparednessTools/IL%20Frameworks/IDRL%20guidelines%20-%20en.pdf>

⁴²⁹ International Federation of Red Cross and Red Crescent Societies, *Law and Legal Issues in International Disaster Response: A Desk Study*, 2007

⁴³⁰ International Federation of Red Cross and Red Crescent Societies, *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* available at <http://ocha.unog.ch/drptoolkit/PreparednessTools/IL%20Frameworks/IDRL%20guidelines%20-%20en.pdf>

and implements regulations that give clear instructions with regards to conducting a needs assessment, which helps determine the need to initiate, and ultimately terminate, international assistance.

- **Initiation** - Disaster relief or recovery assistance should be initiated after the state has quickly determined the need for international humanitarian assistance and only with the consent of the affected state and in principle, on the basis of an appeal.⁴³¹ The IDRL has articulated the following best practices for the initiation of international assistance:
 - Laws and policies should include clear processes and assignments of responsibility with regard to decision-making and communication concerning the initiation of international assistance.
 - Laws and policies should set out procedures for undertaking and evaluating rapid needs assessments. Systems for sharing assessment information between national and sub-national levels of government should be clearly established.
 - The domestic legal regime concerning states of disaster/emergency should not unnecessarily delay a request for international assistance.
 - States should adopt a policy of “welcoming international assistance” in the event that a formal appeal or request would be delayed for reasons other than absence of need, such as nationalistic or political concerns. In this model, states will issue a blanket statement of its consent, as opposed to a request, for humanitarian assistance.
 - Early multi-stakeholders need assessment missions by international humanitarian organizations including the UN, even in case of some doubt about the eventual need for international relief.
- **Termination** – There should be clearly articulated procedures for when an affected state or international responder wishes to terminate disaster relief or initial recovery assistance. A well defined exit strategy also provides greater impetus for states to initiate international responders.

❖ Privileges and Immunities

International relief states and organizations involved in disaster response must be granted certain privileges and immunities that facilitate their operations on the ground and that relinquish them of certain liabilities given the nature of their work and the emergency presented by the disaster. This is a critical tool for international relief states and organizations involved in disaster response, inasmuch as it addresses many of the access and operations issues identified as the most problematic in field operations. While the content of privileges and immunities varies to some extent by the holder, at their core is the objective of allowing the holder of the privilege to easily enter, exit and operate in a foreign country with minimum interference from domestic authorities (once the latter have invited them into their country). Common among these privileges are:

- **Immigration & Customs:** Exemption from standard immigration restrictions and work permit rules. In this regard, countries are urged to adopt relaxed immigration policies to receive international aid workers and for the transit of those workers through their territory. The laws and regulations should provide for the issuance and renewal of exit, transit and entry visas and any necessary work permits to international relief personnel. Countries are also encouraged to lessen the bureaucracy in their customs regulations and duties. Specifically, the IDRL recommends expedited processing and waiver of duties, fees and charges other than reasonable user fees; exemptions from taxes, export, transit, and import restrictions; waiver or reduction of inspection and documentation requirements; and imposition of extended hours as necessary for the responsible institutions.
- **Goods & Equipment:** Originating, transit and affected states should reduce or eliminate legal and administrative barriers to the exportation, transit, importation and re-exportation of good, materials, medications, foreign currency and equipment by assisting states and eligible assisting humanitarian

⁴³¹ International Federation of Red Cross and Red Crescent Societies, *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* available at <http://ocha.unog.ch/drptoolkit/PreparednessTools/IL%20Frameworks/IDRL%20guidelines%20-%20en.pdf>

organizations in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law.

- **Taxation & Service Requirements:** Exemptions from personal or military service and similar requirements, as well as from most domestic 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.
- **Infrastructure and Communication:** Inviolability of buildings, archives and communications. Affected states should waive or expedite the granting of any applicable licenses and reduce any other barriers regarding the import or export of telecommunications and information technology equipment by assisting states and assisting humanitarian organizations. 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.
- **Transportation and Movement:** Assisting states and international relief organizations should be granted, without undue delay, freedom of movement by the waiving restrictions, tolls, and charges on land, sea or air vehicles bearing disaster response personnel, goods and equipment
- **Legal Standing and Validity:** Immunity of international aid states, organizations and individuals from the jurisdiction of domestic courts and administrative tribunals; the recognition of foreign legal instruments such as licenses, registrations, etc.
- **Legal Status:** Legal status to the entity at the domestic level, upon entry or as soon as possible thereafter, should allow assisting states and eligible assisting humanitarian organizations to legally operate in 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 institute legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.

❖ Coordination

The need for coordination in disaster relief efforts is a critical component to the efficacy of the relief effort. There are increasing number of countries and humanitarian groups engaged in international relief efforts globally. However, lack of coordination between government, local actors and international organisations remains a major challenge that tends to undermine the effectiveness of the relief effort. According to the IFRC, coordination may be defined to include the “general elements of interaction between the States Parties or their competent bodies, mutual assistance in the provision of technical facilities and equipment, and the planning and carrying out of activities related to emergency response.”

The UN General Assembly has attempted to address the issue of coordination through the adoption of various resolutions in this area. Likewise, in 2005, the United Nations set up a Cluster System whereby UN agencies would lead the provision of different types of humanitarian aid in cooperation with non-governmental relief groups during disaster related events to eliminate redundant efforts and confusion. Other treaties, such as 1986 Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, also propose mechanisms for effective coordination during disaster events.

Notwithstanding, it is a recognised principle that the national government of the disaster-affected country should be the primary body coordinating the response efforts of all parties. However, IFRC studies have revealed that generally local authorities have limited knowledge and experience of the “international response system” and lack an understanding of the different mandates and operating procedures of the various international agencies involved, which thus reduces their ability to be effective coordinators.⁴³² Coordination problems may be reduced where government have pre- disaster response plans or individual memoranda of understanding in place, detailing the respective roles of the different agencies involved.

⁴³²http://www.ifrc.org/docs/pubs/disasters/IDRL_Fieldstudies_results0303.pdf#xml=http://search.ifrc.org/cgi/texis.exe/webinator/search/pdf/i.txt?query=coordination&pr=english&prox=page&rorder=500&rprox=500&rdfreq=500&rwfreq=500&rlead=500&sufs=0&order=r&cq=&id=43d50a6f7

3.1.1 Observations & Lessons Learned

a) Indonesia

Indonesia, on December 26, 2004, was struck by a massive offshore earthquake which caused the sudden vertical rise of the seabed and triggered the displacement of massive volumes of water resulting in a giant tsunami. In Indonesia alone, the tsunami killed approximately 130,000 people and, along with 514,000 refugees, left 37,000 more missing and presumed dead. The tsunami caused an estimated US\$4.3 billion loss of the social sector, infrastructures, transportation, communications, fisheries, energy, and the environment. The tsunami also affected several South Asian countries, including, but not limited to, India, Sri Lanka, Thailand and Myanmar.

The tsunami was a major challenge for international humanitarian efforts due to the remoteness of the affected regions and the magnitude of the disaster. Nonetheless, it triggered overwhelming national and international response, with multiple partners, funds and programmes delivering emergency relief and recovery assistance. Individual citizens, national governments and international financial institutions around the globe contributed funds to the recovery, resulting in an estimated US\$13.5 billion in aid.

The tsunami crises, however, unveiled the following critical observations and lessons with respect to international aid, relief and recovery:⁴³³

1. **Need for a comprehensive national and local legal framework for disaster management with a clear command and control structure.** Indonesia's legislative framework although existent was fragmented and weak. Moreover, there were no clear and articulated definition of roles and responsibilities for public administration bodies during the disaster recovery effort. As such, ad hoc decrees and regulations were issued to respond to the emergency, creating to some extent duplicative and ineffective structures with uncertain power and resourcing.
2. **Lack of coordination between government and international responders can significantly hamper relief and recovery efforts and detract from the efficacy of the recovery program.** Coordination problems at the local, regional and international level of a large scale international disaster response were underscored during the Indonesian crises. During the crises, there were an unprecedented number of international responders, each prioritizing their respective relief efforts and programs rather than applying a strategically concerted response initiative. As a result, aid failed to reach critical areas and vulnerable groups such as pregnant mothers and children were to some extent overlooked. These experiences have led to the formation of the UN Cluster System, discussed above, and more emphasis on developing policies and plans whereby national authorities play a primary role coordinating and directing national and international assistance.

b) Haiti

The January 12, 2010 earthquake in Haiti which destroyed its capital city Port-au-Prince, a densely populated urban area, and resulted in a death toll exceeding 200,000, is one of the largest natural disasters in the western hemisphere. As such, Haiti's experience can provide guiding principles with respect to international aid, relief and recovery efforts in the immediate aftermath of a large scale natural disaster. The Haitian disaster is an on-going disaster relief initiative as such the commentary is based mainly on observations as opposed to definitive lessons learned.

The primary goal of disaster relief efforts is the delivery of life-saving and livelihood-restoring assistance to people in dire conditions, ways that are equitable, impartial and according to needs. Haiti has received an unprecedented amount of humanitarian aid and funding to assist its recovery and relief efforts. In response to its flash appeal for

⁴³³ Government of Indonesia and United Nations, *Post Tsunami Lessons Learned and Best Practices Workshop*, 2005 available at http://www.humanitarianinfo.org/sumatra/reference/workshop/docs/GoI-UN-LessonLearnedBestPracticesWorkshop_16-17May2005.pdf

funding of US\$577 million dollars, Haiti has received almost 99%, or US\$569 million, of the desired funding requirements.⁴³⁴

Notwithstanding the availability and abundance of humanitarian relief and aid, Haiti's relief efforts have been significantly compromised as a result of lack of coordination and leadership. The coordination break down in Haiti has stemmed from the complete breakdown in governance, infrastructure and institutional structures as well as the absence of a clear disaster plan. Significant among the deficiencies caused by the lack of coordination is the logistical and operational inefficiencies that have prevented critical relief supplies, such as food, water, shelter and medical care from reaching Haitian victims expeditiously.

Another observation from the Haitian disaster is the critical need to maintain social stability and order in the aftermath of a disaster. Maintaining order, or the lack thereof, is, in the case of Haiti, to some extent related to the inadequate and/or delayed flow of sufficient humanitarian assistance which has resulted in desperation and hopelessness among the Haitian people. Haitian disaster response personnel have the monumental task of restoring essential services, such as law enforcement, banking and remittance systems, so as to provide victims with critical services that are geared to maintaining law and order.

The Haitian disaster response has also benefited from lessons learned in the Indonesian tsunami disaster. Traditionally, public aid was often given in the form of clothes, shoes, food etc. However, an emerging practice is to give disaster victims cash instead. The rationale is that cash allows for the optimal use of resources and the reduction in waste of undesired aid. Additionally, cash aid also helps to support and stabilize the local economy. The Disaster Emergency Committee, a non-governmental humanitarian consortium consisting of Action Aid, British Red Cross, CAFOD, CARE International UK, Christian Aid, Concern Worldwide, Help the Aged, Islamic Relief, Merlin, Oxfam, Save the Children, Tearfund, and World Visions, has been distributing cash instead of food parcels, upon the finding that food production within Haiti is at a sufficient level. As such, Haitian disaster victims receive cash and buy needed food supplies from local farmers and producers. This concept of cash aid was borne out of the Asia tsunami crises and is an emerging mechanism that both gets need supplies to the victim and supports the revitalization of the local economy.

Overall, the most critical lesson learned from the Haitian disaster relief effort is the need for a local, regional and international disaster coordination plan for disaster prone countries, which provides not only for the movement of aid into affected areas but also for a coordinated disaster management system. The disaster management system should also allow for contingencies, such as the incapacitation of local disaster coordinators such as the government or the UN – both of which were significantly disabled in the aftermath of the Haitian earthquake- and make provision for regional or international actors to be activated to manage the disaster activities.

As Haiti moves through the different phases of disaster response activity, namely search and rescue to reconstruction, many more lessons and observations will undoubtedly be unearthed to provide instruction for future disaster events.

⁴³⁴ http://ocha.unog.ch/fts/reports/daily/ocha_R21_Y2010_asof___1002121815.pdf

PART IV

4.0 Emergencies, Disasters and National Security

Introduction

Among benchmark jurisdictions, national security concerns also provide a basis for the declaration of disasters and states of emergencies. The definitions of both disasters and emergencies should provide a foundation to be made regarding national security issues. The focus of this part is on national security concerns as the basis for an emergency or disaster declaration. It is acknowledged that as a consequence of some natural disasters, issues of peace, order and civil unrest may arise. These consequences are not discussed, however, because the issues are dealt with under the authority of the main disaster or emergency declaration.

In Jamaica, national security has been described in the following manner by the Hon. Dr. Peter Phillips, Member of Parliament, Minister of National Security:

“National security may be described as the measures taken by a State to ensure its survival, security and protection of its interests. Sometimes national security is considered to be synonymous with defence from external threats in particular. In reality, and particularly in the Jamaican context, national security includes the maintenance of armed forces; maintenance of order by non- military agencies, including emergency preparedness; creation of resilience and redundancy in national infrastructure; maintenance of intelligence services to deter threats; protection of sensitive information, and maintenance of law and order internally through the police and other arms of the Criminal Justice System.”⁴³⁵

Goals 3, 4 and 8 of the Jamaica National Security Strategy provide linkages to national security. Goal 3 is to protect Jamaica against terrorism and Goal 4 - to protect and control Jamaica’s Territory. Goal 8 is even clearer and identifies the important linkage to disasters. It provides “To Protect Jamaica’s Natural Resources and Reduce the Risks of Disasters.” The objectives have been described to include:

“the development or revision of disaster plans for all hazards, national awareness programmes, development planning, forecasting and improved response capabilities. Implementation of sustainable mitigation measures from international, regional, national (which includes all sectors) and community levels... The goal additionally focuses on the island’s capability to deal with emerging man-made disaster risks such as terrorism and major shipping accidents involving nuclear materials.”⁴³⁶

At a regional level, national security concerns should also be noted. The Caribbean Community (CARICOM) Implementation Agency for Crime and Security (IMPACS) was established by the Twenty Seventh Meeting of the Conference of Heads of Government of CARICOM in July, 2006. Part of the remit of IMPACS is to provide support in addressing national security issues. In time IMPACS should prove a useful partner to Caribbean countries in addressing these concerns.

4.1 Comparison Among Benchmark Jurisdictions

For some jurisdictions, the definitions of disasters and emergencies provide the foundation for action to be taken to address national security concerns. The definitions of disasters, however, tend to be deficient in some jurisdictions

⁴³⁵ National Security Strategy for Jamaica Towards a Secure and Prosperous Nation Revised May 2006 See Page 7 of National Security Strategy. At <http://www12.georgetown.edu/sfs/clas/pdba/Security/citizenssecurity/jamaica/programs/SecurityStrategy.pdf>

⁴³⁶ See Page 95 at <http://www12.georgetown.edu/sfs/clas/pdba/Security/citizenssecurity/jamaica/programs/SecurityStrategy.pdf>

when addressing national security concerns, while definitions of emergencies provide a stronger basis for integrating national security concerns. The relevant definitions among benchmark countries are highlighted below:

- **The Marshall Islands-** Disaster Assistance Act 1987 (hereinafter referred to “the Marshall Islands Act”) (a) *'disaster' means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, ... explosion, or civil disturbance*; (underlining highlights national security concern).
- **United States of America - Sec. 102. Definitions (42 U.S.C. 5122)** *“Emergency” means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.*
- **Canada – Emergencies Act 1985** (hereinafter referred to “the Canada Act”) For the purposes of this Act, a *“national emergency” is an urgent and critical situation of a temporary nature that... (b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada and that cannot be effectively dealt with under any other law of Canada.*
- **The Micronesia Act § 703._ (5)** *“State of Emergency” means a formal declaration by the President in a situation where it is required to preserve public peace, health, or safety, at a time of extreme emergency caused by a disaster, and where the States need National and possibly international aid to prevent, prepare for, or recover from the disaster.*

4.2 Lesson from Definitions

The lesson which emerges here is to provide a strong definitional basis for national security concerns in legislation. The absence of clear definitions calls for interpretation of the relevant legislation. This interpretation of legislation, prior to action on issues as critical as national security, can delay and detract from effective and timely action.

4.2.1 Example from Benchmark Jurisdiction - the United States of America

It should be noted that national emergency concerns provided a basis for emergency declarations in the United States of America, particularly as a result of the 11 September, 2001 terrorists attack. The declaration was issued on the 23rd September, 2001 by then President of the United States of America George W. Bush.⁴³⁷ It was accompanied by a detailed and far reaching Executive Order, which had the effect of blocking property and prohibiting transactions with persons who commit, threaten to commit, or support terrorism. The declaration regarding the September 11th 2001 terrorist attack was based on the exercise of powers conferred “Pursuant to section 204(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(b) (IEEPA), and section 301 of the National Emergencies Act, 50 U.S.C. 1631.”

Using that power, President Bush declared national emergency *“in response to the unusual and extraordinary threat posed to the national security, foreign policy, and economy of the United States by grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001, terrorist attacks at the World Trade Center, New York, at the Pentagon, and in Pennsylvania.”*

The Executive order was stated to:

⁴³⁷ The full text of the declaration can be accessed at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_documents&docid=f:hd126.107.pdf

“to help deal with this threat by giving the United States more powerful tools to reach the means by which terrorists and terrorist networks finance themselves and to encourage greater cooperation by foreign financial institutions and other entities that may have access to foreign property belonging to terrorists or terrorist organizations”

The order also formed the basis for increased cooperation and collaboration among critical agencies including the Secretary of the Treasury, the Secretary of State, and the Attorney General. The Executive order further vested several powers in respective agencies in the following manner;

“The Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, is authorized to issue regulations in exercise of my authorities under IEEPA to implement the prohibitions set forth in the Executive Order. All Federal agencies are also directed to take actions within their authority to carry out the provisions of the order, and, where applicable, to advise the Secretary of the Treasury in a timely manner of the measures taken.”

The Declaration issued in 2001 was continued annually by President Bush until 2008,⁴³⁸ when it was extended for a further year and most recently extended again by President Barack on September 10th, 2009.⁴³⁹

4.3 Summary of Lessons

The lessons regarding national security and emergencies support the following:

- The inclusion of national security considerations in the definitions of disasters and emergencies are important in providing the scope and basis for effective action. Responses to terrorism and terrorists acts as a basis for emergency action are examples of effective action based on clear legislative definitions;
- The use of Executive orders as supportive mechanisms to implement emergency measures. These are part of the legislative mechanism in many Caribbean jurisdictions. The details and impact of the United States of America Executive order to address the declaration provides an example of a best practice regarding the use of Executive Orders;
- The importance of coordination among representative and stakeholder agencies is once again highlighted as an important element of best practices in response to disasters and emergencies;
- The effective response to national security related emergencies will require the vesting of regulatory power to agencies to support the implementation of measures; vesting provisions should be clearly spelt out in the enabling declaration;
- Depending on the nature of the threat, there would be a need to implement a longer period for the duration of emergency related to national security. Periods of 90 days appear to be too short to address national security emergencies. The procedure of extending emergency declarations should not be cumbersome. Lapses in renewal may permit breaches of the measures put in place;
- There is an important interaction among national security interests, established rights and human rights. The response to national security concerns should not be to the limitation of enshrined human and other rights; and
- The holistic strategy and policy based approach to national security in Jamaica, with the inclusion of disasters in the framework provides a useful example of an approach to national security issues at a regional level.

⁴³⁸ See report at <http://www.infowars.com/bush-extends-911-national-emergency-yet-again-2/>.

⁴³⁹ See http://www.whitehouse.gov/the_press_office/Notice-of-continuation-from-the-president-regarding-the-emergency-declared-with-respect-to-the-September-11-2001-terrorist-attacks/.

PART V

5.0 Emergency and Human Health

Introduction

The health impacts as a basis for disaster or emergency declarations are not consistently acknowledged in the legislations of benchmark jurisdictions. Health impacts are couched in language which speaks to human suffering,⁴⁴⁰ the safety or health⁴⁴¹ of persons, diseases in human beings⁴⁴² and protecting public health.⁴⁴³ A useful impact is contained in the Indonesia Act which adds psychological impact to the health related effects of disasters. This Part discusses the human health impacts which are the primary causes of emergency declarations. It must be acknowledged that health issues arise as a consequence of other natural disasters and are dealt with as measures to address the impact of the particular disaster.

These definitions nevertheless provide the foundation for which declarations can be made. The actions among benchmark jurisdictions indicate that the primary ground for acting is in the interest of public health. Public health concerns have emerged to relate particularly to diseases and include: HIV/AIDS, tuberculosis, malaria⁴⁴⁴, and the H1N1 influenza virus⁴⁴⁵. Among benchmark countries, practical examples exist from South Africa, the Marshall Islands, Colombia and the United States of America.

5.1 South Africa

South Africa's response to HIV/AIDS⁴⁴⁶ has been acknowledged as a severe public health emergency due to its impacts on the South African population. This is captured in HIV & AIDS and STI Strategic Plan for South Africa 2007-2011.⁴⁴⁷

The response has involved both the legislature and the Courts. The legislature was involved through the passage of a law amending their laws to permit the importation and manufacture of generic drugs⁴⁴⁸. This law impacted the intellectual property rights of pharmaceutical companies which held patents for drugs in South Africa.

The Constitutional Court in South Africa addressed the impact of HIV/AIDS and measures to prevent mother-to-child transmission of the virus in the case of Minister of Health et al v Treatment Action Campaign et al CCT 8/02⁴⁴⁹. The Constitutional Court noted at paragraph 25 that:

“The question is whether the applicants have shown that the measures adopted by the government to provide access to health care services for HIV-positive mothers and their newborn babies fall short of its obligations under the Constitution.”

The Constitutional Court affirmed that the State is obliged to take reasonable measures progressively to eliminate or reduce the large areas of severe deprivation that afflict our society,⁴⁵⁰ particularly in light of the pandemic that is the HIV/AIDS virus. The Court held at paragraph 125 that:

⁴⁴⁰ India.

⁴⁴¹ Vanuatu.

⁴⁴² Canada, South Africa.

⁴⁴³ United States of America.

⁴⁴⁴ See Paragraph 1 of the Doha Declaration on Trips and Public Health “HIV/AIDS, tuberculosis, malaria and other epidemics”

⁴⁴⁵ Several resources regarding the Legal Preparedness and Response to the H1N1 Influenza pandemic can be accessed through

<http://www.publichealthlaw.net/Projects/swinefluphl.php>

⁴⁴⁶ HIV/AIDS remains a general public health concern for most of sub-Saharan Africa. This issue is discussed in detail at

<http://www.avert.org/aidssouthafrica.htm>. See also resources accessible through <http://www.safaid.net/?q=node/155>

⁴⁴⁷ Accessible at <http://www.info.gov.za/otherdocs/2007/aidsplan2007/index.html>

⁴⁴⁸ Discussed at <http://www.avert.org/generic.htm> information on laws are available at <http://www.megalaw.com/top/aids.php>

⁴⁴⁹ The judgment can be accessed at http://www.law-lib.utoronto.ca/DIANA/TAC_case_study/MinisterofhealthvTACconst.court.pdf

⁴⁵⁰ See paragraph 36 of the Judgment.

“It is essential that there be a concerted national effort to combat the HIV/AIDS pandemic. The government has committed itself to such an effort. We have held that its policy fails to meet constitutional standards because it excludes those who could reasonably be included where such treatment is medically indicated to combat mother-to-child transmission of HIV. That does not mean that everyone can immediately claim access to such treatment, although the ideal, as Dr. Ntsaluba says, is to achieve that goal. Every effort must, however, be made to do so as soon as reasonably possible. The increases in the budget to which we have referred will facilitate this.”

The Constitutional Court further ordered at paragraph 129 the following:

“The order made by the High Court included a structural interdict requiring the appellants to revise their policy and to submit the revised policy to the court to enable it to satisfy itself that the policy was consistent with the Constitution.”

The recourse to the Courts⁴⁵¹ can be lengthy and also costly but can nevertheless be a useful tool in addressing public health concerns provided the constitutional provisions mandate positive obligations on the state to protect the rights of its citizens. Enabling legislation will provide a better and faster response; however, the courts should not be forgotten as a basis for addressing relevant action to combat not only public health disasters but all disasters.

5.1.1 Lessons from the South African Experience

- The importance of membership of the World Trade Organisation(WTO) and signature to the Agreement on Trade Related Aspects of Intellectual Property Rights;
- The impact and importance of the WTO Doha Declaration on Intellectual Property Rights and Public Health;
- The impact of public health measures on national intellectual property rights;
- The tools to support public health emergencies within the intellectual property system (compulsory licensing and parallel importation) of pharmaceutical companies;
- The importance of constitutional duties of the state towards the citizens; and
- The role of the Courts in enforcing constitutional duties and addressing public health considerations.

5.2 The Marshall Islands

Useful lessons can be learnt for the Marshall Islands response to tuberculosis which constituted a health emergency. It was reported that *“An outbreak of drug-resistant tuberculosis in the Marshall Islands has been declared a public health emergency, as the government Saturday considered invoking special powers of quarantine.”*⁴⁵²

The response to this emergency, however, illustrated a deficiency in the legislative process.⁴⁵³ The threat of drug resistant tuberculosis in the Marshall Islands has prompted Parliament’s health committee to consider a law amendment to allow public health officials to order the quarantine of patients. Government officials have also expressed their frustration with the current law that requires them to go to court to quarantine patients with communicable diseases who will not follow treatment prescribed.

⁴⁵¹ For a further discussion on this issue see <http://www.chrgj.org/publications/docs/wp/Belani%20The%20South%20African%20Constitutional%20Court's%20Decisions%20in%20TA%20C.pdf>

⁴⁵² Reported on 30th January, 2010 at <http://www.france24.com/en/20100130-marshall-islands-tb-health-emergency>

⁴⁵³ TB challenge gets a parliamentary focus in the Marshall Islands reported at <http://www.rnzi.com/pages/news.php?op=read&id=51761>

It was reported that “*Marshall Islands Health Minister Amenta Matthew said she was drafting legislation to give the director of health power to quarantine people who did not voluntarily comply with TB prevention requirements.*”

While the power to declare a disaster exists by virtue of Disaster Assistance Act 1987 (hereinafter referred to “the Marshall Islands Act”), (a) *'disaster' means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, or civil disturbance*”

The need for specific enforcement legislation appears to be important. Further reports indicate that “*Matthew's proposed legislation would do away with the lengthy court process and she said the nation would be better served if the director of public health had the authority to put patients in isolation as required.*”⁴⁵⁴

The lesson from the Marshall Islands process highlights: the importance of the adequacy of legislation; the circumstance under which compulsory medical care can be implemented; public health measures should be balanced with individual rights and freedoms; and the use of the judicial process as a mechanism to support public health measures.

5.3 United States of America

On the 23rd of October, 2009 the President of the United States of America, Barack Obama, declared a national state of emergency in the United States of America with respect to the H1N1 Influenza Pandemic⁴⁵⁵. The measures suggested in this declaration provide examples of measures which would be useful in facilitating responses to public health emergencies. In making the declaration, the President of the United States of America acted by virtue of the authority vested in him by the Constitution and the laws of the United States, including:

“sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that, given that the rapid increase in illness across the Nation may overburden health care resources and that the temporary waiver of certain standard Federal requirements may be warranted in order to enable U.S. health care facilities to implement emergency operations plans, the 2009 H1N1 influenza pandemic in the United States constitutes a national emergency.”

The main impact of the declaration was to vest the Secretary of Health and Human Services with the authority to temporarily waive or modify:

“certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the 2009 H1N1 influenza pandemic.”

Lessons from this process relate to the delegation of authority and the temporary waiver of the requirements of certain laws. The United States of America's response also provides an example of the extension of a secretarial

⁴⁵⁴ See <http://www.physorg.com/news184082162.html>

⁴⁵⁵ See <http://www.whitehouse.gov/THE-PRESS-OFFICE/DECLARATION-A-NATIONAL-EMERGENCY-WITH-RESPECT-2009-H1N1-INFLUENZA-PANDEMIC-0>

declaration of a Public Health Emergency.⁴⁵⁶ This has implications for governance structures. The lesson relates to the manner of exercise of powers under subordinate legislation can be supplemented by larger national legislation.

In this instance, prior to the exercise of presidential power, “On April 26, 2009, the Secretary of Health and Human Services (the “Secretary”) first declared a public health emergency under section 319 of the Public Health Service Act, 42 U.S.C. 247d, in response to the 2009 H1N1 influenza virus. The Secretary has renewed that declaration twice, on July 24, 2009, and October 1, 2009”

The prerequisites for the waivers should also be noted. It has been noted that:

“Section 1135 of the Social Security Act [42 USC §1320b–5] permits the Secretary of the U.S. Department of Health and Human Services (HHS) to waive certain statutory and regulatory requirements for healthcare facilities in response to emergencies. However, two conditions must first be met for the Secretary to issue a section 1135 waiver: 1) the President must have declared an emergency or disaster under the Stafford Act or the National Emergencies Act, 2) the HHS Secretary must have declared a Public Health Emergency (PHE) under section 319 of the Public Health Service Act.”⁴⁵⁷

The important lessons from the United States experience include: waivers of statutory provisions in the interest of public health; the Presidential delegation of powers under specific legislation; the suspension of the operation of certain laws; the requirement for congressional reporting; the duration of declarations; and the prerequisites for presidential declarations.

5.4 Colombia

It has been reported that Colombia made a similar declaration regarding the H1N1 Influenza Pandemic.⁴⁵⁸ This measure was announced on 27th April, 2009.⁴⁵⁹

“Colombia declared a national state of emergency to combat the threat of the swine flu that killed some 150 people in Mexico and infected several in the United States. There have been no confirmed cases of the virus in Colombia so far, but through the state of emergency Bogotá hopes to have all the means necessary to prevent an outbreak. The measure was announced Monday afternoon by Social Welfare Minister Diego Palacio, who said that the measure allows the government to have a budget “to try to contain and mitigate the impact that this emergency could generate in the country.” The government has earmarked 15 billion pesos (US\$6.4 million) to start an information campaign and to purchase supplies to fight a possible outbreak of the disease.”⁴⁶⁰

The lesson from the reported Colombian response relates to: pre-emptive action in response to a public emergency threat in another jurisdiction; allocations of funds to mitigate the impact of the threatened emergency; and emphasis on information as a key strategy to address the concern.

5.5 Summary of Lessons and Best Practices

⁴⁵⁶ Discussed at <http://www.hhs.gov/disasters/discussion/planners/section319declaration.html>

⁴⁵⁷ See http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter10_06.pdf. Further details of the waivers and the process can also be accessed from this website.

⁴⁵⁸ See <http://colombiareports.com/colombia-news/news/3775-colombia-declares-state-of-emergency-over-swine-flu-threat.html>

⁴⁵⁹ See <http://www.publichealthlaw.net/Projects/swinefluphl.php> for the report of this measure.

⁴⁶⁰ See “Colombia declares state of emergency over swine flu threat” at <http://colombiareports.com/colombia-news/news/3775-colombia-declares-state-of-emergency-over-swine-flu-threat.html>

- The definition and scope of public health concerns (diseases and pandemics) to enable the widest possible basis for action a wide definition of specific health consequences would be useful;
- Pre-emptive action in response to a public emergency threat in another jurisdiction is a useful practice to adopt. This can reduce the impact of the disaster on the national population;
- The pre-requisites for declarations, Presidential or otherwise should be followed, these are discussed in Part I;
- The Presidential delegation of powers under specific legislation is a useful power to permit the effective implementation of the particular emergency measure. The person to whom the delegation is made should have the knowledge and capacity to address and effectively implement the necessary measures;
- The importance of the adequacy of legislation in the absence of enabling legislation there will be delays in implementing the appropriate measures;
- The impact of public health measures on existing laws must be considered. Enabling laws should be strengthened while potentially restrictive laws and requirements should be suspended;
- Waivers of statutory provisions in the interest of public health emergencies are useful tools for the effective implementation of health related emergency measures;
- Having regard to the impacts on health, procedures which permit declarations for a longer rather than shorter periods of time would be useful to address health-related emergencies;
- The requirement of a reporting mechanism is a useful measure as it allows the executive to be kept informed of the progress and measures utilized to address the emergency;
- The immediate allocation of funds to mitigate the impact of the threatened emergency is a useful mitigation strategy;
- The emphasis on the dissemination of information is a key strategy to address the potential and actual impacts of a threatened health related disaster or emergency;
- Public health measures should be balanced with individual rights and freedoms and other existing rights for example, intellectual property rights;
- The Courts can play a useful role in enforcing constitutional duties of the state and thereby mandating the implementation of measures to address public health emergencies. These include compulsory medical care and the availability of essential medicines; and
- The important membership of the World Trade Organisation (WTO) and commitment to the Agreement on Trade Related Aspects of Intellectual Property Rights can provide an additional limb on which health related measures can be implemented particularly if states utilize the mechanisms provided for in the WTO Doha Declaration on Intellectual Property Rights and Public Health.

PART VI

6.0 Communication Systems

General Principles

A fully integrated communication system is critical to both pre and post disaster activities and is an essential component to an effective disaster response effort. However, the use of telecommunication equipment by international and regional disaster relief personnel and humanitarian organizations is generally hampered by complex regulatory barriers in the affected territories that make it extremely difficult to import and rapidly deploy telecommunications equipment for emergency relief efforts without prior approval from the local regulators.⁴⁶¹ Notwithstanding, the creation of disaster resistant telecommunications networks is a strategic imperative to mitigate the effects of natural disasters.

Pre-disaster communication centers around the principal of providing early warning to citizens so as to allow them, to the best of their ability, to implement measures to prevent or reduce their exposure to the impending natural disaster. Pre-disaster warning mechanisms are generally intrinsically linked to a disaster detection mechanism; for example, a hurricane or tsunami warning system. Pre-disaster warnings usually take the form of a signal appropriately channelled to provide either some visual and/or audible indication of the impending disaster.⁴⁶²

Post-disaster communication must serve two primary goals: (1) location of affected persons and (2) coordination so as to provide emergency assistance and disaster relief during and after a disaster. During the aftermath of a natural disaster, communication systems are usually severely compromised due to infrastructural damage caused by the disaster. As such, countries must acquire and implement, as much as feasible, alternate communication mechanisms that can be activated post-disaster, in the case of severe damage to the primary communication infrastructure.

Overall, communication is central to any disaster relief operation and requires a pre-designated communication expert team, as well as assigned radio frequencies, satellite and internet access, and other means of communication. Disaster management teams must also, in light of changing technology, provide for the incorporation of new and emerging technologies as an effective means of communicating. This was underscored in the recent Haiti earthquake crises where social media played a vital role in informing the public as well as generating well needed aid. For the target countries “both intra-agency communications as well as public information have been identified as requiring improvement.”⁴⁶³

6.1 Applicable Law

Communications technology, especially radio-communication systems, plays a vital role in disaster relief activities. It is central to ensuring that relief teams deliver critical services and supplies to disaster victims. However, getting the best out of high technology-based systems and infrastructure requires national, regional and international cooperation. As such, communication issues must be regulated on a regional or international level. The Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations is a global treaty which outlines a comprehensive regulatory framework for international cooperation in disasters with respect to the use of life-saving telecommunications equipment.⁴⁶⁴ The Convention mandates its signatories to

⁴⁶¹ <http://www.itu.int/ITU-D/emergencytelecoms/tampere.html>

⁴⁶² Asian Institute of Technology, *Emergency Communications During Natural Disasters: Infrastructure & Technology*, available at http://tsunami.ait.ac.th/Documents/disaster_communication_assistance_concept_paper.pdf

⁴⁶³ International Telecommunication Union, *Effective Disaster Management on state-of-the-art ICT Caribbean Forum outlines road map for mitigation and preparedness*, 2006 available at http://www.itu.int/newsroom/press_releases/2006/18.html

⁴⁶⁴ International Federation of Red Cross and Red Crescent Societies, *International Regulation of Telecommunications in Disaster Relief*, available at <http://www.ifrc.org/Docs/pubs/idrl/idrl-telecoms-background.pdf>

facilitate the provision of prompt telecommunication assistance, to mitigate the impact of a disaster, and covers both the installation and operation of reliable and flexible telecommunication services.⁴⁶⁵

The Convention provides instruction for all relevant participating stakeholders including, government, non-governmental and other non-state actors. The Treaty recommends:⁴⁶⁶

- ❖ Designating United Nations Emergency Relief Coordinator (i.e. through the United Nations Office for the Coordination of Humanitarian Affairs, OCHA) as responsible for operational coordination with respect to telecommunications issues for disaster recovery efforts (Art. 2). The United Nations Emergency Relief Coordinator is also responsible for the development of model agreements subsidiary to the Convention and inventories of existing resources and providers.
- ❖ Reduction or waiver of regulatory barriers regarding the use of telecommunications resources for disaster mitigation and relief (Art. 9) – this is the most important aspect for disaster information communication technology and was the driving force behind the development of the Tampere Convention. These barriers include the licensing requirements necessary to use allocated frequencies, restrictions on the export or import of telecommunication equipment, restrictions on the use of particular types of equipment and particular radio-frequency spectrums, as well as limitations on the movement of humanitarian teams.
- ❖ Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance under its terms, including immunity from local court jurisdiction, exemption from taxation, duties and other charges, and immunity from seizure (“to the extent permitted by [their] national law”) (Art. 5).
- ❖ Inventorying of telecommunication resources, both human and material, available for disaster mitigation and relief, and developing a telecommunication action plan that identifies the steps necessary to deploy those resources.
- ❖ The procedures for requesting and making provision of telecommunications assistance, specifically recognizing the right of each disaster affected country to direct, control and coordinate assistance provided under this Convention within its territory. Additionally, it outlines specific elements and aspects of the provision of telecommunication assistance, such as initiation and termination of assistance.

6.1.1 Relevance & Applicability to Caribbean

The Tampere Convention which went into force in 2005 has been ratified or ascended to in forty countries, including several of the benchmark and target countries including, Barbados, Canada, Dominica, Haiti, India, Marshall Islands, St. Lucia, St. Vincent & The Grenadines, and the USA.⁴⁶⁷ Further, recommendations have been made for the treaty to be ratified in the remaining target countries and for the legislation to be implemented in each so as to incorporate it into the local laws of the target territories.⁴⁶⁸ The Convention is open to all UN and members of the International Telecommunication Union for ratification or accession.

⁴⁶⁵ <http://www.itu.int/ITU-D/emergencytelecoms/tampere.html>

⁴⁶⁶ Tampere Convention in the United Nations Treaty available at <http://www.reliefweb.int/telecoms/tampere/icet98-e.htm>

⁴⁶⁷ http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXV-4&chapter=25&lang=en&clang=_en

⁴⁶⁸ International Communication Union, *Effective Disaster Management on state-of-the-art ICT*

Caribbean Forum outlines road map for mitigation and preparedness, 2006 available at http://www.itu.int/newsroom/press_releases/2006/18.html

PART VII

7.0 Additional Considerations and Best Practices

Remedial Measures

Other matters consequential to the exercise of powers are highlighted in other laws. An example of this is the provision regarding remedial measures. This is seen in the Philippines Act where by virtue of section 18, the following measures come into effect:

Remedial Measures - The declaration of a state of calamity shall make mandatory the immediate undertaking of the following remedial measures by the member-agencies concerned as defined in this Act: (a) Automatic imposition of price control of basic necessities by the Department of Trade and Industry, in areas declared under a state of calamity; (b.) Monitoring, prevention and control of over pricing/profitteering and hoarding of prime commodities, medicines and petroleum products by the local Price Coordinating Council; (c) Programming/reprogramming of funds for the repair and safety upgrading of public infrastructures and facilities; and (d) The granting of “one-year, no-interest loans” by government financing or lending institutions to the most affected section of the population.

This is a useful provision which can support the recovery from a disaster.

PART VIII

8.0 Situational Analysis of Target Country Legislation with identified Best Practices

This section of the deliverable analyzes the legislation currently in place in the target countries against the best practices identified in the benchmark countries and discusses the efficacy of the target country legislation. The situational analysis is also informed by the consultancy interviews conducted with the relevant disaster management agencies in the target countries regarding the practical application of the current legislation and policies.

8.1 Emergency and Disaster Declarations

The best practices identified under this heading are:

Definitions

1. *Countries should not be tied to specific labels of disasters or emergencies; whichever term is utilized in legislation, the specifics of the events intended to be encompassed by the definition should be provided;*
2. *Categories of natural and man-made disasters should be maintained; combined with the impacts, causes and results, holistic definitions can be developed; and*
3. *Emphasis should be placed on threats of disasters and threats of emergencies in definitions. This emphasis will allow for effective pre-emptive action to be taken to address disasters and emergencies before they occur.*

Declaration Procedures

4. *The authority to make the necessary declarations should be clearly spelt out in legislation;*
5. *Provisions requiring acting on advice and recommendations support accountability. As well, they reduce arbitrariness and prohibit abuse in the exercise of powers;*
6. *The declaration should be in writing with as many particulars and specifics as are necessary to address the specific situation; and*
7. *Provisions should be made for the declaration to be communicated to the widest possible audience within the shortest period of time.*

Duration of the Declaration

8. *Flexibility should be provided regarding the duration of the declaration having regard to the actual circumstances which originally caused the declaration to be made.*

Powers and Responsibilities related to Declarations

9. *The declaration and accompanying instruments should be specific regarding the powers to be exercised and the person or agency exercising those powers;*
10. *Powers which have been suspended or varied should be clearly identified in the declaration documentation; and*
11. *Powers of coordination should also be clearly expressed in the instrument used to initiate the declaration.*

Regulations related to Declarations

12. *The preservation wherein existence, or the introduction where absent, of regulation making powers is essential for the effective introduction of supporting and enabling measures; and*
13. *The scope and vesting authority must be clearly spelt out in the declaration related documentation.*

8.1.1 Emergency and Disaster Declarations

Definitions

Best Practice # 1

Countries should not be tied to specific labels of disasters or emergencies; whichever term is utilized in legislation, the specifics of the events, intended to be encompassed by the definition, should be provided.

The main label placed on situations in target country Constitutions is “public emergency” while others use “state of emergency.” Where Constitutions provide the basis of the exercise of powers, this description has not been adjusted. Provisions are found using two types of drafting styles: one without definition of emergencies or public emergencies and the other with a specific definition of public emergency.

The provisions without definition appear in the Constitutions of Antigua and Barbuda, which use the term “public emergency” in section 20(1). The term “state of emergency” is used in the titles of the St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines provisions. The actual text of the provisions, however, speak to “public emergency”⁴⁶⁹ while the Constitution of Grenada in section 17 uses the term “state of emergency” solely. The Constitution of the Dominican Republic in Article 37 and 55 uses the term “public disaster.” This is, however, not defined in the Constitution. Despite their unique Constitutions, the definition “public emergency” is provided in the Constitutions of Barbados, Belize, and Jamaica in similar language:

*“(1) In this Part “period of public emergency” means any period during which –
(a) [Belize, Jamaica, Barbados] is engaged in any war; or
(b) there is in force a proclamation by the Governor-General declaring that a state of public emergency exists; or
(c) there is in force a resolution of the National Assembly declaring that democratic institutions in Belize are threatened by subversion.”*

In Jamaica, St. Lucia and St. Vincent and the Grenadines, where specific Disaster Management Legislation in the form of Acts⁴⁷⁰ has been passed, one can find rather comprehensive definitions of disasters. The St. Vincent and the Grenadines legislation provides:

“disaster” means an actual or imminent situation, whether natural or otherwise, which requires a significant and coordinated response and is caused by an occurrence such as volcanic eruption, earthquake, hurricane, flood, tidal wave, landslide, fire or epidemic and which causes or threatens to cause widespread loss or damage to property, widespread loss of human life, injury or illness to human beings, or damage to or degradation of the environment, but excluding events occasioned by war or military confrontation;

The St. Lucia provision provides:

“disaster” means a natural or man-caused event or an event caused by both of them which causes intense negative impacts on people, goods, services, or the environment, and which exceeds a community’s internal capacity to respond;

It should be noted that the Acts of Belize and Antigua and Barbuda incorporate the Constitutional provisions in the definition of disasters. These provisions can be used to incorporate more comprehensive lists. Presently, the Belize

⁴⁶⁹ See St. Kitts and Nevis Constitution section 19(1) ‘state of emergency’ and Section 19(2) ‘public emergency’; See similarly St. Lucia Constitution section 17(1) and section 17(2) and St. Vincent and the Grenadines section 17(1) and section 17(2).

⁴⁷⁰ See Section 2 of the Jamaica Disaster Preparedness and Emergency Management Act 1993. Section 2 of the Disaster Management Act St. Lucia; and section 2 of the St. Vincent and the Grenadines National Emergency and Disaster Management Act, 2006.

Disaster Preparedness and Response Act CAP 145 provides in section 2 that “disaster emergency” means a public emergency declared under section 18(1)(b) of the Belize Constitution on account of the threat or occurrence of a disaster.”⁴⁷¹

It is suggested that the approaches of St. Vincent and the Grenadines and St. Luca provide useful regional examples of practices which could be adopted by other jurisdictions.

Best Practice # 2 *Categories of natural and man-made disasters should be maintained; combined with the impacts, causes and results, holistic definitions can be developed.*

Constitutional provisions provide a limited list of disasters which prompt the exercise of emergency powers, these are *earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not*,⁴⁷²

The ‘other calamity’ provision can be seen as a catch-all provision, which may be intended to cater for unforeseen occurrences. The best practices indicate a more detailed non-exhaustive list of disasters can permit appropriate emergency declaration action to be taken. The manner by which the extension of list can occur is through disaster specific legislation. This is seen in the provisions of Section 2 of the Jamaica Disaster Preparedness and Emergency Management Act 1993; Section 2 of the Disaster Management Act St. Lucia; and Section 2 of the St. Vincent and the Grenadines National Emergency and Disaster Management Act, 2006. It is suggested that consideration should be given to extending the lists of disasters and emergencies through specific legislation.

Best Practice # 3 *Emphasis should be placed on threats of disasters and threats of emergencies in definitions. This emphasis will allow for effective pre-emptive action to be taken to address disasters and emergencies before they occur.*

Constitutional provisions are limited in this regard as they mostly authorise the declaration on the occurrence⁴⁷³ of the listed actions. The imminence or immediacy of the threats, appear limited to a state of war or public safety. Mechanisms for pre-emptive provisions should be included in the legislative framework of target countries in respect of other types of disasters. Specific legislation provides a mechanism through which threats and imminence of disasters can be included in the legislation of target countries. Examples can be seen in the definitions of disasters contained in St. Vincent and the Grenadines, Belize and Jamaica. Jamaica, in section 2 of the Disaster Preparedness and Emergency Management Act 1993 uses the language “occurrence or threat of occurrence”. It is suggested that these approaches provide useful regional examples by which this best practice can be adopted.

Declaration Procedures

Best Practice # 4 *The authority to make the necessary declarations should be clearly spelt out in legislation.*

⁴⁷¹ See also the Antigua and Barbuda Disaster Management Act, 2002 section 2.

⁴⁷² Barbados Constitution section 25(2)(a); Antigua and Barbuda Constitution section 21(5)(a); Belize section 18(3)(a); Dominica Constitution section 17(3)(a); Jamaica Constitution section 26(5)(b); St. Kitts and Nevis Constitution section 19(2)(b); Saint Lucia Constitution section 17(2)(b); St Vincent and the Grenadines Constitution section 17(2)(b); Trinidad and Tobago Constitution section 8(2)(b).

⁴⁷³ See Barbados Constitution section 25(2)(a); Antigua and Barbuda Constitution section 21(5)(a); Belize section 18(3)(a); Dominica Constitution section 17(3)(a); Jamaica Constitution section 26(5)(b); St. Kitts and Nevis Constitution section 19(2)(b); Saint Lucia Constitution section 17(2)(b); St Vincent and the Grenadines Constitution section 17(2)(b); Trinidad and Tobago Constitution section 8(2)(b).

In most target countries the authority is spelt out in the Constitution. The authority is vested in the Governor General⁴⁷⁴ or President⁴⁷⁵ and the Houses of Parliament. In some instances the Governor General's declaration is approved by Parliament; in others, Parliament can pass its own resolution.

Best Practice # 5 *Provisions requiring acting on advice and recommendations support accountability. As well, they reduce arbitrariness and prohibit abuse in the exercise of powers.*

There are no provisions in target country Constitutions for there to be action on recommendations as the basis of making Constitutional declarations. However, the provisions for parliamentary approval of the declaration may provide a foundation for accountability. The Trinidad and Tobago Constitution provides a basis on which a framework of accountability can be based. There is a requirement for the reasons for the Presidential declaration to be stated to the speaker and the House of Representatives. This is provided for in section 9(1):

“Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event not later than fifteen days from the date of the Proclamation.”

The importance of action based on recommendations has been incorporated in disaster specific laws. Recommendations are common where the following factors are present: (a) institutional structure for disaster management; (b) ministerial powers are used to make the declaration and (c) the declaration relates to part of the jurisdiction concerned, specifically vulnerable areas. These features are present in the laws of Antigua and Barbuda, Belize, Jamaica⁴⁷⁶, St. Lucia⁴⁷⁷ and St. Vincent and the Grenadines.

The provisions in Antigua and Barbuda and Belize are similarly worded. They both provide in section 15 of the respective Acts that:

- 15. (1) The Prime Minister may, on the recommendation of the Director, designate specifically vulnerable areas for the purposes of the mitigation of, preparedness for, response to and recovery from emergencies and disasters by delimiting such areas under this section.*
- (2) The Director shall prepare for the approval of the Prime Minister a draft Order delimiting any specifically vulnerable area that the Director recommends for designation under subsection (1).*
- (3) Before approving the draft Order delimiting a specifically vulnerable area, the Prime Minister may arrange for a public consultation to be held in conformity with the provisions of the First Schedule, at which the Director shall present the draft Order for discussion and comment.*
- (4) The Prime Minister may combine a public consultation under this section with a public consultation under section 18 (1).*
- (5) After any public consultation has been held, the Prime Minister may, if he decides to accept the Director's recommendation for the designation of the area, consider what revisions ought to be made of the draft Order and shall settle the*

⁴⁷⁴ See Constitution of Antigua and Barbuda section 20(1); Barbados Constitution section 25(2); Belize Constitution section 18(3); The Dominican Republic Constitution Article 37 (Congress); Grenada Constitution section 17(1); Jamaica Constitution section 26(5); St. Kitts and Nevis Constitution section 19(1); St. Lucia Constitution section 17(1); St Vincent and the Grenadines Constitution section 17(1).

⁴⁷⁵ See Constitution of Dominica section 17(3). The Dominican Republic Constitution Article 55(7). Trinidad and Tobago Constitution section 8.

⁴⁷⁶ See section 12 of the Disaster Preparedness and Emergency Management Act 1993.

⁴⁷⁷ See section 17 of the Disaster Management Act 2006.

delimitation of the specially vulnerable area by making the Order and publishing it in the Gazette.

It is suggested that measures of this nature can be incorporated in the specific disaster related laws in target countries.

Best Practice # 6

The declaration should be in writing with as many particulars and specifics as are necessary to address the specific situation.

The requirement in target countries for the declaration to be published in the Gazette meets the requirement of writing. The Barbados, Dominica and Jamaica Constitutions do not possess provisions in this regard. In target countries, the details of the declaration are, however, not specified in the Constitution. The requirement for Gazette publication is done in the following language:

“The Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exist for the purposes of this Chapter.”⁴⁷⁸

Best Practice # 7

Provisions should be made for the declaration to be communicated to the widest possible audience within the shortest period of time.

Provisions of this nature should be included in the declaration framework of target countries. Gazettes have a limited circulation and thus communication of the declaration is not maximized.

Disaster specific laws make provision for wider publication and communication of declaration, particularly in the instances of threatened disaster. Examples are seen in the general and similar language which can be found in the laws of Antigua and Barbuda, Belize, and St. Vincent and the Grenadines.

*“For the purposes of this Act, a threatened disaster alert exists when -
(b) an agency, whether within [Antigua and Barbuda/Belize/State (St. Vincent and the Grenadines)] or otherwise, certified by the Director as an Accredited Disaster Notification Service under subsection (3), broadcasts or otherwise publishes a formal announcement warning persons in Antigua and Barbuda of the threat of the striking of a disaster of a kind in Column I of the Second Schedule within the applicable period in Column 2 of that Schedule.”⁴⁷⁹*

The provision could be incorporated into the mechanisms for the communication of declarations among target countries.

Duration of the Declaration

Best Practice # 8

Flexibility should be provided regarding the duration of the declaration with regard to the actual circumstances which originally caused the declaration to be made.

The duration of declarations vary from jurisdiction to jurisdiction,⁴⁸⁰ and are also based on the body making the declaration. The parliamentary procedure, though cumbersome, may permit the extension of the declaration for a

⁴⁷⁸ See Constitution of St. Lucia section 17(1); Antigua and Barbuda Constitution section 201(1); Belize Constitution section 18(2); Grenada Constitution section 17(1); St. Vincent and the Grenadines Constitution section 17(1);

⁴⁷⁹ See Antigua and Barbuda Disaster Management Act, 2002 section 27, Belize Disaster Preparedness and Response Act CAP 145 section 27 and St. Vincent and the Grenadines National Emergency and Disaster Management Act, 2006 section 31.

⁴⁸⁰ There appears to be no duration set by the Constitution of the Dominican Republic.

sufficient period to meet the nature of the particular emergency which would have prompted the declaration. The provisions which support this extension appear more applicable in circumstances where the declaration has been made or supported by a parliamentary resolution. The minimum duration appears to be two months and the maximum 12 months, with provision for further extension.

It is suggested that the 12 month provision is more effective to address public health concerns. The two month provision is seen in the Belize Constitution section 18(6), this section provides:

(6) A resolution of the National Assembly passed for the purposes of subsection (1)(c) of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding two months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.

The provision for a period of twelve months is found in the Constitutional provision of St Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines; this is seen in provisions with the following language:

“a resolution of the House passed for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding twelve months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a further resolution.”⁴⁸¹

A six month provision is found in the Constitutions of Barbados, Dominica and Grenada⁴⁸². The following is the common language used:

“A resolution of a House of Parliament passed for the purposes of this section shall remain in force for six months or such shorter period as may be specified therein :

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding six months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution of that House.”

A three month provision is found in the Constitution of Antigua and Barbuda⁴⁸³ and the Constitution of and Trinidad and Tobago. The Trinidad and Tobago provision is found in sections 10(1) and 10(2):

10. 1. *Before its expiration the Proclamation may be extended from time to time by resolution supported by a simple majority vote of the House of Representatives, so, however, that no extension exceeds three months and the extensions do not in aggregate exceed six months.*

2. *The Proclamation may be further extended from time to time for not more than three months at any one time, by a resolution passed by both Houses of Parliament and supported by the votes of not less than three-fifths of all the members of each House.*

⁴⁸¹ See St. Kitts and Nevis Constitution section 19(7); St. Lucia Constitution section 17(6) and St. Vincent and the Grenadines Constitution section 17(6).

⁴⁸² See Barbados Constitution section 25(3); Dominica Constitution section 17(4); Grenada Constitution section 17(3)

⁴⁸³ See Constitution section 20(5).

Powers and Responsibilities related to Declarations

Best Practice # 9

The declaration and accompanying instruments should be specific regarding the powers to be exercised and the person or agency exercising those powers.

There is no mandatory statutory requirement for specifics to be stated in the Constitutional instruments authorizing the declaration of disasters. Provisions in this regard should be included in disaster specific laws, as amendment of constitutional provision can be a long drawn out process.

Best Practice # 10

Powers which have been suspended or varied should be clearly identified in the declaration documentation.

There are no provisions regarding this power contained in the Constitutional framework of target countries.

Best Practice # 11

Powers of coordination should also be clearly expressed in the instrument used to initiate the declaration.

There are no provisions regarding this power contained in the Constitutional framework of target countries. The St. Vincent and the Grenadines National Emergency and Disaster Management Act, 2006 Part V, however, introduces this in disaster specific legislation.

It is suggested that the provision of Part V of the St. Vincent and the Grenadines Act provides a useful provision regarding coordination which, if deemed necessary, could be incorporated in the legal framework of target countries. Section 26 of the St. Vincent and the Grenadines Act provides:

(1) Every Permanent Secretary and Head of a department of Government shall ensure that there is at all times a public officer of his Ministry or department designated as the liaison officer for communication with the Director in relation to the disaster management procedures of the Ministry or department of Government.

(2) Every Ministry or department of Government shall:

(a) provide assistance to the National Emergency Management Organisation in a manner agreed upon between the Ministry or department of Government and the Director;

(b) ensure that resources related to disaster management are maintained so as to be ready for use.

(3) Every Permanent Secretary and Head of a department of Government shall supply annually to the Director, in a form and by a date as may be stated by the Minister, information as may be requested by the Director for the purposes of sections 13 (3) (c) and 16 (2).

Regulations related to Declarations

Best Practice # 12

The preservation, wherein existence, or the introduction, where absent, of regulation-making powers is an essential for the effective introduction of supporting and enabling measures.

The provisions of the Constitutions of Belize and Trinidad and Tobago are the only Constitutions which make provisions in this regard. It is suggested that this be included in the legislative framework of other target countries. Belize makes the provision in the following manner:

Section (9) During any period of public emergency, the following provisions shall have effect-

(a) the Governor-General may make such regulations as are necessary or expedient for securing public safety, the defence of Belize, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community;

(b) any such regulations may empower such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorised by this subsection to be made and may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the regulations;

(c) any such regulations or any order or rule made in pursuance of such regulations may amend or suspend the operation of any law and shall have effect notwithstanding anything inconsistent therewith contained in any law;

(d) in this subsection, "law" does not include this Constitution or any provision thereof or any law that alters this Constitution or any provision thereof.

The Trinidad and Tobago Constitution makes provision in the following manner:

Section 7. 1. Without prejudice to the power of Parliament to make provision in the premise, but subject to this section, where any period of public emergency exists, the President may, due regard being had to the circumstances of any situation likely to arise or exist during such period make regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him or any other person by any Act referred to in subsection (3) or instrument made under this section or any such Act.

2. Without prejudice to the generality of subsection (1) regulations made under that subsection may, subject to section 11, make provision for the detention of persons.

3. An Act that is passed during a period of public emergency and is expressly declared to have effect only during that period or any regulations made under subsection (1) shall have effect even though inconsistent with sections 4 and 5 except in so far as its provisions may be shown not to be reasonably justifiable for the purpose of dealing with the situation that exists during that period.

In some target countries, provisions regarding regulations and orders can be found in the Emergency Powers Act. As well, for some countries, Emergency Powers Acts are colonial laws saved by the Constitution⁴⁸⁴ while in other countries these laws have been enacted subsequent to the passage of the Constitution.⁴⁸⁵ The Acts make detail provision for the scope of regulations which can be passed during a declared emergency. These provisions, particularly those in more modern laws, provide useful examples of regional best practices. It should be noted that the Acts vest the powers in the Cabinet and the Minister with responsibility for disasters.

The Grenada Act provides:

4. Emergency Power of Cabinet.

(1) The Cabinet may during the period of emergency in the State-

(a) make regulations for the purpose of controlling and regulating-

(i) all means of communications and transport;

(ii) all fuel, buildings, plants and materials necessary to the working of the same;

⁴⁸⁴ See for Example the Emergency Powers Act Cap 111 of Jamaica first passed in 1938 and the Emergency Powers Act CAP 161 of Barbados first passed in 1939.

⁴⁸⁵ See for Example Grenada Emergency Powers Act 1987 and St. Lucia Emergency Powers (Disasters) Act 1995.

(iii) all food and liquor supplies, and necessaries;
 (iv) all electric, water and other power stations.

(b) Make regulations-

(i) to prohibit or restrict the possession or use by any person or body of persons of any specified article;
 (ii) to impose on any person any restrictions in respect of his employment or business, in respect of his place of residence and in respect of his association or communication with other persons;
 (iii) to prohibit any person from being out of doors between such hours as may be specified except under the authority of a written permit granted by such authority or person as may be specified;
 (iv) to require any person to notify his movements in such manner at such times and to such authority or person as may be specified;
 (v) to prohibit any person from travelling except in accordance with permission given to him by such authority or person as may be specified;
 (vi) to require any person to quit any place or area or not to visit any place or area;
 (vii) to provide for the detention of persons and deportation and exclusion of persons from the State;
 (viii) to authorise the search of persons or the entering and search of any premises and the seizure of anything, and its detention for so long as may be necessary for the purpose of any examinations, investigations, trials or inquiries:
 (ix) to authorise on behalf of Her Majesty;
 (i) the taking of possession or control or the managing or carrying on, as the case may be, of any property or undertaking;
 (ii) the acquisition of any property other than land;

(c) make regulations authorising such other measures as Cabinet may deem reasonably justifiable for dealing with the situation that exists in the State during that period of emergency;
 Provided that nothing in this Act shall be construed to authorise the making of any regulations imposing any form of compulsory military service or industrial conscription, or providing for the trial of persons by military court:
 Provided also that no such regulations shall alter any existing procedure in criminal cases, or confer any right as to punish by fine or imprisonment without trial.

(2) The regulation so made shall have effect as if enacted in this Act.

The specific inclusion of measures in this regards is a useful best practice which can be incorporated in the laws of all target countries.

8.2 Funding & Budget Appropriation

Disaster related activities both pre and post disaster involve considerable expenses for both regional and national governments. Moreover, these expenses continue to rise as a result of the frequency and increased magnitude of natural disasters. As such, national governments, and their attendant institutional bodies, will require adequate resources to effectively and efficiently discharge their disaster related functions and legislative responsibilities. In addition to being adequate, disaster funding mechanisms should be designed so as to provide continued and sustainable funds for both pre and post disaster projects. Adequacy has remained an issue for all benchmarked territories as forecasting disaster costs is not an exact science and in almost all circumstances the forecasts have fallen short of the actual funding needs.

Eight of the delineated benchmarked countries herein namely, the United States of America through the Disaster Relief Fund which is managed by FEMA⁴⁸⁶, India by way of the National Disaster Response Fund⁴⁸⁷, The Republic of the Marshall Islands⁴⁸⁸ in accordance with its Disaster Assistance Account, Micronesia through its Emergency Relief and Rehabilitation Fund⁴⁸⁹, Canada via the Joint Preparedness Program⁴⁹⁰, the Government of Indonesia⁴⁹¹, the Philippines by way of the National Calamity Fund⁴⁹² and Fiji through its Decree on Local Fiscal Administration, contain provide within their respective disaster management framework for the allocation and distribution of a dedicated annual and recurring disaster relief fund.

Antigua & Barbuda

Legislation:

Antigua & Barbuda acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on March 7, 1991.⁴⁹³

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

Antigua and Barbuda has not been the recipient of significant amount of funding of its national environmental program from the international community, with a relative high Per. Capita income of almost 7,000 USD, the country is not eligible for traditional International assistance, in the form of grants or loans. The country must therefore fund its own Environmental and Hurricane rehabilitation program.

The country is making efforts to attract GEF funding, but this has proven to be challenging since the process is relatively lengthy and the projects are assessed on the "Global Significance" of the economical system. The UNDP has provided significant funding for the development of a national land use plan, however, there is limited funding for its implementation, which includes capacity buildings.⁴⁹⁴

Barbados

Legislation:

Barbados acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on February 26, 1991.⁴⁹⁵

⁴⁸⁶ Congressional Research Service, *Federal Stafford Act Disaster Assistance: Presidential Declarations, Eligible Activities, and Funding*, 2006 available at http://cip.gmu.edu/archive/StaffordAct_EligibleActivities.pdf;

⁴⁸⁷ India has had a dedicated disaster funding mechanism in place since the 1950s. The money margin scheme which was constituted in 1957 by the Second Financial Commission was, prior to the establishment of the CRF and the NCCF, the primary source of disaster funding in India.

⁴⁸⁸ The RMI system for funding natural disasters is centralized through the national government. The Disaster Assistance Act 1987 establishes the Disaster Assistance Account (DAA) which is a special revenue account administered by the Ministry of Finance in accordance with the Financial Management Act 1990. The DAA is funded through an appropriation in the Annual Appropriation Act for the next financial year in order to maintain a continuous balance of US\$200,000.

⁴⁸⁹ Digital Code of the State of Pohnpei, Division V, Title 36: Economic Development available at <http://www.vanuatu.usp.ac.fj/library/Paclaw/FSM/Code%20of%20the%20State%20of%20Pohnpei/Digital%20Code/Division%20V/Title%2036%20final.htm#C4>

⁴⁹⁰ See Public Safety Canada at <http://www.publicsafety.gc.ca/prg/em/jcpp/index-eng.aspx#avai>

⁴⁹¹ Government of Indonesia, *Implementation of Disaster Reduction in Indonesia 2007-2008*, available at

⁴⁹² Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁴⁹³ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

⁴⁹⁴ http://www.unccd.int/cop/reports/lac/national/2000/antigua_and_barbuda-eng.pdf

⁴⁹⁵ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

Section 6 of the Caribbean Disaster Emergency Response Agency Act provides:

“(1) All payments required to be made by the Government to the Agency in respect of the obligations of Barbados under the Agency Agreement are charged on and are payable out of the Consolidated Fund.

(2) All moneys received by the Government from the Agency under the Agency Agreement shall be paid into the Consolidated Fund.”⁴⁹⁶

Commentary:

The Government is taking steps to develop a Risk Management Strategy and Plan of Action for the Caribbean tourism sector.⁴⁹⁷ Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts with respect to natural emergencies or disasters.

Belize**Legislation:**

Belize acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on February 26, 1991.⁴⁹⁸

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency Agreement, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

The Board of Directors Meeting of CDERA endorsed efforts to improve donor coordination and effectiveness within the context of CDM. They also agreed to pursue dialogue with the Climate Change Center in Belize to further the links between Climate Change and Disaster Managers.

The Directors also agreed to pursue the creation of an Association of Disaster Managers of CARICOM and code of Ethics to govern the proposed institution. The Board also noted the completion of regional workshops for Safer Building Standards targeted at builders in the informal setting. This has been reviewed and now allows for the possible movement and training of regional personnel in disaster reconstruction programs.⁴⁹⁹

Dominica**Legislation:**

Dominica acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency in 1991.⁵⁰⁰

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

⁴⁹⁶ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Barbados/Caribbean%20Disaster%20Emergency%20Response%20Agency.pdf>

⁴⁹⁷ [http://www.gov.bb/portal/page/portal/GISMEDIA%20CENTRENEWS%20MANAGEMENT/News%20Archive/Workshop%20On%20MModel%20Disaster%20Risk%20Management](http://www.gov.bb/portal/page/portal/GISMEDIA%20CENTRENEWS%20MANAGEMENT/News%20Archive/Workshop%20On%20Model%20Disaster%20Risk%20Management)

⁴⁹⁸ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

⁴⁹⁹ http://www.cdera.org/cunews/news_releases/belize/printer_1615.php

⁵⁰⁰ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

Best Practice # 1:*Funding mechanism provides dedicated annual and recurring funds.***Dominican Republic****Legislation:**

The Dominican Republic has not signed or ratified the Agreement Establishing the Caribbean Disaster Emergency Response Agency.⁵⁰¹

Law No. 147-02 on Risk Management⁵⁰²

Article 3: Provides for the establishment of a National Fund for Prevention, Mitigation and Disaster Response.

Article 27: Gives the president of the republic the authority to approve and issue the rules and administrative regulations for the organization, management and operation of the National fund for prevention, mitigation and disaster response⁵⁰³

Commentary:**Grenada****Legislation:**

Grenada acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on May 14, 1991.⁵⁰⁴

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency Agreement, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

Haiti**Legislation:**

Haiti has not signed or ratified the Agreement Establishing the Caribbean Disaster Emergency Response Agency.

Commentary:

Existing projects with donor and international financial institutions⁵⁰⁵

Victim of Hurricane Emergency Fund

Risk Management Program- funding agency European Commission 7.8 mil (2006-2009)

National Disaster Response Management System Development Program UNDP, World Bank 4 mil 2009-2011

Haiti Integrated Growth Through Hurricane Emergency Recovery USAID, undp, iadb, World Bank 20mil 2009-2012

Emergency Bridge Reconstruction Project World Bank (IDB), UNDP 20 mil 2009-2012

Emergency School Reconstruction Project World Bank (IDB), Canadian International Development

⁵⁰¹ The Dominican Republic is not listed as a participating state at <http://www.cdera.org/definitions/ps.html>

⁵⁰² http://translate.google.com/jm/translate?hl=en&sl=es&u=http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/DomRepublic/Ley%2520147%252002.pdf&ei=MjePS62KE8uXtgn8eyLCw&sa=X&oi=translate&ct=result&resnum=1&ved=0CAkQ7gEwAA&prev=/search%3Fq%3DLey%2BNo.%2B147-02%2BSobre%2BGesti%25C3%25B3n%2Bde%2BRiesgos%2BSanto%2BDomingo,%2BRep%25C3%25BAblica%2BDominicana%253B%2B22%2Bde%2BSeptiembre%2Bdel%2B2002%26hl%3Den%26rlz%3D1T4ADBF_enJM310JM310

⁵⁰³ Ibid.

⁵⁰⁴ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state

⁵⁰⁵ [gdrr.org/docs/6thCG_Country_Program_Summaries.pdf](http://www.gdrr.org/docs/6thCG_Country_Program_Summaries.pdf)

Best Practice # 1:**Funding mechanism provides dedicated annual and recurring funds.**

Agency, IADB, 5 million 2009-2013

Haiti Transportation and Territorial Development Project
World Bank, European Commission, Agence Française de Développement, iadb,
Canadian International Development Agency
16 million 2007-2012

Haiti Catastrophe Risk Insurance Project
World Bank (IDB), Canadian International Development Agency
9.4 million 2006-2010

Technical Assistance to Support the Creation of the Disaster Risk Reduction Unit at
the Ministry of Planning and External Cooperation (MPCe)

World Bank (GFdrR), Ministry of Planning and External Cooperation
500,000, 2009-2010⁵⁰⁶

Jamaica**Legislation:**

Jamaica acceded to the Agreement Establishing the Caribbean Disaster Emergency
Response Agency on February 26, 1991.⁵⁰⁸

The Banana Insurance Act⁵⁰⁹: Chapter IV Section 19(1) provides “*For the purposes
of this Act there shall be established under the control and management of the
Board a fund called the Banana Insurance Fund.*”

Commentary:

National Disaster Fund – established pursuant to Section 9 of the Disaster
Preparedness and Emergency Management Act.

Although Jamaica maintains several different types of dedicated funding sources,
all are inadequate and some are not supported by dedicated and recurring funds.

The National Disaster Fund receives an annual budgetary allocation of J\$50 million
or approximately US \$500,000.00. The amount is fixed by government and is not
based on any needs or risk assessment by the governing body or the disaster
management office. The current budgetary allocation for the fund is quite
inadequate and is below the annual operating budget of ODPEM.

The Banana Insurance Fund which is governed by the Banana Insurance Act and
managed by the Banana Board is currently depleted and there are no plans to
reconstitute the Fund. The fund was exhausted as a result of the number of
payments which had to be made in 2008 after Hurricane Gustav. The Fund was
primarily funded by the premium paid by banana growers for their respective
coverage. Growers were entitled to J\$10,000 per acre based on a cess payment of
J\$0.14 per pound of produce. Additionally, a 25% of damage deductible was
applicable to each claim.

The Banana Insurance Fund has, however, been replaced by a Catastrophe Fund

⁵⁰⁶ gfdrr.org/docs/6thCG_Country_Program_Summaries.pdf

⁵⁰⁷ gfdrr.org/docs/6thCG_Country_Program_Summaries.pdf

⁵⁰⁸ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

⁵⁰⁹ www.moj.gov.jm/laws/.../The%20Banana%20Insurance%20Act.pdf

which was started with a J\$29 million grant from the European Union. Growers are required to register and pay an annual registration of \$1000 per acre insured. The Catastrophe Fund is not an insurance type fund; therefore, there is no set amount to be afforded to grow upon the occurrence of a natural disaster. Claims are sent to an oversight committee who evaluates the claim and determines, based on internally established criteria, the amount of payout entitlement. The Catastrophe Fund, unlike the Banana Insurance Fund, is not limited to windstorm damage and can be accessed in a variety of disaster situations. In order to assert a claim against the fund, registered growers must experience over 50% loss of cultivation. To date, no claim has been made against the Catastrophe Fund. The Catastrophe Fund is administered by the Banana Board and currently does not receive any government subvention.

The Administration, Finance and the Public Service sub-committee is jointly chaired by the Ministry of Finance and the Public Service (MF&PS) and the ODPEM⁵¹⁰. It is this Committee's responsibility to among other things, fund emergency activities such as the provision of relief assistance and provide assistance in the National Emergency Operations Centre (NEOC)

St. Kitts & Nevis**Legislation:**

St. Kitts & Nevis has acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on February 26, 1991⁵¹¹.

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

St. Lucia**Legislation:**

St. Lucia acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on February 26, 1991.⁵¹²

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

St. Vincent & The Grenadines**Legislation:**

St. Vincent & The Grenadines acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on May 14, 1991.⁵¹³

Commentary:

Outside of the Emergency Assistance Fund established by Article 25 of the Caribbean Disaster Emergency Response Agency, there are no legislative provisions establishing a dedicated annual and recurring fund exclusively for relief and recovery efforts in respect to Natural Emergency or Disaster.

Trinidad & Tobago**Legislation:**

Trinidad & Tobago acceded to the Agreement Establishing the Caribbean Disaster Emergency Response Agency on February 26, 1991⁵¹⁴.

⁵¹⁰<http://www.odpem.org.jm/DisastersDoHappen/DisasterManagementinJamaica/JamaicasDisasterManagementFramework/DisasterManagementattheNationalLevel/tabid/236/Default.aspx>

⁵¹¹ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

⁵¹² <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/SaintLucia.htm>

⁵¹³ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

⁵¹⁴ See <http://www.cdera.org/definitions/ps.html> for a listing as a participating state.

Best Practice # 1:***Funding mechanism provides dedicated annual and recurring funds.*****ODPM's Standard Operating Procedures and Contingency Plans**

Section 4.7.3:⁵¹⁵ Provides for the Minister of Finance taking steps to establish a National Disaster Relief Fund in the sum of \$10-Million. The Fund is accessible to the Government upon a declaration of a national disaster.

Commentary:

In addition, the Contingency Plans establishes the creation of the Coordinating Committee, which is the agency which recommends to the Prime Minister procedures/guidelines to determine the qualification of applicants in respect of payments from the National Disaster Relief Fund (NDRF).

The National Disaster/Emergency Standard Operating Procedures and Contingency Plans are being widely dispersed to all partners and collaborators. It is expected to guide stakeholders and promote the development of and integration with other disaster response plans nationally. The Agency urges all to continue to regularly test these plans towards the effective disaster management in Trinidad and Tobago.

Best Practice # 2:***Establish a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.***

For most disaster management instruments, the primary source of funding is constituted as a National Fund. Nonetheless, as an attempt to reduce the huge burden faced by national governments in this way, disaster management instruments often provide a supplementary or contingency fund either at the national or the federal level. The United States is illustrative of this. The DRF, through FEMA, is supplied with funds through Congress. However, additional financing assistance is also made available in the face of overwhelming circumstances. The situation is the same in the Marshall Islands, where in the event that disaster recovery costs exceed the funds available in the Disaster Assistance Act, the government may authorize additional funds to be released from the Contingencies Fund or be reprogrammed from other areas of the national budget.⁵¹⁶ The RMI also uses a stationary fund to supplement disaster funding needs.

Conversely, countries such as South Africa provide that reserve national funding for disasters that overwhelm the capacities of the national government distribution of which is contingent on, among other things, whether prevention and mitigation measures were undertaken by the local government and the exhaustion of resources at the local level.⁵¹⁷ As such, provincial and municipal governments must earmark funds from their budgets for disaster activities.⁵¹⁸ Similarly, in India the primary responsibility of providing immediate emergency relief in a post-disaster situation rests with the state/local government concerned. The national government of India supplements state level efforts by providing requisite logistical and financial support.⁵¹⁹ At the local level in the Philippines, local governments operate their own calamity fund. These funds are financed by money set aside by local government units from their annual local budgets. This amount is a mandatory budgetary item equivalent to 5% of the estimated income of local government units from regular sources.⁵²⁰

Antigua & Barbuda**Legislation:****The Development Fund Act⁵²¹ Section 11****Commentary:**

The estimates of expenditure from the Fund for any year may include an appropriation of an amount for Contingencies, and the Minister shall have power to

⁵¹⁵ <http://www.odpm.gov.tt/resources/article.aspx?id=5473>

⁵¹⁶ Disaster Assistance Act 1987 [7 MIRC Ch 10] available at http://www.paclii.org/mh/legis/consol_act_new/daa1987208/

⁵¹⁷ No. 57 of 2002: Disaster Management Act, 2002 available at <http://www.info.gov.za/view/DownloadFileAction?id=68094>

⁵¹⁸ No. 57 of 2002: Disaster Management Act, 2002 available at <http://www.info.gov.za/view/DownloadFileAction?id=68094>

⁵¹⁹ Government of India, Ministry of Home Affairs, *Disaster Management in India*, available at <http://www.unisdr.org/eng/country-inform/reports/India-report.pdf>

⁵²⁰ Total Disaster Risk Management, "Funding Disaster Management in the Philippines," Asian Disaster Reduction Centre, p. 84

⁵²¹ <http://www.laws.gov.ag/acts/chapters/cap-134.pdf>

Best Practice # 2:

Establish a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

direct that an advance be made from such appropriation to meet any urgent and unforeseen need for expenditure which could not be met within the terms of Section 10.

Barbados

Legislation:

There is no legislative provision establishing a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

Commentary:

Belize

Legislation:

The Constitution of Belize 1981⁵²² Section 117(I) provides:

“Any law enacted by the National Assembly may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.”⁵²³

Commentary:

Dominica

Legislation:

**The Constitution of the Commonwealth of Dominica⁵²⁴
Part V (Finance) Section 80**

Commentary:

Provides for the creation of a Contingencies Fund where there has arisen an urgent and unforeseen need for expenditure for which no provision exists.

Dominican Republic

Legislation:

There is no legislative provision establishing a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

Commentary:

Grenada

Legislation:

The Constitution⁵²⁵ Section 79(1) provides:

“Parliament may make provision for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

Commentary:

Haiti

Legislation:

There is no legislative provision establishing a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

Commentary:

Jamaica

Legislation:

**The Constitution⁵²⁶
Part VII Section 118 (1)** provides:

“Any law for the time being in force may create or authorise the creation of a Contingencies Fund and may authorise the Minister responsible for finance to

⁵²² <http://pdba.georgetown.edu/Constitutions/Belize/belize81.html>

⁵²³ http://www.belizelaw.org/e_library/constitution_09.html

⁵²⁴ <http://www.dominica.gov.dm/laws/chapters/chap1-01-sch1.pdf>

⁵²⁵ http://www.oas.org/juridico/MLA/en/grd/en_grd-int-text-const.pdf

⁵²⁶ <http://pdba.georgetown.edu/Constitutions/Jamaica/jam62.html>

Best Practice # 2:

Establish a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

make advances from that Fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation law.”

Public Bodies Management and Accountability Act⁵²⁷

Part 11 Section 3

As soon as possible after the end of each financial year, but not more than four months thereafter, a copy of the annual report and audited financial statements of each public body shall be submitted to the responsible Minister who shall cause such report and statements to be laid on the Table of the House of Representatives and of the Senate.

Emergency Powers Act⁵²⁸

Section 3(1) provides:

“During a period of public emergency, it shall be lawful for the Governor-General, by order, to make regulations for securing the essentials of life to the community, and those Regulations may confer or impose on any Government Department or any persons in Her Majesty’s service or acting on Her Majesty’s behalf such powers and duties as the Governor-General may deem necessary or expedient for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor-General to be required for making the exercise of those powers effective.”

The Financial Administration and Audit Act⁵²⁹

Section 13(3) provides:

“Supplementary estimates of such expenditure shall be submitted for the approval of the House of Representatives as soon as possible. When the supplementary estimates have been approved, and pending the provision for such services under the appropriate heads by an Appropriation Act, issues from the Consolidated Fund Principal Bank Account may be made accordingly and the sums advanced from the Contingencies Fund repaid out of the said issues.”

Commentary:

St. Kitts & Nevis

Legislation:

Federation of Saint Kitts & Nevis Constitutional Order of 1983⁵³⁰

Section 72 provides:

“There shall be such provisions as may be made by Parliament under which, if the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister for the time being responsible for finance may authorize the withdrawal of moneys from the Consolidated Fund for the Purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that

⁵²⁷ www.ecseonline.com/.../Public%20Bodies%20Management%20and%20Accountability%20A..

⁵²⁸ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Jamaica.htm>

⁵²⁹ www.moj.gov.jm/.../The%20Financial%20Administration%20and%20Audit%20Act.pdf

⁵³⁰ <http://pdba.georgetown.edu/Constitutions/Kitts/kitts83.html>

Best Practice # 2:

Establish a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

financial year or the coming into operation of the law, whichever is the earlier.”

Section 73 (1) provides:

“If it appears to the Minister for the time being responsible for finance that-

a) there is an urgent need to incur expenditure;

b) no provision exist for that expenditure in any appropriation law or other law; and

c) it would not be in the public interest to delay the authorization of that expenditure until such time as a supplementary estimate can be laid before the National Assembly, the Minister may, by special warrant, authorize the issue from the Consolidated Fund of the money required to meet that expenditure:

Provided that the total such for the time being authorized to be issued under this subsection, for which no provisions has been made by an appropriation law, shall not exceed such amount as may be prescribed by Parliament.”

Section 73 (2) provides:

“Where in any financial year any expenditure has been authorized by special warrant under subsection (1) the Minister for the time being responsible for finance shall cause a supplementary estimate relating to that expenditure to be laid before the National Assembly at the first sitting of the Assembly occurring after the expiration of fourteen days from the date of the warrant and a supplementary appropriation bill shall be introduced in the Assembly providing for the issue of the sums authorized to be spent and appropriating them to the purposed specified therein.”

Commentary:

St. Lucia

Legislation:

The Saint Lucia Constitution Order 1978⁵³¹

Chapter V Section 81 (1) provides:

“There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

Section 81 (2) provides:

“Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.”

Commentary:

St. Vincent & The Grenadines

Legislation:

The Saint Vincent Constitution Order 1979⁵³²

Chapter V Section 72 (1) provides:

“There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

⁵³¹ The specific provision of the Constitution can be accessed through http://www.stlucia.gov.lc/saint_lucia/saintluciaconstitution/the_saint_lucia_constitution.htm

⁵³² <http://pdba.georgetown.edu/Constitutions/Vincent/stvincent79.html>

Best Practice # 2:

Establish a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.

Section 72 (2) provides:

“Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.”

National Emergency and Disaster Management Act⁵³³

Section 41(2) provides: *“The Minister responsible for Finance may, by a contingencies warrant under his hand, make advances out of the Contingencies Fund if he is satisfied that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the State for the purposes of disaster management.”*

Commentary:

Trinidad & Tobago

Legislation:

The Constitution of the Republic of Trinidad and Tobago with Reforms through 2003⁵³⁴

Section 115(1) provides:

“Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.”

Section 115(2) provides:

“Where any advance is made in accordance with subsection (1) a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purposes of replacing the amount so advanced.”

Commentary:

Best Practice # 3:

The allocation of funds based on a realistic risk assessment of future disaster costs.

Risk assessment provides countries with the ability to make more efficient policy decision in fund allocation specific to their local context. Likewise, post-disaster risk assessments are required immediately subsequent to an event so that adequate funding can quickly be released to assist disaster victims and restore critical infrastructure. The benchmark countries employ different risk assessment methods. For example, the U.S. attempts to estimate their disaster cost based on, among other things, a five-year rolling average of normal disasters and estimates obtained from the field on pending (still open) disaster projects. While, The Finance Commission of India designates and fixes the size of the Calamity Relief Fund (CRF) after taking into account the expenditure on relief and rehabilitation over the past ten (10) years.⁵³⁵ Similarly, the South African government, for example, encourages local governments to implement prevention and mitigation measures that will reduce their exposure to the liability associated with natural disasters, as a condition precedent to obtaining national assistance. This is in keeping with South Africa’s paradigm shift from a disaster recovery driven framework to a risk reduction and management framework.

⁵³³ www.oas.org/.../Disaster&StateEmergency/.../National%20Emergency%20and%20Disaster%20Management%20Act.pdf

⁵³⁴ <http://pdba.georgetown.edu/Constitutions/Trinidad/trinidad76.html>

⁵³⁵ Department of Expenditure, Scheme for Constitution and Administration of the Calamity Relief Fund available at http://www.finmin.nic.in/the_ministry/dept_expenditure/plan_finance/FCD/Guidelines-CRF.html

Best Practice # 3:***The allocation of funds based on a realistic risk assessment of future disaster costs.***

The vast potential in reducing over all debt and increasing resources for disaster management is one of the key reasons why risk assessment is included as a best practice. Furthermore, pre and post disaster will be critical in the target countries as developing accurate or near accurate forecasts of funding requirements is essential to determining the adequacy of funding. Risk analysis will serve to put target countries on notice of the potential disaster funding short falls and can serve as an impetus for target countries to seek additional funding on the international market or through alternative funding schemes to supplement their disaster funding reserves ex-ante. Likewise, risk analysis post disaster is critical to ensure that an appropriate amount of funding is quickly distributed to affected areas in order to adequately address the recovery and reconstruction efforts.

There are no legislative provisions establishing the allocation of funds based on risk assessment of future disaster costs in the frameworks of Antigua & Barbuda, Barbados, Belize, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago.

Dominica**Legislation:****Commentary:**

The World Bank conducted an implementation study based on loan credit to the Commonwealth of Dominica for the Emergency Recovery and Disaster Management Project.⁵³⁶

Dominican Republic**Legislation:****Law No. 147-02 on Risk Management⁵³⁷ Article 12**

Provides for the establishment of a National Emergency Committee which shall lead and guide the study areas technical, scientific, economic, financial, community, legal and institutional purpose to develop and promote policies and decisions of the National Disaster Prevention, Mitigation and Disaster Response.

Commentary:**Grenada****Legislation:****The National Disaster Plan⁵³⁸ Chapter 4 Section 4.7**

Outlines the provision for assistance by determining the quantity and type of assistance required with information of the damage and needs assessment committee.”

Commentary:**Haiti****Legislation:****Proposition De Loi Sur L’etat D’urgence⁵³⁹****Commentary:**

Indicative Program for GFDRR Funding (Projects and engagement areas being considered for GFDRR funding)⁵⁴⁰

1. Technical Assistance to Strengthen Central Capacity Ministry of Planning and external through DRR unit within the Ministry of economy and Cooperation Finance (MeF)
\$400,000, 2010-2011
2. Strengthening Sector Specific DRR institutional Ministry of Planning and

⁵³⁶ http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/04/15/000012009_20040415100857/Rendered/PDF/27953.pdf

⁵³⁷ http://translate.google.com/jm/translate?hl=en&sl=es&u=http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/DomRepublic/Ley%2520147%252002.pdf&ei=MjePS62KE8uXtgn8eyLCw&sa=X&oi=translate&ct=result&resnum=1&ved=0CAkQ7gEwAA&prev=/search%3Fq%3DLey%2BNo.%2B147-02%2BSobre%2BGesti%25C3%25B3n%2Bde%2BRiesgos%2BSanto%2BDomingo,%2BRep%25C3%25BAblica%2BDominicana%253B%2B22%2Bde%2BSeptiembre%2Bdel%2B2002%26hl%3Den%26rlz%3D1T4ADBF_enJM310JM310

⁵³⁸ <http://mypages.spiceisle.com/nadma/National%20Disaster%20Plan.pdf>

⁵³⁹ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Haiti.htm>

⁵⁴⁰ http://gfdrr.org/docs/6thCG_Country_Program_Summaries.pdf

Best Practice # 3:

The allocation of funds based on a realistic risk assessment of future disaster costs.

external Capacities Cooperation (Ministries of agriculture, Public work, social affairs, education, environment)

IADB, UN system

1.3 million

2010-2012

3. Development of Local DRR expertise through pilot DRR

Ministry of Planning and external activities within priority sectors

Cooperation, USAID , UNDP, European Commission

1.8 million

2010-2012

4. Building Risk Assessment and Monitoring Capacity

Ministry of Planning and External Cooperation, UNDP, IADB, USAID,

European Commission

1.1 million

2010-2012

Jamaica

Legislation:

Disaster Preparedness & Emergency Management Act⁵⁴¹

Section 11(1) provides: *“The Office shall, within three months after the end of each financial year, or within such longer period as the Minister may in special circumstances allow, cause to be made, and transmit to the Minister a report dealing generally with the activities of the Office during the preceding financial year together with the statement of accounts in respect of that year.”*

Section 11(2) provides: *“The Minister shall cause copies of the report together with copies of the statement of accounts in respect of that year and the auditor’s report thereon to be laid on the Table of the House of Representatives.”*

Section 11(3) provides:

The Office shall, before a date specified by the Minister, submit to the Minister for his approval, estimates of revenue and expenditure for the ensuing year.

National Disaster Action Plan for Jamaica establishing The National Damage Assessment Plan⁵⁴²

Section 4.3

Establishes the National Damage Assessment Team (NDAT) which is responsible for the collection of data pertaining to all major disasters within the island. The role of the national damage assessment team is to:

- a) Continue detailed identification and quantifying populations at risk.
- b) Help define and prioritise the actions and resources required to reduce immediate risks.
- c) Identify the priorities of the affected people
- d) Estimate the additional support required from local, national and international sources for relief and recovery
- e) Identification and documentation of existing resources.
- f) Identify areas that may be unfit for human habitation or where evacuation is necessary.⁵⁴³

⁵⁴¹ www.odpem.org.jm/.../Disaster%20Preparedness%20&%20Emergency%20Management%20Act.pdf

⁵⁴² <http://www.odpem.org.jm/DisastersDoHappen/NationalDisasterPlans/tabid/57/grm2id/2/Default.aspx>

⁵⁴³ <http://www.odpem.org.jm/DisastersDoHappen/NationalDisasterPlans/tabid/57/grm2id/2/Default.aspx>

Best Practice # 3:

The allocation of funds based on a realistic risk assessment of future disaster costs.

Similarly **Parish Damage Assessment Team (PDAT) whose role** is to:

- a) Confirm the reported emergency and estimate the overall magnitude of the damage.
- b) Identify, characterise and quantify populations at risk in the disaster.
- c) Help define and prioritise the actions and resources to reduce immediate risks.
- d) Identify the priorities of the affected people
- e) Estimate the additional support required from local, and national sources for relief and recovery.
- f) Identification and documentation of existing resources.
- g) Identify areas that may be unfit for human habitation or where evacuation is necessary.⁵⁴⁴

Best Practice # 4:

Disaster funds that are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard.

Misappropriation of funds is a factor that governments must, in all areas, try to avoid. It cannot be over emphasised that it is present even more so where disaster management is involved. The funding mechanism should hold all the stakeholders responsible for their actions or inactions. Specifically, the funding requirements should be designed in such a way to encourage the adoption of mitigation measures, use of insurance and proper financial planning for disaster management activities. The goal is reduce or eliminate the moral hazard behaviour of funding recipients, including, but not limited to, individuals and local government.

The South Africa model is demonstrative of a key element. In South Africa municipal and provincial governments are required to incorporate adequate funding into their respective budgets and implement prevention and mitigation measures that will reduce their exposure to the liability associated with natural disasters, as a condition precedent to obtaining national assistance.

It is included as a best practice for the reason that funding mechanisms should encourage, by inclusion of incentives, the adoption of mitigation programs and initiatives, by key government and private sector stakeholders, which will lessen the risks and costs of disaster events, thereby reducing the funding burden on the national government.

There are no legislative provisions establishing the allocation of funds supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard, in the laws of Antigua & Barbuda, Barbados, Belize, Dominica, Dominican Republic Grenada, Haiti, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.

Jamaica**Legislation:**

Public Bodies Management & Accountability Act⁵⁴⁵

Part 11 Section 3

As soon as possible after the end of each financial year, but not more than four months thereafter, a copy of the annual bodies report and audited financial statements of each public body shall be submitted to the responsible Minister who shall cause such report and statements to be laid on the Table of the House of Representatives and of the Senate.

Commentary:

**The National Disaster Plan⁵⁴⁶
Section 3.1**

⁵⁴⁴ <http://www.odpem.org.jm/DisastersDoHappen/NationalDisasterPlans/tabid/57/grm2id/2/Default.aspx>

⁵⁴⁵ www.ecseonline.com/.../Public%20Bodies%20Management%20and%20Accountability%20A..

⁵⁴⁶ <http://www.odpem.org.jm/DisastersDoHappen/NationalDisasterPlans/tabid/57/grm2id/2/Default.aspx>

Establishes the Administration and Finance Committee whose responsibilities include:

1. Review the National Disaster Action Plan · Identify the resource needs to enable the ODPEM to perform effectively.
2. Identify and prioritize resources for responding to natural and man-caused disasters, e.g. hurricane and environmental pollution.
3. Assess the need for a management and equipment audit of the ODPEM and, if it is necessary identify the appropriate agency to undertake the assignment.
4. Merge all existing Disaster and / Relief Funds into a single National Emergency Relief Fund, to be placed in an interest bearing account and to co-opt a National Emergency Fund Committee to manage and administer the activities of the fund.
5. Develop strategies aimed at establishing and implementing legislation to define the role and functions of all Public and private entities involved in emergency management.
6. Identify funding for disaster preparedness and response programmes.

Section 4.11

Comprehensively sets out the responsibilities of the Ministry of Finance and Planning in the plan to include:

1. Tracking and clearance of incoming relief
2. Damage assessment/data gathering and rehabilitation.
3. Ensure that insurance programmes appropriate to the level of hazard risks are made available.
4. Maintain a standard formula for the quick release of foreign exchange to procure items needed for disaster relief, reconstruction and mitigation
5. Prepare guidelines and qualification requirements for the receipt of financial assistance by victims from the Government in the response and recovery period
6. Establish guidelines and procedures for financial compensation of private individuals and companies whose services may be required in the response and recovery phases.
7. Initiate the formation of a disaster relief fund and develop priorities and procedures for its use
8. Manage and administer the disaster relief fund
9. Report annually to the Minister of Finance on the activity and administration of the fund.
10. Create standing arrangements for financing emergency operations, including relief, rehabilitation and reconstruction activities, without unnecessary delays.
11. Maintain a standard formula for the quick release of funds to procure items needed for disaster relief, reconstruction and mitigation
12. Provide support for the national mitigation plan and mitigation projects Ensure that potential hazards are considered when undertaking development planning and spatial development projects.

⁵⁴⁷ <http://www.odpem.org.jm/DisastersDoHappen/NationalDisasterPlans/tabid/57/grm2id/2/Default.aspx>

13. Establish clear procedures, guidelines, training programmes and simulations for local, Parish and International multi-agency, post-disaster damage assessment, to facilitate completion of initial damage assessment within 48 hours after a disaster.
14. Maintain a current capital stock inventory for all Govt. property and resources in the Country. Develop a system of needs assessment which incorporates an ongoing inventory of supplies within the Country.
15. Assess the potential damage to existing human and material assets in the event of various types of disasters, and maintain a database of corresponding requirements.
16. Ensure that policies, procedures and protocols for obtaining international disaster relief are formulated and circulated to all departments
17. Ensure that disaster issues are taken into consideration in preparation of economic development projects.
18. Ensure that prices of critical food stocks arriving in the Island after a disaster are maintained at reasonable levels.
19. Deploy the damage assessment team on a quick reconnaissance of the Country for a rapid overview of the situation as soon as the all clear is given.
20. Coordinate initial damage assessment surveys among agencies (including donor agencies and CDRU survey teams) through the NEOC, so as to facilitate rapid damage assessment immediately after a disaster.
21. Submit to the Prime Minister (through the NEOC), within 48 Hours of a disaster, an initial situation report of the damage faced by all sectors in the Country.
22. Assist the NEOC in the provision of emergency clothing and feeding Document the distribution of relief supplies and donations.
23. Coordinate statisticians and data entry personnel and have them on hand to enter and tabulate damage assessment figures at the NEOC

Section 4.25

Outlines the responsibilities of the Auditor General's Department which includes:

1. Ensure compliance with approved financial procedure and any associated legislation.
2. Certification of proceeds from the sale of residual assets.
3. Certification of financial statements as required by legislation.

Section 4.26

Outlines the responsibilities of the Accountant General's Department which includes the issuance of money for emergency/disaster expenditure, from the Consolidated Fund.⁵⁴⁷

**Trinidad & Tobago
Legislation:**

There are no specific legislative provisions.

Best Practice # 3:***The allocation of funds based on a realistic risk assessment of future disaster costs.*****Commentary:**

ODPM's Standard Operating Procedures and Contingency Plans Section 4.7.3.⁵⁴⁸

Recommendations included:

The Committee recommended to the Minister that funds from the NDRF be released to:

1. Another government unit to facilitate the construction of homes; and
2. Home-owners, who were to be compensated for materials already purchased.
3. NEMA, who activates a team of technical experts (Engineers, Engineering Assistants, Building Inspectors, Road Officers & Works Supervisors, as appropriate), to be sent to assess the damages and submit their findings to NEMA. The Agency will compile these reports for the consideration and approval of the *Committee*.
4. Compensation for losses suffered were calculated on the basis of 75% of the original estimate to a maximum of \$25,000.00 or on the value of the materials required to undertake the repairs which-ever cost was lower.
5. Owners of the affected building would be responsible for the repairs to their property and for providing the labour required. The owners would ensure that invoices are prepared for the purchase of the materials.

The Honourable Minister of National Security, based on the recommendations of the Committee, would consider the approval of sums (for the repair of each home) of no more than \$25,000. For building estimated to costs over \$25,000, it will be determined whether the buildings are insured. If insured, what is recoverable and what is required will be analysed.

Best Practice # 4:***Disaster funding mechanism to allow for pooling of risk between public and private sector stakeholders.***

Comprehensive analysis of disaster management is unnecessary to determine that the costs associated with rehabilitation and recovery places a heavy economic burden on the national economy of a country. The traditional approach of appropriating funds through the designation of public funds places a strain on the ability of the countries to adequately fund immediate disaster needs, post-disaster reconstruction, and longer-term economic and social development programs. A pool may be defined as any group of individuals, businesses, or organizations or countries that share risks within the group. Risk pooling mechanisms, such as insurance and public private partnerships, allows countries to transfer some of the risk associated with disaster recovery activities, although the individual nation may lack the scale necessary to transact cost-effectively in the global marketplace, and is being used as financing alternative to overcome the funding shortcomings of the traditional approach. Participation in insurance pools may be mandated by law or regulation, as with Indonesia's MAIPARK. As such, desirable disaster funding mechanisms should seek to distribute the burden of disaster risk financing among both the public and private sector and, if possible, the international marketplace.

In India, once a disaster occurs that results in disbursements from the Calamity Relief Fund, a corresponding levy of a special surcharge is imposed to recoup the funds disbursed from the fund. This

⁵⁴⁸ <http://www.odpm.gov.tt/resources/article.aspx?id=5473>

Best Practice # 4:***Disaster funding mechanism to allow for pooling of risk between public and private sector stakeholders.***

mechanism offsets the cost of disaster risk to the private sector, thereby acting as a risk sharing mechanism.

In Indonesia, government and private insurers and reinsurers share the cost of earthquake disaster risks through MAIPARK, a legislated risk pooling mechanism involving both the private sector and government.

The Caribbean Catastrophe Risk Insurance Facility (CCRIF), a pioneer in regional disaster risk pooling, allows CARICOM governments to pool their country specific disaster risk and purchase insurance coverage to finance immediate post-disaster recovery needs at a deeply discounted rate.

Best practices must serve to provide the best options for all those countries sharing environmental commonalities and by extension risks of disaster events. Given the scarcity of resources, all target countries should seek to defray the risks and costs associated with disaster risk reduction, response and recovery by pooling risks between the public and private sectors, as well as regional and international counterparts, where feasible.

Antigua & Barbuda, Barbados, Belize, Dominica, Grenada, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago are participating is a participating member of the CCRIF. Dominican Republic is not a participating member of the CCRIF. From time to time measures have been utilised to address emergencies. Some instances are discussed below:

Grenada**Legislation:**

Grenada is a participating member of the CCRIF.

Commentary:

The National Disaster Plan⁵⁴⁹

Chapter 6.1

The responsibilities delineated as it relates to the Chamber of Commerce. Includes identifying and providing resources from the private sector to be used in emergencies and disasters; and identifying needs from the private sector to increase its level of preparedness.

Haiti**Legislation:**

Haiti is a participating member of the CCRIF.

Commentary:

On January 12, 2010 Haiti experienced an earthquake of magnitude (7.0m) sufficient enough to trigger the full policy limit for the earthquake coverage. Accordingly, Haiti received just under US\$8M – approximately 20 times their premium for earthquake coverage of US\$385,500. Haiti's premium is currently financed by the World Bank through an International Development Association (IDA) grant. The grant was designed to finance only 50 percent of Haiti's premium during the third year. Consultations and recommendations have been made between the Haitian authorities and the World Bank for the latter to approach donors to seek additional grants to ensure Haiti's participation in the CCRIF.

Jamaica**Legislation:**

Jamaica is a participating member of the CCRIF.

The Banana Insurance Act⁵⁵⁰

Chapter IV Section 19 (1) provides:

“For the purposes of this Act there shall be established under the control and management of the Board a fund called the Banana Insurance Fund.”

⁵⁴⁹ <http://mypages.spiceisle.com/nadma/National%20Disaster%20Plan.pdf>

⁵⁵⁰ www.moj.gov.jm/laws/.../The%20Banana%20Insurance%20Act.pdf

Best Practice # 4:***Disaster funding mechanism to allow for pooling of risk between public and private sector stakeholders.*****Section 19(2) provides:***“The proceeds of the cess raised, levied or collected under section 21 and any premiums paid to the Board under section 5 and any moneys borrowed by the Board under section 23 and any sums received by the Board by way of re-insurance or from the sale of any of their assets, or otherwise, under this Act shall be paid into the Banana Insurance Fund”.***Commentary:**

Hurricane Dean occurred within three months of the launch of the CCRIF and generated damage to several of the CCRIF’s participating countries, particularly Jamaica. While the damage was certainly severe in some areas, it was not widespread enough in any one of the participating countries to trigger their catastrophe coverage. Following this event, the board of directors and staff felt that Hurricane Dean provided an excellent opportunity to review CCRIF’s mission and response and further recommendations and policies were implemented.

Best Practice # 6:***Disaster funding mechanism is supported by legislation.***

Funding mechanisms should be properly entrenched in national or local law with the adoption of appropriate regulations. The legislative framework, in addition to providing for the establishment of the funding mechanism and the supporting institutional framework, should seek to ensure non-discriminatory and equitable distribution of disaster funds and implementation of funding programs. Likewise, any legislation adopted with respect to disaster funding should clearly define the roles, responsibilities and obligations of the main stakeholders.

All benchmarked jurisdictions have adopted legislation which specifically provides for the constitution of a specific disaster funding mechanism. As such, legislative entrenchment of determined funding mechanism is an observed and critical best practice recommended for adoption in the target countries. Notwithstanding, the requirement for legislative authority, budget allocation formulas, policies, and procedures are generally determined based on the recommendation of disaster management agency or a delegated state financing authority.

Key Imperative: Disaster funding mechanisms should be supported by sound legislative enactments that clearly define the parameters of any disaster management funding scheme, secures the integrity of the funding mechanism by protecting the funding source from budgetary re-allocation and by legislatively penalising misappropriation.

Antigua & Barbuda**Legislation:****The Emergency Powers (Hurricane, Earthquake, Fire or Flood Act)****Section 3(1)**⁵⁵¹ provides:*“Where a proclamation of emergency has been made and so long as the proclamation is in force, it shall be lawful for the Cabinet to make orders securing the essentials of life to the community and for the preservation of the health, welfare and safety of the public.”***The Emergency Powers Act**⁵⁵²**Section 6(1)(c)**

Make regulations authorizing such other measures as Cabinet may deem reasonably justifiable for dealing with the situation that exists in Antigua and

⁵⁵¹<http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Ant&Bar/Emergency%20Powers%20Act.pdf>

⁵⁵²<http://www.laws.gov.ag/acts/chapters/cap-147.pdf>

Barbuda during that period of emergency

The Finance and Audit Act⁵⁵³

Section 6(1)

The House [of Representatives] may make provision in any appropriation law for the establishment of Special Funds.⁵⁵⁴

Section 20(4)

The House may by resolution hypothecate revenue for a Special Fund.⁵⁵⁵

The Development Fund Act

Section 11

The estimates of expenditure from the Fund for any year may include an appropriation of an amount for Contingencies, and the Minister shall have power to direct that an advance be made from such appropriation to meet any urgent and unforeseen need for expenditure which could not be met within the terms of section 10⁵⁵⁶.

The Appropriation (Development Fund) Act No. 22 of 2005⁵⁵⁷

Section 2

The issue from the Development Fund of the sum of two hundred and twelve million, two hundred and two thousand, two hundred and sixty-eight dollars (\$212,202,268.00) is authorized for meeting expenditure for Antigua and Barbuda in respect of the calendar year ending on the thirty-first day of December, 2006, under the Heads of Expenditure specified in the Schedule, and the sum specified in the Schedule opposite to a Head is appropriated out of the sum of two hundred and twelve million, two hundred and two thousand, two hundred and sixty-eight dollars (\$212,202,268.00) for the purpose specified in relation to that Head in the Development Estimates for the year 2006.

Commentary:

Barbados

Legislation:

The Emergency Powers Act⁵⁵⁸

Section 3 (1) provides

“Notwithstanding any other provisions of law, when a proclamation of emergency has been made and so long as the proclamation is in force, it shall be lawful for the Cabinet to make any orders whatsoever which it considers desirable in the public interest.”

Commentary:

The Disaster Emergency Management secretariat will be replaced by the Barbados Emergency Management Agency (BEMA) as a fully established Government Department under the Ministry of Home Affairs.

This new system is designed to ensure that disaster management policies and strategies become an essential part of the national development and planning process and provide efficient infrastructure and authority to combat the

⁵⁵³ Commensurate to the Finance provision in the Constitution of Antigua and Barbuda, <http://pdba.georgetown.edu/Constitutions/Antigua/antigua-barbuda.html>

⁵⁵⁴ <http://www.laws.gov.ag/acts/chapters/cap-168.pdf>

⁵⁵⁵ *ibid*

⁵⁵⁶ <http://www.laws.gov.ag/acts/chapters/cap-134.pdf>

⁵⁵⁷ <http://www.laws.gov.ag/acts/2005/a2005-22.pdf>

⁵⁵⁸ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Barbados/Emergency%20Powers.pdf>

Best Practice # 6:**Disaster funding mechanism is supported by legislation.**

inefficiencies in previous system as it related to mitigation, prevention, preparedness, response, recovery, rehabilitation and reconstruction⁵⁵⁹.

Belize**Legislation:****Constitution of Belize⁵⁶⁰****Part XI (Finance) Section 114**

Provides for the establishment of the National Consolidated Fund from which it is possible to appropriate funding for disaster relief and recovery efforts.

Commentary:**Dominica****Legislation:****The Emergency Powers (Disaster) Act 20 of 1987****Section 5(1) provides:**

“Notwithstanding any other provisions of law, when a proclamation of emergency has been made and so long as the proclamation is in force, it shall be lawful for the Cabinet to make any orders whatsoever which it considers desirable in the public interest.”

The Constitution of the Commonwealth of Dominica⁵⁶¹**Part V (Finance) Section 78(3)**

Provides for the appropriation of funds drawn from the Consolidation Fund where a need has arisen for which there is no amount has been allocated thereto.

Section 80

Provides for the creation of a Contingencies Fund where there has arisen and urgent and unforeseen need for expenditure for which no provision exists.

Commentary:**Dominican Republic****Legislation:****Law No. 147-02 on Risk Management⁵⁶² Article 3**

Provides for the establishment of a National Fund for Prevention, Mitigation and Disaster Response.

Article 27

Gives the President of the Republic the authority to approve and issue the rules and administrative regulations for the organization, management and operation of the National fund for prevention, mitigation and disaster response.⁵⁶³

Commentary:**Grenada****Legislation:****The Constitution of Grenada⁵⁶⁴ Section 77(3)**

If in respect of any financial year it is found-

a. that the amount appropriated by the Appropriation law to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law ; or

⁵⁵⁹ <http://www.dem.gov.bb/pages/newstruc.html#neme>

⁵⁶⁰ http://www.belizelaw.org/e_library/constitution_09.html

⁵⁶¹ <http://www.dominica.gov.dm/laws/chapters/chap1-01-sch1.pdf>

⁵⁶² http://translate.google.com.jm/translate?hl=en&sl=es&u=http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/DomRepublic/Ley%2520147%252002.pdf&ei=MjePS62KE8uXtgn8eyLCw&sa=X&oi=translate&ct=result&resnum=1&ved=0CAkQ7gEwAA&prev=/search%3Fq%3DLey%2BNo.%2B147-02%2BSobre%2BGesti%25C3%25B3n%2Bde%2BRiesgos%2BSanto%2BDomingo,%2BRep%25C3%25BAblica%2BDominicana%253B%2B22%2Bde%2BSeptiembre%2Bdel%2B2002%26hl%3Den%26rlz%3D1T4ADBF_enJM310JM310

⁵⁶³ Ibid.

⁵⁶⁴ http://www.oas.org/juridico/MLA/en/grd/en_grd-int-text-const.pdf

b. that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation law or for a purpose to which no amount has been appropriated by that law ;

a supplementary estimate, showing the sums required or spent, shall be laid before the House of Representatives and, when the supplementary estimate has been approved by the House, a supplementary Appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Section 79(1) provides:

“Parliament may make provision for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

Emergency Powers Act⁵⁶⁵

Section 4(c)

Make regulations authorising such other measures as Cabinet may deem reasonably justifiable for dealing with the situation that exists in the State during that period of emergency

The National Disaster Plan⁵⁶⁶

Chapter 5 Sections 5.2

Provides for the responsibility of the Ministry of Finance, Planning & Development which are states as follows:

1. To design, update, test and evaluate continuity of operations and emergency response plans and procedures.
2. Organise post-disaster damage and needs assessments
3. Collect, collate and maintain damage statistics
4. Estimate amounts of financial and other relief and rehabilitation requirements
5. Assist with co-ordination of supplies and other assistance received by government and non-governmental organisations
6. Provide budgetary support for emergency expenditure

Chapter 6 Section6.1

The responsibilities delineated as it relates to the Chamber of Commerce includes identifying and providing resources from the private sector to be used in emergencies and disasters; and identifying needs from the private sector to increase its level of preparedness.

Commentary:

Haiti

Legislation:

Commentary:

Constitution of Haiti 1987⁵⁶⁷

The National Disaster Risk Management System (NDRMS) in Haiti was signed into effect in 2001 by 10 key line ministers and the President of the Haitian Red

⁵⁶⁵<http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Grenada/Emergency%20Powers%20Act.pdf>

⁵⁶⁶<http://mypages.spiceisle.com/nadma/National%20Disaster%20Plan.pdf>

⁵⁶⁷<http://pdba.georgetown.edu/Constitutions/Haiti/haiti1987.html>

Cross. The nDrMs has achieved significant results in the areas of disaster preparedness and response since its inception. While the 2004 hurricane season resulted in 5,000 casualties over 300,000 affected people, fGHi resulted in less than 800 casualties over 865,000 affected people.

strong collaboration between the key members of the Disaster Risk Management System and its technical and financial partners was critical to improving the speed and efficiency of the response.⁵⁶⁸

Jamaica**Legislation:****The Constitution of Jamaica⁵⁶⁹ Part VII Section 118 (1) provides:**

“Any law for the time being in force may create or authorise the creation of a Contingencies Fund and may authorise the Minister responsible for finance to make advances from that Fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provision has been made by an Appropriation law.”

Public bodies management & accountability Act⁵⁷⁰**Part 11 section 3 provides**

“As soon as possible after the end of each financial year but not more than four months thereafter, a copy of the annual report and audited financial statements of each public body shall be submitted to the responsible Minister who shall cause such report and statements to be laid on the Table of the House of Representatives and of the Senate.”

Emergency Powers Act⁵⁷¹**Section (1) provides:**

“During a period of public emergency, it shall be lawful for the Governor-General, by order, to make regulations for securing the essentials of life to the community, and those regulations may confer or impose on any Government Department or any persons in Her Majesty’s Service or acting on Her Majesty’s behalf such powers and duties as the Governor-General may deem necessary or expedient for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor-General to be required for making the exercise of those powers effective.”

The Financial Administration and Audit Act⁵⁷²**Section 13(1) provides:**

“Pursuant to section 118 of the Constitution there is hereby established a Contingencies Fund which shall consist of issues from the Consolidated Fund Principal Bank Account not exceeding in the aggregate one hundred million dollars or such greater sum as the House of Representatives may by resolution approve, to defray unforeseen expenditure.”

⁵⁶⁸ ibid

⁵⁶⁹ <http://pdba.georgetown.edu/Constitutions/Jamaica/jam62.html>

⁵⁷⁰ www.ecseonline.com/.../Public%20Bodies%20Management%20and%20Accountability%20A..

⁵⁷¹ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/Jamaica.htm>

⁵⁷² www.moj.gov.jm/.../The%20Financial%20Administration%20and%20Audit%20Act.pdf

Section 13(2) provides:

If the Minister is satisfied that-

- (a) certain expenditure is likely to be incurred in a financial year-*
 - (i) in relation to a service, thereby causing an excess on the sum provided for that service by the Appropriation Act relating to that year; or*
 - (ii) which, being in respect of a new service, was not provided for by the Appropriation Act relating to that year; and*
- (b) the circumstances are such that the expenditure cannot without injury to the public interest be post-poned until adequate provision is made by Parliament. the Minister may authorize such expenditure to be met by an advance from the Contingencies Fund.*

The Banana Insurance Act⁵⁷³**Part IV Section 19(1)**

For the purposes of this Act there shall be established under the control and management of the Board a fund called the Banana Insurance Fund.

Section 19(2)

The proceeds of the cess raised, levied or collected under section 21 and any premiums paid to the Board under section 5 and any moneys borrowed by the Board under section 23 and any sums received by the Board by way of re-insurance or from the sale of any of their assets, or otherwise, under this Act shall be paid into the Banana Insurance Fund.

Commentary:**St. Kitts & Nevis****Legislation:****Federation of Saint Kitts & Nevis Constitutional Order of 1983⁵⁷⁴ Section 71(3) provides:**

If in respect of any financial year it is found-

- a) that the amount appropriated by the appropriation law to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law; or*
- b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the appropriation law or for a purpose to which no amount has been appropriated by that law, a supplementary estimate showing the sums required or spent shall be laid before the National Assembly and, when the supplementary appropriation shall be introduced in the Assembly providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.*

Section 73(1) provides:

If it appears to the Minister for the time being responsible for finance that-

- a) there is an urgent need to incur expenditure;*
- b) no provision exist for that expenditure in any appropriation law or other law; and*
- c) it would not be in the public interest to delay the authorization of that expenditure until such time as a supplementary estimate can be laid before the National Assembly, the Minister may, by special warrant, authorize the issue*

⁵⁷³ www.moj.gov.jm/laws/.../The%20Banana%20Insurance%20Act.pdf

⁵⁷⁴ <http://pdba.georgetown.edu/Constitutions/Kitts/kitts83.html>

from the Consolidated Fund of the money required to meet that expenditure: Provided that the total such for the time being authorized to be issued under this subsection, for which no provisions has been made by an appropriation law, shall not exceed such amount as may be prescribed by Parliament.

(2) Where in any financial year any expenditure has been authorized by special warrant under subsection (1) the Minister for the time being responsible for finance shall cause a supplementary estimate relating to that expenditure to be laid before the National Assembly at the first sitting of the Assembly occurring after the expiration of fourteen days from the date of the warrant and a supplementary appropriation bill shall be introduced in the Assembly providing for the issue of the sums authorized to be spent and appropriating them to the purposed specified therein.

Commentary:

The Government of St. Kitts and Nevis, with valuable assistance from the donor community (USAID, IBRD, EU, CDB), has invested heavily in disaster mitigation policies and projects over the past seven years.

National Disaster Plan⁵⁷⁵**Section 25(a)**

Responsibilities of the Ministry of Finance include:

1. Provide budgetary support for emergency mitigation and expenditure.
2. Keep records of financial assistance received and disbursed.
Regulation of the entry of emergency supplies

St. Lucia**Legislation:****The Saint Lucia Constitution Order 1978⁵⁷⁶ Chapter V Section 79 (3) provides:**

If in respect of any financial year it is found-

a) that the amount appropriated by the appropriation law to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law; or

b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the appropriation law or for a purpose to which no amount has been appropriated by that law.

a supplementary estimate showing the sums required or spent shall be laid before the House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Section 81 (1) provides:

“There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

Section 81(2)

“Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the

⁵⁷⁵ http://www.nevisdm.com/2005_nevis_disaster_plan.html

⁵⁷⁶ http://www.stlucia.gov.lc/saint_lucia/saintluciaconstitution/the_saint_lucia_constitution.htm

supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.”

Emergency Powers (Disaster) Act⁵⁷⁷**Section 3(1) provides:**

“Where the Governor General by Proclamation pursuant to section 17 of the Constitution declares that a state of emergency exists for the purposes of Chapter 1 of the Constitution and so long as the Proclamation is in force, it shall be lawful for the Minister to make Orders securing the essentials of life to the community and for the preservation of the health, welfare and safety of the public.”

Commentary:**St. Vincent & The Grenadines****Legislation:**

The Saint Vincent Constitution Order 1979⁵⁷⁸ Chapter V Section 70(3) provides:

“If in respect of any financial year it is found-

a. that the amount appropriated by the appropriation law to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that law,

a supplementary estimate showing the sums required or spent shall be laid before the House and, when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced in the House providing for the issue of such sums from the consolidated Fund and appropriating them to the purposes specified therein.”

Section 72(1) provides:

“There shall be such provisions as may be made by Parliament for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.”

Section 72(2) provides:

“Where any advance is made from the Contingencies Fund, a supplementary estimate shall as soon as possible be laid before the House and when the supplementary estimate has been approved by the House, a supplementary appropriation bill shall be introduced as soon as possible in the House for the purpose of replacing the amount so advanced.”

National Emergency and Disaster Management Act⁵⁷⁹**Section 41(2)**

The Minister responsible for Finance may, by a contingencies warrant under his hand, make advances out of the Contingencies Fund if he is satisfied that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the State for the purposes of disaster management.

Commentary:

⁵⁷⁷<http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/SaintLucia.htm>

⁵⁷⁸<http://pdba.georgetown.edu/Constitutions/Vincent/stvincent79.html>

⁵⁷⁹www.oas.org/.../Disaster&StateEmergency/.../National%20Emergency%20and%20Disaster%20Management%20Act.pdf

Best Practice # 6:**Disaster funding mechanism is supported by legislation.****Trinidad & Tobago
Legislation:****The Constitution of the Republic of Trinidad and Tobago with Reforms through 2000⁵⁸⁰****Section 113 (3) provides:**

“If in respect of any financial year it is found-

a. that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or

b. that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the Appropriation Act or for a purpose for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads if any such expenditure shall be included in a Supplementary Appropriation Bill.”

Section 115(1) provides:

“Parliament may provide for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.”

Section 115(2) provides:

“Where any advance is made in accordance with subsection (1) a supplementary estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purposes of replacing the amount so advanced.”

Disaster Measures Act⁵⁸¹**Section 3 provides:**

“For so long as an area is a disaster area, the President or any person duly authorised by him may in that area....(e) take all other measures which are reasonably necessary to mitigate the effects of the disaster.”

Commentary:

National Policy on the Incident Management System⁵⁸²

Section 6.2 - The role of the incident manager is purely one of managing available resources (personnel and equipment) that will be responding to the incident. In the Trinidad and Tobago context the IMS must be supported by Institutional Contingency Plans.

⁵⁸⁰ <http://pdba.georgetown.edu/Constitutions/Trinidad/trinidad76.html>

⁵⁸¹ <http://www.google.com.jm/search?q=CHAPTER+16%3A50+DISASTERS+MEASURES+ACT&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a>

⁵⁸² <http://www.odpm.gov.tt/resources/policies.aspx>

8.3 International Aid & Relief

Several treaties and conventions have been developed with respect to various aspects of governance, in order to facilitate the international adoption of identified best practices and thereby aid in the harmonization and integration of international relief efforts. These treaties deal with various disaster and emergency related matters including, but not limited to: customs procedures [the Kyoto Convention]; civil defense; international maritime traffic; and international civil aviation [the Chicago Convention].

The regional disaster management machinery, the Caribbean Disaster Emergency Management Agency (CDERA) recognizes and recommends the adoption of these conventions by all countries in the region. The commentary below discusses the local initiatives with respect to certain identified best practices in the coordination and facilitation of international aid and relief. Where relevant, reference will be made to international treaties and conventions. The key observation is that there is a distinct lack of legislation and/or regulation that provides the requisite authority and institutional framework for the coordination of international relief efforts.

Best Practice # 1: *Clear provisions for the initiation and termination of international aid relief.*

This is viewed as the most effective means to ensure maximum transparency and accountability in international aid relief efforts. It is a means of ensure that one consistent national message is communicated to international aid organisations.

Antigua & Barbuda

Legislation: Section 8(2)(k) of the Disaster Management Act 2002 provides that Antigua & Barbuda's National Disaster Preparedness Response Plan must incorporate this international best practice.

Commentary: The National Office of Disaster Services (NODS) is still in the process of drafting and implementing a Comprehensive Disaster Management Policy, however, its sub-committees have established procedures and work closely with CDEMA in coordinating international aid and relief.

Barbados

Legislation: The Emergency Management Act 2006, established the Department of Emergency Management Emergency Management Advisory Council (the "EMA Council") as a part of the comprehensive National Emergency Management System. The EMA Council is comprised in part by key national government ministries and departments, representative of national emergency services and includes representatives of international emergency management organizations.

Commentary: There is no policy or regulation directly addressing this best practice; however, through the EMA Council, international aid agencies are included in national consultations during disaster and emergency situations, and the initiation and termination of aid and relief is coordinated through these consultations.

Belize

Legislation: Section 8(2)(k) of the Disaster Preparedness and Response Act 2002 provides that Belize's National Disaster Preparedness Response Plan must incorporate this international best practice. Additionally, the National Emergency Management Organisation has established a Foreign Assistance Committee Hazard Response Plan, which addresses the initiation and deactivation of international aid in emergency and disaster situations.

Commentary: This best practice has been fully adopted and entrenched in Belizean policy.

Dominica

Legislation: The National Emergency Planning Organisation (NEPO) is comprised of ministerial government members, permanent secretaries, and heads of departments and private sector organisations. The Minister responsible for disaster management is chairperson of NEPO. There is no legislation governing disaster

Best Practice # 1: *Clear provisions for the initiation and termination of international aid relief.*

relief issues and activities and therefore makes no legislative or regulatory provision for the procedures related to the initiation and termination of international aid and relief.

Commentary: The National Disaster Management Plan is presently under review and would do well to make provision for this best practice.

Dominican Republic

Legislation: Act. 147-02 2002, established the National System for Prevention, Mitigation and Response to Disaster, its structure provides for the relief coordination mechanisms, which are contained in Decree no. 932 of September 13, 2003 approving the Implementing Regulations of Act 147-02 on Risk Management. The National System for Prevention, Mitigation and Response to Disaster is the set of guidelines and activities addressing disaster and emergency related issues.

Commentary: Among other provisions of Act 147-02 is the establishment of the Emergency Operations Centre, the operational arm of the National Emergency Commission, which is specifically tasked with maintaining the Commission's contact with international institutions and aid organisations in coordination with the Secretary of Foreign Affairs.

Grenada

Legislation: There is no disaster management legislation in place, however, the Emergency Act is utilised and provides certain powers to the State in case of emergencies.

The draft National Disaster Management Plan 2005 recommends that the Ministry of Foreign Affairs be directly tasked with establishing contact with international aid agencies.

Commentary: No legislation or regulations are in place. While established procedures are in place; procedures are more susceptible to subversion/disregard than codification. The draft National Plan should be modernised and adopted.

Haiti

Legislation: There is a National Management System for risks and disaster and a National Risk and Disaster Management Plan 2001. The Directorate of Civil Protection is primarily responsible for coordinating disaster relief aid efforts.

Commentary: Haiti has a long history of receiving aid from international organisations. There appears to be no codification of the procedures involved in initiating & deactivating international aid.

Jamaica

Legislation: The Office of Disaster Preparedness and Emergency Management (ODPEM) was established by the Disaster Preparedness and Emergency Management Act No 15 of 1993 and is primarily tasked with regulating international aid efforts through the National Disaster Action Plan for Jamaica.

Commentary: There is the mechanism that allows for the appeal / initiation and transition of international aid, however, it does not address procedures related to the termination of aid. Subsequently, at present, termination is led by international discussions at the ministerial level.

St. Kitts & Nevis

Legislation: The National Emergency Management Agency provides the legal framework for implementing the provisions of the National Emergency and Disaster Management Act 2006 and the National Disaster Plan, as directed by the National Disaster Mitigation Council.

Commentary: There are no clear provisions for the initiation or deactivation of international aid.

St. Lucia

Legislation: A Disaster Preparedness and Response Act, based on the CDERA Model, were

Best Practice # 1: *Clear provisions for the initiation and termination of international aid relief.*

approved in 2000. The National Emergency Management Organisation coordinates disaster responses in accordance with the National Emergency Management Plan.

Commentary: There are provisions for the initiation and transition of international aid, however, it does not address procedures related to the termination of aid.

St. Vincent & The Grenadines

Legislation: The National Emergency and Disaster Management Act of 2006, provides that the National Emergency Management Office, a department of the Office of the Prime Minister, activates and coordinates relief efforts in disaster and emergency situations in accordance with the directives of the National Emergency Council.

Commentary: The Ministry of Foreign Affairs, a representative of which is on the National Emergency Council, is primarily tasked with communicating with international aid agencies.

Trinidad & Tobago

Legislation: The Office for Disaster Preparedness and Management was established in 2005 and plays the key role in mobilising local and international aid agencies. The Disaster Measures Act entrusts the President with the authority to declare disaster through the issuing of a proclamation.

Commentary: The Trinidad and Tobago Red Cross Society and the Office for Disaster Preparedness and Management have negotiated a Memorandum of Understanding in relation to the national disaster risk management program in an effort to formalise the relationship between the two entities and allow for greater effectiveness of relief efforts.

Best Practice # 2: *Privileges and immunities with respect to immigration & customs.*

The World Customs Organisation has, since 1974, promoted a harmonized system of customs procedures internationally with the primary aim of facilitating international trade.⁵⁸³ Commonly known as the Kyoto Convention, this agreement sets out certain recommended practices and procedures which should be incorporated by nations, and has the added benefit of allowing for the entrenchment of practices, which aid international relief efforts.

The accession and ratification of this treaty is recommended as a best practice, however, regardless of this treaty. There are certain recognized challenges faced by international aid and relief organisations in relation to customs procedures and immigration requirements and the time sensitivity of disaster and emergency related which nations should address as a matter of urgency.

Indeed, Article 9(d) of the Agreement Establishing the Caribbean Disaster Emergency Response Agency, which has the force of law in Participating States, requires them to:

“9(d) establish and maintain systems for facilitating the movement of resources originating in or transiting a Participating State having regard to the requirements of immigration and customs authorities;”

As a means of addressing the customs and immigration challenges faced by regional counterparts, the overriding observation/finding is that national legislations do not reflect incorporation of this best practice. The national system must remain flexible enough procedurally to address customs and immigration issues as they arise. While the individual institutions have procedures, these are largely un-codified and can result in an ad-hoc and obfuscatory approach.

⁵⁸³ <http://www.intracen.org/tfs/docs/publications/ruleori4.pdf>

Best Practice # 2:***Privileges and immunities with respect to immigration & customs.***

There has been no move to adopt the Kyoto Convention in the laws of Antigua and Barbuda, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago Automatic exemptions are provided to CDERA by virtue of the Agreement in the laws of target countries.

In Antigua and Barbuda, the legislative and regulatory process is fragmented. While Section 20A of the Immigration and Passport Act provides discretionary powers relating to immigration permissions to the Chief Immigration Officers, which may be relied upon in case of emergency, this cannot be rightly considered an adoption of this best practice.

In Jamaica there are Automatic exemptions provided to CDERA by virtue of the Agreement. A Relief Clearance Plan has also been developed.

In St. Kitts & Nevis national practice is that once a matter addresses or is related to a disaster or emergency situation the items are automatically duty free. NEMA must contact the Ministry of Finance to affect this and a stamp is affixed as long as NEMA is aware of and endorses the exemption.

Best Practice # 3:***Privileges and immunities with respect to goods & equipment (including medical supplies).***

International aid organizations are frequently allowed certain privileges and immunities with respect to the importation of goods and equipment that are necessary for the success of the prevention, relief and restoration effort. Indeed, the importation of some of the specialised goods and equipment required (such as medicines) are usually carefully regulated by national law and policy. Waivers, licences and the like may be required for their everyday importation to be allowable. However, in disaster situations, the time constraints make standard operating procedures untenable and bring about the requirement for these privileges and immunities to be afforded to international aid agencies.

There is no incorporation of this best practice in national legislation of Antigua and Barbuda, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Haiti, St. Kitts and Nevis, St. Vincent and the Grenadines and Trinidad and Tobago.

In Jamaica the Overseas Assistance (Relief) Plan outlines the privileges afforded to overseas relief organisations; however, this is not legislated and the Disaster Preparedness and Emergency Management Act only addresses local relief participants.

In St. Lucia Established (non-codified) practices and procedures exist. There is also a Donations Plan by which NEMO is guided.

Best Practice # 4:***Privileges and immunities with respect to taxes, tariffs and duty.***

Disaster affected states often allow for special privileges and immunities to international aid workers with respect to taxes, tariffs and duties. Articles 21 and 28 of the Agreement Establishing the Caribbean Disaster Emergency Response Agency addresses those exemptions from taxes and customs duties that are provided to all Participating States.

“Article 21**Privileges, Immunities and Facilities to be Accorded a Sending State and its Personnel**

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions in rendering assistance.
2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall –

Best Practice # 3:***Privileges and immunities with respect to goods & equipment (including medical supplies).***

- a. grant to such personnel immunity from arrest, detention and legal process including criminal, civil and administrative jurisdiction of the requesting State, in respect of acts or omissions in the performance of their functions in rendering assistance;
 - b. grant to such personnel exemption from taxes, duties or other charges, in respect of the performance of their functions in rendering assistance, as is accorded to diplomatic personnel in accordance with international law;
 - c. facilitate the entry into, stay in and departure from its territory of personnel so notified and accepted.
3. The requesting State shall –
- a. accord the sending State exemption from taxes, duties or other charges on equipment and property brought into the territory of the requesting State by the sending State for the purpose of rendering assistance;
 - b. confer immunity from seizure, attachment or requisition of such equipment and property and ensure their return to the sending State.
4. Nothing in this Article shall require the requesting State to accord its nationals or permanent residents the privileges and immunities provided for in paragraph 2 (b).
5. All persons enjoying privileges and immunities under this Article have a duty to respect the law and regulations of the requesting State and shall not interfere in the domestic affairs of the requesting State.”

“Article 28**Exemptions from Taxes and Customs Duties**

1. The Agency, its assets and property, its income, and its operations and transactions within the contemplation of this Agreement, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Agency shall not claim exemption from taxes, which are no more than charges for services, rendered.
2. Where purchases of goods or services of substantial value necessary for the official activities of the Agency are made by or on behalf of the Agency, and where the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Participating States to grant exemptions from such taxes or duties or provide for their reimbursement.
3. Goods imported or purchased under an exemption provided for in this Article shall not be sold or otherwise disposed of in the territory of the Participating State granting the exemptions, except under conditions agreed with that Participating Member State.
4. No tax shall be levied by Participating States or in respect of salaries and other emoluments paid or any other form of payment made by the Agency to the Coordinator and staff of the Agency as well as experts performing missions for the Agency, not being their nationals.”

On this matter, all target countries rely on the provisions of Articles 21 and 28 of the Agreement Establishing the Caribbean Disaster Emergency Response Agency

Best Practice # 5:***Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.***

The Convention on Facilitation of International Maritime Traffic (the “Maritime Convention”)⁵⁸⁴ provides for the simplification and reduction of maritime traffic and the formalities, documentary requirements and procedures required of ships engaged in international voyages.

The Convention on International Civil Aviation (the “Chicago Convention”)⁵⁸⁵ establishes rules of

⁵⁸⁴ http://www.legislation.gov.hk/doc/multi_911_main.pdf

Best Practice # 5:***Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.***

airspace use, aircraft registration and safety procedures and requirements, and details the rights of its signatories in relation to air travel.

Both conventions have the effect of recommending practices that assist in disaster preparedness, mitigation and relief and are recommended for adoption and incorporation in CDERA Participant States.

There is no incorporation of this best practice in national legislation of Antigua and Barbuda, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Haiti, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago

Jamaica has adopted the Maritime Convention. In St. Kitts and Nevis, there are locally established procedures which provide that once it has to do with disasters; then automatically items are considered duty exempt. NEMA is required to contact the Ministry of Finance and endorse any proposed exemptions. In St. Vincent and the Grenadines, this is addressed on a case by case basis.

Best Practice # 6:***Legal status to international organization in domestic jurisdiction (operate, contract, sue) and immunity from prosecution for relief activities.***

Due to the nature of disaster and emergency related activities (time sensitive, dangerous, etc.), affording national legal status/identity to international aid organisations is recognized as a best practice as this directly affects their ability to carry out their functions and enter into agreements without the restrictions ordinary placed on aspects of national trade.

Most territories throughout the region have failed to legislatively provide for this due to trepidation of the fraud and terrorism related activities to which such legislation may give rise. As a result, while they are willing to accommodate this practice, the tendency is to assess such requests on a case-by-case basis and the approach is not straightforward.

More widely accepted and CDERA endorsed is the practice of ensuring immunity from prosecution for relief activities. In fact Article 2 of the CDERA Agreement provides that:

“Article 21**Privileges, Immunities and Facilities to be Accorded a Sending State and its Personnel**

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions in rendering assistance.

2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall -

(a) grant to such personnel immunity from arrest, detention and legal process including criminal, civil and administrative jurisdiction of the requesting State, in respect of acts or omissions in the performance of their functions in rendering assistance;

...

4. Nothing in this Article shall require the requesting State to accord its nationals or permanent residents the privileges and immunities provided for in paragraph 2 (b).

5. All persons enjoying privileges and immunities under this Article have a duty to respect the law and regulations of the requesting State and shall not interfere in the domestic affairs of the requesting State.”

In target countries there is no incorporation of this best practice in national legislation. Requests are handled on a case-by-case basis. In Jamaica the Overseas (Relief) Assistance Plan does speak to this necessity and it is established practice to allow international aid agencies temporary legal status while

⁵⁸⁵ <http://www.mcgill.ca/files/iasl/chicago1944a.pdf>

Best Practice # 6:

Legal status to international organization in domestic jurisdiction (operate, contract, sue) and immunity from prosecution for relief activities.

conducting their activities on the island. Requests are handled on a case-by-case basis.

Best Practice # 7:

Designated emergency relief/ international aid country coordinator.

It is important to have a nationally designated disaster relief/international aid country coordinator. This best practice recommendation underscores the importance of ensuring the reliability, efficacy and accuracy of all communication. Furthermore, it can have great implications on the accountability and transparency aspects of the disaster relief management process.

It must be remembered that these organisations operate in the least desirable situations in countries with which they may be geographically and culturally unfamiliar, as well as, face language barriers. The appointment of a clear point of contact to initiate and maintain communication with the international aid organisations can go a far way towards boosting the chances of success in any mitigation, relief, or restructuring activity.

Most nations have a clearly identified point person for coordinating national response to relief efforts and tend to rely on CDERA to play a key role in coordinating communication with international aid respondents.

Antigua & Barbuda

Legislation: National Disaster Management Act 2002.

Commentary: Under the Act the National Office of Disaster Services is entrusted with primary responsibility to coordinate national communication with respect to the relief effort.

Barbados

Legislation: Disaster Management Act 2006.

Commentary: Under the Act the Department of Emergency Management is entrusted with primary responsibility to coordinate national communication with respect to the relief effort.

Belize

Legislation: Disaster Preparedness and Response Act Cap 145
Disaster Preparedness and Response (Threatened Disaster Alert Mobilisation) Regulations

Commentary: Under the Act the National Emergency Management Organisation is entrusted with primary responsibility to coordinate national communication with respect to the relief effort.

Dominica

Legislation: There is no disaster management legislation.

Commentary: The Office of Disaster Management is entrusted with primary responsibility to coordinate national communication with respect to the relief effort.

Dominican Republic

Legislation: Law 147-02 on Risk Management.

Commentary: The National Council for Prevention, Mitigation and Response to Disaster is tasked with coordinating communication in international aid and relief efforts.

Grenada

Legislation: There is no disaster management legislation.

Commentary: Under the draft National Disaster Management Plan, the National Disaster Office is tasked with coordinating collaboration with international disaster management organisations. The National Disaster Office is directed by the National Emergency Advisory Council. The National Disaster Management Agency acts as the secretariat to this Council, which is chaired by the Prime Minister.

Haiti

Legislation: National Plan for Risk Management & Disaster Relief.

Commentary: The Directorate of Civil Protection is tasked with coordinating communication in international aid and relief efforts.

Jamaica

Legislation: Disaster Preparedness and Emergency Management Act No 15 of 1993
Overseas (Relief) Assistance Plan

Commentary: The Director General of the Office for Disaster Preparedness Emergency Management appoints the country coordinator with respect to international aid organisations.

St. Kitts & Nevis

Legislation: Disaster Management Act 1998.

Commentary: The entrenched practice is that the National Emergency Management Agency assumes overall country coordinator status; however, any aspects involving monetary aid will have to be directed by/to the Financial Secretary in the Ministry of Finance.

St. Lucia

Legislation: The Disaster Preparedness and Response Act 13 of 2000.

Commentary: The National Emergency Management Organisation assumes overall country coordinator status with respect to international aid organisations.

St. Vincent & The Grenadines

Legislation: National Emergency & Disaster Management Act 2006

Commentary: The National Emergency Management Office assumes overall country coordinator status with respect to international aid organisations. If a specific agreement is entered into between the State and an international aid organisation, then this agreement may designate a contact person.

Trinidad & Tobago

Legislation: Disaster Measures Act

Commentary: The Office of Disaster Preparedness and Management is tasked with coordinating communication in international aid and relief efforts.

8.4 Emergencies, Disasters and National Security

The best practices identified in this area include:

1. *The inclusion of national security considerations in the definitions of disasters and emergencies are important in providing the scope and basis for effective action. Responses to terrorism and terrorists acts as a basis for emergency action are examples of effective action based on clear legislative definitions;*
2. *The use of Executive orders as supportive mechanisms to implement emergency measures. These are part of the legislative mechanism in many Caribbean jurisdictions. The details and impact of the United States of America Executive order to address the declaration provides an example of a best practice regarding the use of Executive Orders.*
3. *Depending on the nature of the threat, there would be a need to implement a longer period for the duration of emergency related to national security. Periods of 90 days appear to be too short to address national security emergencies. The procedure of extending emergency declarations should not be cumbersome. Lapses in renewal may permit breaches of the measures put in place;*
4. *There is an important interaction among national security interests, established rights and human rights. The response to national security concerns should not be to the limitation of enshrined human and other rights; and*

8.4.1 Discussion

Best Practice # 1

The inclusion of national security considerations in the definitions of disasters and emergencies are important in providing the scope and basis for effective action. Responses to terrorism and terrorists acts as a basis for emergency action are examples of effective action based on clear legislative definitions.

The common colonial history and the influence of the Westminster model as the basis for the drafting of Commonwealth Caribbean Constitutions means that there is similarity in the content of some of the provisions found in the Constitutions. One such area is the constitutional mandate for emergency declarations and actions on the basis of national security. The main aspect of national security, which is provided as a basis for a declaration of emergency, is where there has been is or is likely to be a threat to public safety.

The following language is common to Constitutions of the target countries, save for Grenada:

A proclamation made by the Governor General shall not be effective for the purposes of subsection (1) unless it is declared therein that the Governor General is satisfied -
b. that action has been taken or is immediately threatened by any person of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life.⁵⁸⁶

Jamaica's constitution while also similar in nature and its provisions adds the term 'body of persons' in section 26(5)(b). This section provides that action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community, or any substantial portion of the community, of supplies or services essential to life

The St. Kitts and Nevis Constitution is similar in nature but uses the term imminent threat, section 19(2)(c) "*because action has been taken by any person, or there is an imminent threat of action by any person, of such a*

⁵⁸⁶ Barbados Constitution section 25(2)(b); Antigua and Barbuda Constitution section 21(5)(b); Belize section 18(3)(b); Dominica Constitution section 17(3)(b); Jamaica Constitution section 26(5)(b) 'action by person or body of persons'; St. Kitts and Nevis Constitution section 19(2)(c); Saint Lucia Constitution section 17(2)(c); St Vincent and the Grenadines Constitution section 17(2)(c); Trinidad and Tobago Constitution Section 8(2)(c).

nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.”

There is no definition of the nature of acts which endanger public safety contained in the Constitutions. This is one limitation in the constitutional provisions and provides one area in which a best practice can be incorporated into the legal framework of target countries.

Best Practice # 2 *The use of Executive orders as supportive mechanisms to implement emergency measures. These are part of the legislative mechanism in many Caribbean jurisdictions. The details and impact of the United States of America Executive order to address the declaration provides an example of a best practice regarding the use of Executive Orders.*

This can be adopted as the Constitutional provision in all countries that do not permit the making of rules, regulations and other instruments through executive orders in cases of emergencies. As previously noted provisions in this regard are only found in the Constitutions of Belize and Trinidad and Tobago. National security concerns provide a useful example of the importance of including provisions of this nature.

A mechanism for including provisions of this nature has been included in the laws of some target countries. The main manner of inclusion is through provisions of Emergency Powers Act.

Best Practice # 3 *Depending on the nature of the threat, there would be a need to implement a longer period for the duration of emergency related to national security. Periods of 90 days appear to be too short to address national security emergencies.*

There are variances among target countries regarding the duration of initial declarations. The procedure of extending emergency declarations should not be cumbersome. There are constitutional provisions in this regards which may be described as cumbersome, as they require varying parliamentary majorities to extend the declaration. In some jurisdictions there are requirements for bare majorities, others there are requirements for two-thirds majorities and in one a three-fifths majorities. While requirements for majorities are useful monitoring mechanisms particularly based on the potential for abuse, the difficulty in some instances to achieve these majorities can limit the effectiveness of security related disaster measures.

Provisions regarding two-thirds majority for extensions are contained in the Constitutions of: Belize section 18(7), St. Kitts and Nevis section 19(8). The provisions are worded in the following manner:

A resolution of the National Assembly for the purposes of subsection (3) and a resolution of the Assembly extending any such resolution shall not be passed in the Assembly unless it is supported by the votes of not less than two-thirds of all the Representatives and Senators; and a resolution revoking any such resolution shall not be passed unless it is supported by the votes of a majority of all the Representatives and Senators

The provisions for majority votes for extensions can be found in the Constitutions of: Antigua and Barbuda section 20(7); Barbados Section 25(3); Dominica section 17(4) Grenada section 17(6); Jamaica section 26(6); St. Lucia section 17(7); and St. Vincent and the Grenadines section 17(7). The language used is quite similar and is in the following terms:

“A resolution of a House of Parliament for the purposes of subsection (2) of this section and a resolution of a House extending any such resolution shall not be passed unless it is supported by the votes of a majority of all the members of the House”

Best Practice # 4

There is an important interaction among national security interests, established rights and human rights. The response to national security concerns should not be to the limitation of enshrined human and other rights. This is a matter which has engaged the attention of the Caribbean Courts on several occasions.

The Courts have from time to time sought to maintain this balance. See for example the Trinidad and Tobago case of *Weekes v Montano and May (1970) 16 W.I.R 425*. In this case the courts considered the violation of human rights during an emergency declaration and granted relief to a person detained pursuant to emergency powers.

The following best practices do not appear in the constitutional provisions of target countries.

- ***The importance of coordination among representative and stakeholder agencies is once again highlighted as an important element of best practices in response to disasters and emergencies; and***
- ***The effective response to national security related emergencies will require the vesting of regulatory power to agencies to support the implementation of measures, vesting provisions should be clearly spelt out in the enabling declaration.***

8.5 Emergencies and Human Health

The best practices identified from benchmark jurisdiction in this regard are:

1. *The definition and scope of public health concerns (diseases and pandemics) to enable the widest possible basis for action a wide definition of specific health consequences would be useful;*
2. *Pre-emptive action in response to a public emergency threat in another jurisdiction is a useful practice to adopt. This can reduce the impact of the disaster on the national population;*
3. *The pre-requisites for declarations, Presidential or otherwise should be followed, these are discussed in Part I;*
4. *The Presidential delegation of powers under specific legislation is a useful power to permit the effective implementation of the particular emergency measure. The person to whom the delegation is made should have the knowledge and capacity to address and effectively implement the necessary measures;*
5. *The importance of the adequacy of legislation in the absence of enabling legislation there will be delays in implementing the appropriate measures;*
6. *The impact of public health measures on existing laws must be considered. Enabling laws should be strengthened while potentially restrictive laws and requirements should be suspended;*
7. *Waivers of statutory provisions in the interest of public health emergencies are useful tools for the effective implementation of health related emergency measures;*
8. *Having regard to the impacts on health, procedures which permit declarations for a longer rather than shorter periods of time would be useful to address health-related emergencies;*
9. *The requirement of a reporting mechanism is a useful measure as it allows the executive to be kept informed of the progress and measures utilized to address the emergency;*
10. *The immediate allocation of funds to alleviate the impact of the threatened emergency is a useful mitigation strategy.*
11. *The emphasis on the dissemination of information is a key strategy to address the potential and actual impacts of a threatened health related disaster or emergency;*
12. *Public health measures should be balanced with individual rights and freedoms and other existing rights for example, intellectual property rights;*
13. *The Courts can play a useful role in enforcing constitutional duties of the state and thereby mandating the implementation of measures to address public health emergencies. These include compulsory medical care and the availability of essential medicines; and*
14. *The importance of membership of the World Trade Organisation(WTO) and signature to the Agreement on Trade Related Aspects of Intellectual Property Rights can provide an additional limb through which health related measures can be implemented particularly if states utilize the mechanisms provided for in the WTO Doha Declaration on Intellectual Property Rights and Public Health.*

8.5.1 Discussion

Best Practice # 1	<i>The definition and scope of public health concerns (diseases and pandemics) to enable the widest possible basis for action a wide definition of specific health consequences would be useful</i>
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The provisions of target country Constitutions permit action where certain public health emergencies arise. There is, however, no identification of the nature of diseases or pandemics which will necessitate the declaration of an emergency. The following is the general language used:

“A proclamation made by the Governor General shall not be effective for the purposes of subsection (1) unless it is declared therein that the Governor General is satisfied – (a) that a public emergency has arisen as a result of the occurrence

of any ... outbreak of pestilence, outbreak of infectious disease, or other similar calamity".⁵⁸⁷

It is suggested that consideration be given to identifying specific characteristics which may qualify diseases and outbreaks for disaster declarations.

Best Practice # 4 *The delegation of powers under specific legislation is a useful power to permit the effective implementation of the particular emergency measure. The person to whom the delegation is made should have the knowledge and capacity to address and effectively implement the necessary measures.*

There are no specific provisions in target country Constitutions that permit the delegation of powers in the case of emergencies. The provisions of the Belize and Trinidad and Tobago Constitutions, which permit regulations, may provide a framework for this delegation. Otherwise, consideration should be given to mechanisms to include these powers in emergency frameworks. The use of Emergency Powers Acts provide the opportunity to incorporate this best practice. While no specific health related examples are provided in Acts, health is identified as a measure which can be examined. See for example section 3 of the St. Lucia National Emergency Powers (Disasters) Act 1995. Section 3 provides:

"3.-(1) Where the Governor General by Proclamation pursuant to section 17 of the Constitution declares that a state of emergency exists for the purposes of Chapter I of the Constitution and so long as the Proclamation is in force, it shall be lawful for the Minister to make Orders securing the essentials of life to the community and for the preservation of the health, welfare and safety of the public."

Consideration should be given to including health measures specifically in emergency powers legislation or in subject specific legislation.

Best Practice # 8 *Having regard to the impacts on health, procedures which permit declarations for longer rather than shorter periods of time would be useful to address health-related emergencies.*

Experience suggests that longer periods of declarations are necessary to address health related emergencies. Consideration should be given to making special provisions for the duration of health-related emergencies. The previous discussion, supporting a duration of twelve months for a declaration, should be noted. This period may be more suited for health related emergencies.

Best Practice # 14 *The importance of membership of the World Trade Organisation (WTO) and signature to the Agreement on Trade Related Aspects of Intellectual Property Rights can provide an additional limb through which health related measures can be implemented, particularly if states utilize the mechanisms provided for in the WTO Doha Declaration on Intellectual Property Rights and Public Health.*

All target countries are members of the WTO, consideration should be given to including TRIPS flexibilities into existing laws. The following best practices have already been discussed and the previous discussion should be noted. It is suggested that consideration be given to their inclusion.

⁵⁸⁷ Barbados Constitution section 25(2)(a); Antigua and Barbuda Constitution section 21(5)(a); Belize section 18(3)(a); Dominica Constitution section 17(3)(a); Jamaica Constitution section 26(5)(b); St. Kitts and Nevis Constitution section 19(2)(b); Saint Lucia Constitution section 17(2)(b); St Vincent and the Grenadines Constitution section 17(2)(b); Trinidad and Tobago Constitution section 8(2)(b).

Best Practice # 2 - Pre-emptive action in response to a public emergency threat in another jurisdiction is a useful practice to adopt. This can reduce the impact of the disaster on the national population;

Best Practice # 10 - The immediate allocation of funds to alleviate the impact of the threatened emergency is a useful mitigation strategy.

The following best practices should be considered for inclusion and implementation in the legal framework of target countries:

- *The importance of the adequacy of legislation in the absence of enabling legislation there will be delays in implementing the appropriate measures;*
- *The impact of public health measures on existing laws must be considered. Enabling laws should be strengthened while potentially restrictive laws and requirements should be suspended;*
- *Waivers of statutory provisions in the interest of public health emergencies are useful tools for the effective implementation of health related emergency measures;*
- *The requirement of a reporting mechanism is a useful measure as it allows the executive to be kept informed of the progress and measures utilized to address the emergency;*
- *The emphasis on the dissemination of information is a key strategy to address the potential and actual impacts of a threatened health related disaster or emergency;*
- *Public health measures should be balanced with individual rights and freedoms and other existing rights for example, intellectual property rights; and*
- *The Courts can play a useful role in enforcing the constitutional duties of the State and thereby mandating the implementation of measures to address public health emergencies. These include compulsory medical care and the availability of essential medicines;*

8.6 Communication Systems

Best Practice # 1: *Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (“Tampere Convention”).*

Adoption of the Tampere Convention, which outlines a comprehensive multilateral regulatory framework for international cooperation in disasters with respect to the use of life-saving telecommunications equipment, is the universally identified and accepted best practice for telecommunications use in disaster relief operations. The treaty provides a comprehensive legislative framework that allows for uniformity with respect to telecommunications in disaster relief operations. It is the key best practice with respect to communication systems during emergency relief operations due to its comprehensive nature. As such, the International Telecommunications Union of the United Nations recommends adoption by all countries.

The regional disaster management machinery, the Caribbean Disaster Emergency Management Agency (CDERA) recommends that the Tampere Convention be adopted by all countries in the region. CDERA has engaged in regional dialogue with all member countries regarding adopting the Convention. The commentary below discusses the local initiatives with respect to the Convention.

Additionally, the International Telecommunication Union (ITU) along with the Commonwealth Telecommunication Organization (CTO) have recommended adoption of the Tampere Convention by Caribbean countries.

Antigua & Barbuda

Legislation: Antigua & Barbuda has not signed or ratified the Tampere Convention.
Commentary: There has been no move to adopt the Tampere Convention. Notwithstanding, Part VIII, Section 9 of the Disaster Management Act of 2002 provides the legislative framework for the entrenchment of the Convention and other like treaties.

Best Practice # 1:

Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (“Tampere Convention”).

Specifically, the Disaster Management Act states that the “Governor-General acting in accordance with the advice of the Cabinet may during any disaster emergency ... proclaim that treaty or any part thereof to be part of the law in Antigua and Barbuda ... and the provisions of that treaty ... shall for the duration of that disaster emergency have effect as if enacted in this Act. As such, Antigua & Barbuda will only need to accede to the treaty by signature.

Antigua has also incorporated the Articles of the Caribbean Disaster Management Agency that provides extensive, although not comprehensive, provisions for telecommunication services. The Articles address some of the key issues covered by the Tampere Convention.

Barbados

Legislation:

Barbados acceded⁵⁸⁸ to the Tampere Convention on July 25, 2003.

Commentary:

Section 112 of Telecommunications Act provides that “[i]n performing telecommunications functions and exercising powers under this Act the Minister and the Commission must have regard to Barbados’ obligations under any Convention in respect of telecommunications to which Barbados is a party.”

The Telecommunications Act gives full local effect to the Tampere Convention and it is therefore, by reference in the Act, part of the local law of Barbados.

Belize

Legislation:

Belize has not signed or ratified the Tampere Convention.

Commentary:

There has been no move to adopt the Tampere Convention.

Dominica

Legislation:

The Tampere Convention was acceded to on December 26, 2000.

Commentary:

Although ratified there are no local enacting provisions for the Tampere Convention.

Dominican Republic

Legislation:

Dominican Republic has not signed or ratified the Tampere Convention.

Commentary:

Currently there is no discussion on the Tampere Convention.

Grenada

Legislation:

Grenada has not signed or ratified the Tampere Convention.

Commentary:

Currently no discussion on the Tampere Convention.

Haiti

Legislation:

The Tampere Convention was signed on February 11, 1999.

Commentary:

Although signed Haiti has not ratified the Tampere Convention.

Jamaica

Legislation:

Jamaica has not signed or ratified the Tampere Convention.

Commentary:

Jamaica’s government has expressed clear intention to adopt the Convention. However, no action has been taken to date.⁵⁸⁹

St. Kitts & Nevis

Legislation:

St. Kitts & Nevis has not ratified the Tampere Convention.

The process to signing and ratifying the Convention is underway. Currently the

⁵⁸⁸ “Accession” is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states and has the same legal effect as ratification.

⁵⁸⁹ Speech by the Honourable Philip Paulwell, Minister of Industry, Technology, Energy & Commerce, in September, 2006, at the International Telecommunications Union and Commonwealth Telecommunication organization Forum on “Effective Disaster management to relay on State of the Art ICT” held in Ocho Rios, Jamaica.

Best Practice # 1: *Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (“Tampere Convention”).*

Commentary: government is reviewing the terms of the Convention and further action is expected in the near future.

St. Lucia

Legislation: The Tampere Convention was signed on January 31, 2000.

Commentary: The Convention has, however, not been ratified and to date no action has been taken to fulfil accession. The Articles of Tampere Convention which are subsumed in the Telecommunications Procedures Manual are authorized by Cabinet Conclusion No. 1149 of 1996 which adopted the procedures manual.

Notwithstanding, the Tampere Convention document has been incorporated in the Saint Lucia National Emergency Management Plan and the Emergency Telecommunications Procedures Manual by reference and although not primary law the Convention provides instruction for the use and deployment of telecommunications during an emergency in St. Lucia.

St. Vincent & The Grenadines

Legislation: The Tampere Convention was acceded to on August 14, 2003.

Commentary: Although ratified there has been no legislation giving local effect to the Convention.

Trinidad & Tobago

Legislation: Trinidad & Tobago has not signed or ratified the Tampere Convention.

Commentary: Currently there is no discussion on the Tampere Convention.

Best Practice # 2: *Adoption of a stated emergency telecommunication action plan and designated emergency telecommunications coordinator.*

An emergency telecommunication action plan is a comprehensive plan for the management and use of telecommunications during an emergency. The plan should provide clear instructions for the procedures for requesting and provision of telecommunications assistance during an emergency, as well as the deployment of telecommunications resources. The plan should be disseminated to disaster management personnel and telecommunications operators and should clearly state the operational responsibilities, privileges and immunities of all the relevant actors. These action plans should be periodically updated and coordinated with the national disaster plan.

Antigua & Barbuda

Legislation: Section 16 of the Telecommunications Act vests authority with the Governor General to appoint a coordinator, take possession and assume control of the telecommunications station and apparatus during an emergency.

Article⁵⁹⁰ 13 (g) of the Third Schedule to the Disaster Management Act 2002 provides CDERA the authority to “develop and maintain an emergency telecommunications system based on the most appropriate technology to ensure the co-ordination of emergency operations involving the emergency services mentioned above as well as voluntary private sector services.”

Commentary: The Telecommunications Act does not require a declared emergency and the Governor General can unilaterally determine that an emergency exists to trigger the emergency powers, with respect to telecommunications, under the Act.

⁵⁹⁰ Articles refer to the Articles in the Agreement Establishing the Caribbean Disaster Response Agency (CDERA). The Agreement and the contained articles have been adopted in their entirety in the following countries: Antigua, Barbados, Dominica, Grenada, Belize, St. Kitts & Nevis, Jamaica, St. Lucia and Trinidad & Tobago.

Best Practice # 2:***Adoption of a stated emergency telecommunication action plan and designated emergency telecommunications coordinator.***

Antigua & Barbuda does not have a clearly stated telecommunications action plan. However, Article 13(g) of the Third Schedule may be interpreted to imply the authority for such a plan within the regional framework.

Barbados**Legislation:**

The Caribbean Disaster Emergency Response Agency Act incorporates the Agreement Establishing the CDERA and vests authority with the Agency for coordination of a telecom plan.

Commentary:

Barbados' Emergency Management Agency has a standing committee on telecommunications responsible for local management of all telecommunications activities pre and post disaster.

Belize**Legislation:**

Schedule D to The Disaster Preparedness and Response Act incorporates the Agreement to Establish CDERA. Article 13 (f) specifically requires that Belize "establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and coordinating emergency responses involving many services."

Commentary:

The National Hazard Management Plan includes at Volume 5C a National Telecommunications Plan.

Dominica**Legislation:**

No applicable legislation.

Commentary:

There is a telecommunication committee that is a part of the Office of Disaster Management. There is no clearly stated telecommunication plan. However, the committee through its publications provide direction regarding telecommunication services during an emergency. The National Disaster Coordinator is also the designated person in charge of telecommunications. This is guided by the national disaster management plan.

Dominican Republic**Legislation:**

No specific legislation referenced telecommunications action plan.

Commentary:

The National Emergency Plan lays out a framework for dealing with communications. However, there is no detailed telecommunication action plan. In the national plan, the Dominican Institute of Telecommunications (Indotel) is responsible for coordinating telecommunication services on behalf of the government for all warning, response and recovery efforts.

Grenada**Legislation:**

There is no applicable legislation.

Commentary:

Grenada's telecommunication plan is embedded in the National Disaster Plan. The plan calls for the establishment of a telecommunications committee with responsibility for oversight of communications during a disaster. The plan does not designate an emergency coordinator but vests coordinating responsibility with the telecommunications committee. Notwithstanding, the Chairman of the Emergency Telecommunications Sub-Committee has specific responsibility to contact the Amateur Radio and other operations with regard to assistance in telecommunications.

Haiti**Legislation:**

There is no applicable legislation.

Commentary:

Haiti's telecommunication plan is embedded in the national disaster plan. However, the plan is very limited and speaks mainly to disseminating information to the public for the locus of the disaster event. The plan does not speak to interoperability, control or available infrastructure.

Jamaica

Best Practice # 2:***Adoption of a stated emergency telecommunication action plan and designated emergency telecommunications coordinator.***

Legislation: There is no applicable legislation.

Commentary: There is a telecommunications plan in place. The plan is developed by the telecommunications sub-committee which is a part of the Office of Disaster Preparedness and Emergency Management (ODPEM). The telecommunications plan is currently under review and a draft is expected to be published soon. The telecommunications officer of ODPEM has primary responsibility for coordinating telecommunications during an emergency.

St. Kitts & Nevis

Legislation: No applicable legislation

Commentary: St. Kitts & Nevis does not have a stated telecommunication plan or coordinator.

St. Lucia

Legislation: Cabinet Conclusion No. 1149 of 1996 adopts the Emergency Telecommunications Procedures Manual (“manual”).

Commentary: St. Lucia has a comprehensive emergency telecommunications procedures manual which is based on the CDERA Model Telecommunications Procedures Manual. The manual specifies that the Chairman of the Telecommunications Committee is also the designated Telecommunications Coordinator who is responsible for ensuring the availability of telecommunications facilities required for necessary information transfer before, during and after an emergency. There is also a Communications Officer who, during a crisis, will administer the day by day operation of the National Communications Control Center from where the National Telecommunication Plan will be coordinated.

St. Vincent & The Grenadines

Legislation: No applicable legislation

Commentary: There is a telecommunication action plan developed by the telecommunications sub-committee of the National Emergency Council. There is no telecommunications coordinator.

Best Practice # 3:***Maintaining current and up-to-date inventory of telecommunication resources***

Maintaining inventory of telecommunication resources, both human and material, available for disaster mitigation and relief is essential to a comprehensive disaster management plan. Countries must be aware of their telecommunications resources in order to adequately prepare and stockpile resources as well as to assess where international assistance may be required.

Antigua & Barbuda

Legislation: No applicable legislation

Commentary: It is unknown whether Antigua & Barbuda are currently maintaining inventory on telecommunications resources.

Barbados

Legislation: No applicable legislation

Commentary: It is unknown whether Barbados are currently maintaining inventory on telecommunications resources.

Belize

Legislation: No applicable legislation

Commentary: There is an ongoing initiative to register Radio Operators to support NEMO as and when required during an emergency. NEMO maintains inventory of its resources but there is no national account of the telecommunications resources.

Dominica

Legislation: No applicable legislation

Commentary: The Disaster Management Office maintains inventory over the items under its jurisdiction. However, there is no national inventory. And no knowledge of

Best Practice # 3: *Maintaining current and up-to-date inventory of telecommunication resources*

equipment in other government agencies or NGOs.

Dominican Republic

Legislation:

No applicable legislation

Commentary:

The National Emergency Plan stipulates that the Dominican Institute of Telecommunications (Indotel) should maintain an inventory of telecommunication resources and available alternatives and establish mechanisms for their use.

Grenada

Legislation:

There is no applicable legislation.

Commentary:

The National Plan requires that the emergency telecommunications committee compile and maintain an inventory of available telecommunications equipment. It is unclear whether the inventory is up-to-date and routinely assessed.

Haiti

Legislation:

There is no applicable legislation.

Commentary:

The national plan does not speak to the need to maintain inventory of telecommunication resources; however, Haiti is guided by the Tampere Convention as a signatory, although the convention has not been ratified.

Jamaica

Legislation:

There is no applicable legislation.

Commentary:

An inventorying of telecommunications resources is provided for in the telecommunications plan. The process is currently being updated and there is an inventory being taken for 2010.

St. Kitts & Nevis

Legislation:

There is no applicable legislation.

Commentary:

An inventory is being maintained by the Department of Technology on behalf of the government.

St. Lucia

Legislation:

Cabinet Conclusion No. 1149 of 1996.

Commentary:

The Telecommunications Procedures Manual mandates that a monthly inventory of all equipment owned or held by the National Emergency Management Office (NEMO) be conducted. The inventory should show the date that the equipment was acquired and installed and should be kept up-to-date as additional equipment is acquired or as consumable (batteries, etc.) are consumed. Additionally, NEMO maintains a national inventory of radio operators.

St. Vincent & The Grenadines

Legislation:

No applicable legislation

Commentary:

An inventory of technology resources is, however, being maintained by the National Emergency Management Office (NEMO).

Trinidad & Tobago

Legislation:

Commentary:

Best Practice # 4: *Reduction or waivers of regulatory barriers to the type, importation and deployment of telecommunications resources during a declared emergency.*

This is generally seen as the most important aspect for disaster information communication technology. The barriers include the licensing requirements to use allocated frequencies, restrictions on the export or import of telecommunication equipment, restrictions on the use of particular types of equipment and particular radio-frequency spectrums, as well as limitations on the movement of humanitarian teams, including restrictions on import or export and the use of telecommunications equipment.

Antigua & Barbuda

Best Practice # 4:

Reduction or waivers of regulatory barriers to the type, importation and deployment of telecommunications resources during a declared emergency.

Legislation: Article 28: Exemptions from Taxes and Customs Duties of the Third Schedule to the Disaster Management Act exempts its assets, property, income, operations and transactions from all direct taxation on goods imported or exported for official use.

Commentary: It is unclear to what extent this would apply to non-NDOS or non-CDERA entities or personnel providing telecommunications assistance. Regulatory barriers are the primary challenge to providing timely and life-saving communication technology during a disaster and this deficiency in the law should be addressed to facilitate the expeditious provision and use of telecommunications during a natural disaster.

Barbados

Legislation: Section 109(2) of the Telecommunications Act grants power to the Governor General to “make such orders as may appear to him to be desirable with respect to the possession, sale, purchase, construction and use of radio communications apparatus in any place in Barbados” including the land, territorial sea or territorial airspace.

Commentary: The Caribbean Disaster Response Agency Act which incorporates the Agreement Establishing CDERA provides exemptions from duties and taxes.

The Telecommunications Act provides the authority for the Governor General to make emergency laws with respect to telecommunications. However, there are no expressed provisions for waiver or reduction of regulatory barriers. Although the authority exists to facilitate telecommunications needs during an emergency, the lack of expressed provisions addressing the issue of regulatory barriers will cause delays during an emergency.

Belize

Legislation: Section 57 of the Belize Telecommunications Act vests control over telecommunications during a declared emergency. The Act states that the Minister may by Order published in the Gazette:-

“(a) authorise the taking of possession and control by the Government of any telecommunications equipment, installation, service, apparatus or station to be used:-

- (i) for Government service;
- (ii) for such ordinary service as the Minister may determine; or

(b) direct or authorise the control of the transmission and reception of messages in any manner as he may direct.”

Commentary: The Disaster Preparedness Act by way of incorporating the CDERA Articles also allows for certain exemptions and waivers.

The Belize Telecommunications Act provides the authority for the government by way of the Minister to make emergency laws with respect to telecommunications. However, there are no expressed provisions for waiver or reduction of regulatory barriers. Although the authority exists to facilitate telecommunications needs during an emergency, the lack of expressed provisions addressing the issue of regulatory barriers will cause delays during an emergency and impede the response activity.

Dominica

Legislation: Dominica has signed the Agreement establishing CDERA, however, the articles have not been given actual effect by local legislation.

Best Practice # 4:***Reduction or waivers of regulatory barriers to the type, importation and deployment of telecommunications resources during a declared emergency.***

Commentary: Although the CDERA articles have been signed they do not have any effect in the local law of Dominica. Moreover, Dominica's telecommunications Act does not make allowances, other than the granting of a special license under section 42, for the government to take full control and make such laws as are necessary with respect to telecommunications during an emergency. Accordingly, Dominica's legal framework for telecommunications during an emergency is critically deficient.

Dominican Republic

Legislation: Ley No. 153-98, Ley General de Telecomunicaciones (General Telecommunications Law) is the applicable legislation with respect to telecommunications in Dominican Republic. Ley No.147-02 Sobre Gestión de Riesgos (Risk Management Law) vests authority with Indotel for telecommunications.

Commentary: No specific provision with respect to reduction of waivers Article 7 of the General Telecommunications Law grants authority to the executive power to make such laws and guidelines as required during the emergency.

Grenada

Legislation: There is no applicable legislation.

Commentary: There is no provision incorporating this best practice in the emergency telecommunications plan.

Haiti

Legislation: No applicable legislation

Commentary: Haiti is guided by the Tampere Convention as a signatory, although the convention has not been ratified.

Jamaica

Legislation: The Diplomatic Immunities and Privileges (International Telecommunications Union (ITU) Act provides exempts the ITU from prohibitions, restrictions and taxes on equipment imported or exported by the ITU for its official use.

Commentary: The reduction of waivers and regulatory barriers currently only extends to the ITU.

St. Kitts & Nevis

Legislation: There is no applicable legislation.

Commentary: This is handled on a case by case basis and the government will make allowances where appropriate. Adoption of the Tampere Convention is under consideration to fill the shortcomings in the legal framework.

St. Lucia

Legislation: Cabinet Conclusion No. 1149 of 1996
Tampere Convention

Commentary: St. Lucia grants, *inter alia*, exemption from taxation, duties or other charges, except for those which are normally incorporated in the price of goods or services, in respect of the performance of their assistance functions or on the equipment, materials and other property brought into or purchased in St. Lucia for the purpose of providing telecommunication assistance under the Tampere Convention. Likewise, pursuant to the Tampere Convention, St. Lucia has committed to reducing or removing regulatory barriers, where possible, to the use of telecommunication resources for disaster mitigation and relief, including to the provision of telecommunication assistance.

St. Vincent & The Grenadines

Legislation: There is no applicable legislation.

Best Practice # 4:***Reduction or waivers of regulatory barriers to the type, importation and deployment of telecommunications resources during a declared emergency.*****Commentary:**

Although there is no directive on this issue, it is handled on a case-by-case basis and has been facilitated in certain circumstances.

Trinidad & Tobago**Legislation:**

Section 84 of the Telecommunications Act provides, where a state of emergency has been declared, broad authority to the President, on the advice of the Minister of National Security, to “(a) authorise the taking of possession and control by the Government of any telecommunications equipment, installation, service, apparatus or station to be used; or (b) direct or authorise the control of the transmission and reception of messages in any manner as he may direct. The Act also provides that each service provide may use his service, apparatus or station for emergency communications and in a manner other than that specified in the concession or in the regulations governing the relevant service, apparatus or station, during a period of emergency.”

Commentary:

The expressed language of the statute grants authority for removal of regulatory barriers during emergencies. However, the process is not automatic and is at the discretion of the President, under advisement of the Minister of National Security. To better facilitate, emergency telecommunications assistance clearer guidelines are required in both legislation and policy.

Best Practice # 5:***Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance.***

Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance under its terms, including immunity from local court jurisdiction, exemption from taxation, duties and other changes, and immunity from seizure (“to the extent permitted by [their] national law”).

Antigua & Barbuda**Legislation:**

Article 26 of the Third Schedule to the Disaster Management Act clearly lays out the privileges and immunities of afforded CDERA, Caribbean and non-Caribbean nationals.

Commentary:

The privileges and immunities are relatively limited especially with respect to non-regional parties. Privileges should extend equally to all entities providing telecommunications assistance.

Barbados**Legislation:**

Section 109(2) of the Telecommunications Act grants power to the Governor General to “make such orders as may appear to him to be desirable with respect to the possession, sale, purchase, construction and use of radio communications apparatus in any place in Barbados” including the land, territorial sea or territorial airspace.

Commentary:

This legislation would provide the authority; however, there are no expressed provisions for the granting of privileges and immunities, other than those provided to CDERA and Caribbean nationals under Article VII to the First Schedule of the Caribbean Disaster Response Agency Act. Non-Caribbean nationals are only exempted from the payment of income taxes.

Belize**Legislation:**

Article 21 of Schedule D provides for privileges and immunities to persons and entities of the Caribbean. Article 26 and Article 28 provides privileges and immunities for CDERA. There are no third party provisions in the Belize legislation.

Commentary:

Belize does not afford any privileges, immunities or exemptions for any person providing assistance outside of the Caribbean community. This restriction is

Best Practice # 5:***Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance.***

quite limiting and should be looked at in the revised legislation.

Dominica**Legislation:**

Dominica has signed the Agreement establishing CDERA; however, the articles have not been given actual effect by local legislation.

Commentary:

Although the CDERA articles have been signed, they do not have any effect in the local law of Dominica. Moreover, Dominica's telecommunications Act does not make allowances, other than the granting of a special license under section 42 for the government to take full control and make such laws as are necessary with respect to telecommunications during an emergency. Accordingly, Dominica's legal framework for telecommunications during an emergency is critically deficient.

Dominican Republic**Legislation:**

Ley No. 153-98, Ley General de Telecomunicaciones (General Telecommunications Law) is the applicable legislation with respect to telecommunications in Dominican Republic.

Commentary:

No specific provision with respect to reduction of waivers Article 7 of the act grants authority executive the power to make such laws and guidelines as required during the emergency.

Grenada**Legislation:**

Section 7 of the Emergency Powers Act provides that no person shall be liable to any suit or action in respect of any act done under lawful direction and authority pursuant to the provisions of this Act.

Commentary:

Notwithstanding, that the Emergency Powers Act extends some level of immunity, the act is probably limited to persons exercising power under the Act is not likely to be extended to foreign personnel rendering aid. There are no other provisions in legislation or the plan that addresses the issue of immunity.

Haiti**Legislation:**

No legislation has been encountered at the time of writing.

Commentary:**Jamaica****Legislation:**

The Diplomatic Immunities and Privileges (International Telecommunications Union (ITU) Act provides the ITU with specific privileges and immunities.

Commentary:

The reduction of waivers and regulatory barriers currently only extends to the ITU.

ST. KITTS & NEVIS**Legislation:**

There is no applicable legislation.

Commentary:

This is handled on a case by case basis and the government will make allowances where appropriate. Adoption of the Tampere Convention is under consideration to fill the shortcomings in the legal framework.

St. Lucia**Legislation:**

Cabinet Conclusion No. 1149 of 1996
Tampere Convention

Commentary:

Pursuant to the Tampere Convention, St. Lucia grants, *inter alia*, immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction of the requesting State Party, in respect of acts or omissions specifically and directly related to the provision of telecommunication assistance. Additionally, there is immunity from seizure, attachment or requisition of equipment, materials and property.

St. Vincent & The Grenadines**Legislation:**

There is no applicable legislation.

Best Practice # 5:

Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance.

Commentary:

Although there is no directive on this issue, it is handled on a case-by-case basis and has been facilitated in certain circumstances.

Trinidad & Tobago

Legislation:

There is no applicable legislation.

Commentary:

Not addressed by legislation or the disaster plan. This has been identified as an area of deficiency and requiring legislation in the National Policy on Incident Management System.

PART IX

9.0 Factors affecting the implementation of legislation

The target countries are amongst the most vulnerable in the world to natural disasters. With the rising frequency and magnitude of these disasters, there is a need to adopt a comprehensive legal framework for natural disasters throughout the region that will support the disaster management strategy of each target country.

The Caribbean has remained at the forefront of disaster management reform with regional response capacity through the Caribbean Disaster and Emergency Management Agency. However, the legislative framework in the respective target countries has failed to either be implemented or updated to reflect and accommodate the current circumstances of disaster management throughout the region. Specifically, there is a need to update or broaden legislation to meet the present and future mitigation, planning, recovery and reconstruction of the comprehensive disaster management approach being applied in the target countries. Given the recent high magnitude disaster events in the region, there is now a general consensus that disaster management reform, both legislative and institutional, is critical to the sustainability of the target countries, individually, and the region, collectively.

The problems affecting the implementation and revision of disaster legislation are not unique to the target countries or the region. Primary amongst these issues is a lack of political will for the adoption of the legislation. Disaster policy is low on the priority for Caribbean governments and is usurped by national security and national development initiatives. As such, disaster related bills move slowly through parliament, receive little attention in the media, and are difficult to table on the agenda, due to the limited time resources and the abundance of bills addressing what are seen as more critical issues. For example, a revised version of Jamaica's Disaster Management and Preparedness Act of 1993 was introduced in parliament 2007. The revised bill which, *inter alia*, expands the roles and functions of the Office of Disaster Preparedness and Emergency Management and further elaborates on the responsibilities, privileges and immunities during a natural disaster, has since then had very little movement and received little consideration. Because of the low priority afforded disaster management legislation, political support, which is required for the successful passage of the bill, is also slim.

There is also a lack of awareness and support, at the government level and across the various ministries, of the importance of mitigation and preparedness activity to the overall comprehensive disaster management strategy. Caribbean governments, despite the institutional shift to a disaster management approach, still focus merely on post-disaster activities related to emergency response. Because target country governments have failed to keep pace with the evolution of disaster management, they have been slow to push the needed reforms in the disaster legislation. Public education on the importance of mitigation and preparedness is waning throughout the region in both the public and private sectors.

Lack of financial resources has also affected the passage of disaster legislation in the Caribbean. Most of the revised and proposed legislation make some reference to establishing a funding mechanism for disaster management. However, resources to divert to these funding mechanisms are either in short supply or non-existent. As such, disaster management legislation becomes stalled in parliament as law makers have great difficulty in agreeing on how to source the funds required to support the legislation.

On the community level, the need for disaster reform is strongly voiced. The general public is concerned with their country's state of readiness for the next big natural disaster and there is wide spread agreement that more needs to be done to improve disaster management throughout the region. However, this interest has failed to translate into the political mandate needed to further the movements of pending legislation.

The Caribbean Law Institute in 1996 prepared Disaster Preparedness Model Legislation for CDERA. Information provided is that this Model Legislation is presently under review. This process illustrates other factors affecting the implementation of legislation. These include national capacity to prepare the required legislation as well as the time it will take to for the legislative process to work.

APPENDIX 1

TARGET COUNTRY LEGISLATIVE FRAMEWORK

TABLE 1: LISTING OF TARGET COUNTRIES

TARGET COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY	JUDICIAL AUTHORITIES
ANTIGUA & BARBUDA	Sections 17 – Protection of Persons detained under Emergency Laws Section 20 – Power of Declaration	National Disaster Management Act 2002 THE EMERGENCY POWERS (HURRICANE, EARTHQUAKE, FIRE OR FLOOD) ACT	-	National Office of Disaster Services (NODS)	St Luce v Attorney General And Another (1976) 22 WIR 536
BARBADOS	Section 25 – Power of Declaration	Disaster Management Act 2006 Emergency Powers Act	Disaster Preparedness Checklist ⁵⁹¹	Department of Emergency Management	Hinds (Richards) v Attorney-General and Another (No. 2) (1999) 59 WIR 75 Chapman and Another v Attorney-General (1981) 31 WIR 133
BELIZE	Section 18 – Proclamation Powers of Governor General Section 19 – Rights of Persons Detained	Disaster Preparedness and Response Act Cap 145 Disaster Preparedness And Response Act (Commencement) Order. Disaster Preparedness And Response (Threatened Disaster Alert Mobilisation) Regulations. Disaster Preparedness And Response (Shelter) By-Laws. Disaster Preparedness And Response (Shelter) Regulations.	Preparedness Guidelines ⁵⁹² Guideline for Disaster Recovery ⁵⁹³	National Emergency Management Organisation (NEMO)	San Jose Farmers' Co-operative Society Ltd v Attorney-General (1991) 43 WIR 63

⁵⁹¹ Available at <http://www.dem.gov.bb/docs/Disaster%20Preparedness%20Checklist.pdf>

⁵⁹² <http://www.nemo.org.bz/preparedness.php>

⁵⁹³ Accessible at http://www.nemo.org.bz/publications/A_Guide_For_Disaster_and_Recovery.pdf

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TARGET COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY	JUDICIAL AUTHORITIES
		Disaster Preparedness And Response (Hazard Inspection) (Procedure) Regulations. Disaster Preparedness And Response (National Disaster Preparedness And Response Advisory Committee) (Rules Of Procedure) Regulations.			
DOMINICA	Section 14 - Protection of Persons detained under Emergency Laws; Section 15 - Protection of persons detained under emergency laws;	Emergency Powers Ordinance Cap 244 Emergency Powers Regulations 1973	-	Office of Disaster Management	The State of Dominica v Newton 35 WIR 184 Christopher Maximea And Others v Attorney-General (1975) 21 WIR 548
DOMINICAN REPUBLIC	Art. 39, 55.(7) and (8), CONSTITUTION OF THE 2002 DOMINICAN REPUBLIC ⁵⁹⁴	Emergency Powers Act. Law 147 – 02 ⁵⁹⁵ Ordinance of No. 1329-04; ⁵⁹⁶ Decree no. 2784 Regulations of Law 147-02 on Risk Management	National Emergency Plan	Defensa Civil National Council for Prevention, Mitigation and Disaster Response to Disaster	-
GRENADA	Section 17 – Declaration Power	Emergency Powers Act 1987	Disaster Preparedness Guidelines ⁵⁹⁷ National Disaster Plan ⁵⁹⁸	National Disaster Management Agency (NaDMA)	Not Reported
HAITI	No specific constitutional provision ⁵⁹⁹	Loi sur l’etat d’urgence	National Plan for Risk Management & Disaster Relief ⁶⁰⁰	Directorate of Civil Protection	-

⁵⁹⁴ <http://pdba.georgetown.edu/Constitutions/DomRep/domrep02.html>

⁵⁹⁵ <http://www.oas.org/dsd/EnvironmentLaw/CaribbeanLegislationProject/Disaster%26StateEmergency/DomRepublic/Ley%20147%202002.pdf>

⁵⁹⁶ http://www.stp.gov.do/UploadPDF/D1329_04.pdf

⁵⁹⁷ <http://mypages.spiceisle.com/nadma/disasterpreparedness.html>

⁵⁹⁸ <http://mypages.spiceisle.com/nadma/nationalplan.html>

⁵⁹⁹ <http://pdba.georgetown.edu/constitutions/haiti/haiti1987.html>

TABLE 1: LISTING OF TARGET COUNTRIES

TARGET COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY	JUDICIAL AUTHORITIES
JAMAICA	Section 26(5) - Proclamation Power of Governor General	Disaster Preparedness and Emergency Management Act, Act No. 15 of 1993 Emergency Powers Act Emergency Powers Regulations 1976 Banana Insurance Act	National Security Policy ⁶⁰¹ National Disaster Action Plan for Jamaica ⁶⁰²	Jamaica Defence Force Office of Disaster Preparedness and Emergency Management (ODPEM)	Bryan v Lindo (1986) 44 WIR 295 R v Minister Of National Security Ex Parte Grange (1972) 24 WIR 513 R v Attorney-General And Brigadier Green, ex parte Olivia Grange And Eric Brown (1976) 23 WIR 139 R v Martin Hutchinson Hinds Thomas (1974) 22 WIR 368
ST. KITTS & NEVIS	Sections 16 - Derogations from Fundamental Rights in emergencies; Section 17 - Protection of persons detained under emergency laws; Section 19 – Declaration Power.	Disaster Management Act 1998	Nevis Disaster Management Plan ⁶⁰³	National Emergency Management Agency (NEMA)	Attorney-General of St Christopher, Nevis and Anguilla v Reynolds (1984) 43 WIR 108 Herbert v Attorney General of Saint Christopher, Nevis and Anguilla (1967) 10 WIR 456 Herbert v Phillips and Sealey (1967) 10 WIR 435
ST. LUCIA	Section 14, - Emergency Powers; Section 15 - Protection of persons detained under emergency laws; Section 17 – Declaration Power.	<i>The Disaster Preparedness and Response Act</i> 13 of 2000 Disaster Management Act 2006 Emergency Powers (Disasters) Act 1995.	National Emergency Management Plan 2007	National Emergency Management Organisation	None Reported
ST. VINCENT & THE GRENADINES	Section 14 – Derogations from Fundamental Rights in emergencies; Section 15 – Protection of persons	National Emergency And Disaster Management Act, 2006	-	Proclamation of Governor General National Emergency Management Office	Russell (Randolph) and Another v Attorney-General of St Vincent and the Grenadines and Another

⁶⁰⁰ <http://www.protectioncivile.gouv.ht/Plan%20National%20de%20Gestion.pdf>

⁶⁰¹ Available at <http://www.jis.gov.jm/NSPANNET.pdf>

⁶⁰² http://mona.uwi.edu/cardin/virtual_library/docs/1109/1109.pdf

⁶⁰³ Accessible through http://nevisdm.com/2005_nevis_disaster_plan.html , draft as at 2005 available at http://nevisdm.com/documents/Disaster_Plan_2005.doc

TABLE 1: LISTING OF TARGET COUNTRIES

TARGET COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY	JUDICIAL AUTHORITIES
	<p>detained under emergency laws; Section 17 - Declaration Power.</p>			<p>Office of the Prime Minister</p>	<p>(1995) 51 WIR 110</p>
<p>TRINIDAD & TOBAGO</p>	<p>Part 3 sections 7 – 12. Section 8 – Proclamation Power.</p>	<p>Disaster Measures Act Emergency Powers Act 1971 Emergency Powers Regulations, 1971 Emergency Powers Regulations, 1990</p>	<p>The National Search and Rescue Plan⁶⁰⁴ Incident Management Systems Policy⁶⁰⁵</p>	<p>Proclamation Power of the President Office for Disaster Preparedness and Management</p>	<p>Grell-Taurel Ltd v Caribbean Home Insurance Co Ltd and Others (2001) 62 WIR 384 Attorney-General and Another v Phillip (Lennox) and Others (1994) 45 WIR 456 Jamaat Al Muslimeen v Bernard and Others (No 1), Bernard and Others v Jamaat Al Muslimeen (No 1) (1994) 46 WIR 382 Nankissoon Boodram v Attorney-General and Another (1994) 47 WIR 459 Ramesh Dipraj Kumar Mootoo v Attorney-General of Trinidad and Tobago (1979) 30 WIR 411 Nurse And Others v R (1972) 20 WIR 518</p>

⁶⁰⁴ http://www.odpm.gov.tt/files/cms/National_Land_SAR_Plan_2004.pdf







⁶⁰⁵ http://www.odpm.gov.tt/files/cms/IMS_Policy_Final_Draft.pdf

TABLE 1: LISTING OF TARGET COUNTRIES

TARGET COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY	JUDICIAL AUTHORITIES
<p>TRINIDAD & TOBAGO (CONTINUED)</p>					<p>Lasalle Shah Lai Leung Noray Guy v R (1972) 20 WIR 361</p> <p>Kelshall v Pitt, Munroe And Bernard, Ex Parte Kelshall (1972) 19 WIR 136</p> <p>Re Dave Darbeau’s Application (1971) 19 WIR 483</p> <p>Edwards & Others v Sgt Alleyne (1971) 17 WIR 358</p> <p>Re The Constitution Of Trinidad And Tobago Application By Bayliss Frederick (1970) 16 WIR 439</p> <p>Weekes v Montano And May (1970) 16 WIR 425</p>

APPENDIX 2

BENCHMARK COUNTRIES & LEGISLATIVE FRAMEWORK

BENCHMARK SELECTION CRITERIA		
CRITERIA	DESCRIPTION	KEY
Disaster Type	The target countries are affected by a myriad of natural disasters including hurricanes, earthquakes, flooding, landslides, volcanoes and tsunamis. This criterion requires that benchmark countries be faced by some or all of these types of natural disasters.	
Geographic Conditions	The target countries are, for the most part islands, with a mixture of low lying coastal areas and mountainous regions. The Caribbean lies in the equatorial zone and boasts a tropical annual climate. For most countries, the majority of the population resides in the coastal region and are thus most vulnerable to water related disasters. The countries are also greatly affected by climatic conditions that affect sea temperature and levels such as global warming, El Nino and La Nina.	
Governance Structures	The target countries, with the exception of the Dominican Republic and Haiti, are all democratic common law jurisdictions which have adopted in some variation the Westminster style of government. Haiti and Dominican Republic are civil law territories. St. Lucia has a mixture of both common law and civil law systems.	
Small Island Developing States (SIDS)	Small island and low-lying coastal countries that share similar sustainable development challenges, including small population, lack of resources, remoteness, susceptibility to natural disasters, excessive dependence on international trade and vulnerability to global developments. In addition, they suffer from lack of economies of scale, high transportation and communication costs, and costly public administration and infrastructure ⁶⁰⁶ . All target countries are listed as SIDS. ⁶⁰⁷	
Economy	A majority of the target countries are considered developing nations. ⁶⁰⁸ Most rely on tourism and agriculture as the main contributors to gross domestic product. All are net importers of goods, with the main trading partner being the United States. As such, the target countries are sensitive to economic trends and movements in the U.S. economy.	
Disaster Related Developments	This criterion requires recent analysis or study of fundamental issues related to disaster preparedness and management including, legislative and policy amendments or development, institutional capacity building and/or adoption of best practices with relation to disaster risk reduction.	

⁶⁰⁶ Small Island Developing States Network - <http://www.sidsnet.org/2.html>

⁶⁰⁷ <http://www.un.org/special-rep/ohrlls/sid/list.htm>

⁶⁰⁸ Antigua & Barbuda, Bahamas, Barbados, Trinidad and Tobago are considered high income economies.

http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html#High_income

DEVELOPING COUNTRIES⁶⁰⁹

❖ The Gambia



Gambia is a relatively small Western African country with an estimated population of just over 1.7 million.⁶¹⁰ The primary economic activities of the Gambia include farming, fishing, and tourism.⁶¹¹ The Gambia has over recent years faced an increasing number of natural disasters including flooding, drought, and epidemic which have placed significant burdens on the economy. In response to these disasters, the government has undertaken the development of a disaster management policy and relevant legal framework to effectively and efficiently tackle such disasters.⁶¹² This project has resulted in the enactment of comprehensive disaster management related legislation which provides for an integrated and coordinated disaster management framework that focuses on prevention, preparedness, response, mitigation and recovery from disasters or emergency situations, and the management of their effects.⁶¹³ The developments in Gambia with respect to disaster management are relatively recent. The best practices recently adopted by Gambia, most of which have been reduced to legislation or policy initiatives, will provide an amalgamated point of reference for the target countries.

❖ South Africa



South Africa is a middle-income, emerging market with an abundant supply of natural resources; well-developed financial, legal, communications, energy, and transport sectors; a stock exchange that is 17th largest in the world; and modern infrastructure.⁶¹⁴ It is exposed to a wide range of weather hazards, including drought, cyclones and severe storms. South Africa has, since 1994, reformed its disaster risk management framework and has established national, provincial and municipal disaster management centres which in combination with supporting legislation provide a coherent, transparent and inclusive policy on disaster management.⁶¹⁵

❖ India



India is the seventh largest country by geographical area, the second most populous country and the most populous democracy in the world.⁶¹⁶ The economy of India is the twelfth largest in the world by market exchange rates and the fifth largest by purchasing power parity.⁶¹⁷ India's large service industry accounts for 54% of the country's gross domestic product while the industrial and agricultural sector contribute 29% and 17%, respectively.⁶¹⁸

India is one of the most disaster prone countries in the world with multiple natural disaster risks including, floods, earthquakes, drought, landslides, and cyclones. Over the last decade, the Government of India has made a concerted effort to shift India's disaster management paradigm from responsiveness to risk reduction. As a result, the government has reformed the disaster management sector and has developed an efficient and model system formulated around the National Disaster Framework covering institutional mechanisms, disaster prevention strategy, early warning systems,

⁶⁰⁹ [IMF Emerging and Developing Economies List. World Economic Outlook Database, October 2009.](#)

⁶¹⁰ <https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html>

⁶¹¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html>

⁶¹² http://www.gm.undp.org/gm-diaster%20bill_2008.htm

⁶¹³ http://www.gm.undp.org/diasterbill_press_release.htm

⁶¹⁴ <https://www.cia.gov/library/publications/the-world-factbook/geos/sf.html>

⁶¹⁵ <http://www.ndmc.gov.za/Documents/Framework/tabid/261/ctl/ViewDocument/mid/628/ItemID/58/Default.aspx>

⁶¹⁶ <http://en.wikipedia.org/wiki/India>

⁶¹⁷ <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2001rank.html>

⁶¹⁸ <https://www.cia.gov/library/publications/the-world-factbook/geos/in.html#Econ>

disaster mitigation, preparedness and response, human resource development, public private partnerships and community level participation.⁶¹⁹

❖ Singapore



Singapore is a small island developing state with a population of over 4.2 million. However, it is the fifth wealthiest country in the world in terms of GDP per capita, with a highly developed market based economy centred on exporting manufactured goods and tourism. Singapore has one of the busiest ports in the world and boasts a modern sophisticated financial sector, including the world's fourth largest foreign exchange trading centre after London, New York City and Tokyo.⁶²⁰ Singapore is spared from most of the natural disasters facing the Caribbean, such as earthquakes, hurricanes and volcanic eruptions. However, it does suffer from flooding, epidemic and man-made disasters. Singapore has a well developed and comprehensive disaster response framework for managing and responding to both local and international disasters.

❖ Marshall Islands



The Marshall Islands, a SIDS, consists of 29 low lying atolls and five islands just west of the International Date Line and north of the equator and has a population of just over 62,000. The major natural hazards facing the Marshall Islands are tropical storms, typhoons, storm surge and drought. Additional challenges/hazards include sea-level rise, and coastal erosion.⁶²¹ The economy is dominated by the public sector which accounts for almost half of GDP, while US Compact grants make up two thirds of government revenue. The Marshall Islands has developed an advanced disaster management framework with legislation dating back to 1987 and comprehensive disaster management plans and institutions focusing both on local and state responsibility for disaster risk management.⁶²² The Marshall Islands has over the past two decades consistently developed and improved its disaster management framework and can provide persuasive instruction to the target countries.

❖ Columbia



Colombia has the tenth highest economic risk to three or more hazards in the world according to the Natural Disaster Hotspot study by the World Bank. Earthquakes, volcanic eruption, hurricanes, floods and landslides are common natural disasters affecting Colombia. Colombia is rich in natural resources, and its main exports include petroleum, coal, coffee and other agricultural produce, and gold. Colombia is also known as the world's leading source of emeralds and over 70% of cut flowers imported by the United States are Colombian. Colombia is widely considered a leader in instituting a policy and legal framework that enables a comprehensive, multi-sectoral approach to disaster risk management. Colombia has built a National System for Disaster Management and Prevention, articulated around a comprehensive National Disaster Prevention and Attention Plan. Since the early 2000s, Colombia has decentralized disaster risk management responsibilities and made disaster risk management a national development priority.⁶²³

❖ Vanuatu



⁶¹⁹ Gupta, *Disaster Management and India: Responding Internally and Simultaneously in other Countries*, accessible at <http://training.fema.gov/EMIWeb/edu/Comparative%20EM%20Book%20-%20Chapter%20-%20Disaster%20Management%20and%20India%20-%20Responding%20Internally%20and%20Simulta.doc>.

⁶²⁰ http://www.mas.gov.sg/about_us/annual_reports/annual20052006/index.htm

⁶²¹ http://gfdrr.org/ctrydrmnotes/Summary_MarshallIslands.pdf

⁶²² <http://gfdrr.org/ctrydrmnotes/MarshallIslands.pdf>

⁶²³ http://gfdrr.org/ctrydrmnotes/Summary_Colombia.pdf

The Republic of Vanuatu is made up of mostly mountainous islands of volcanic origins⁶²⁴ and is considered to be the highest disaster prone country in the South Pacific. The country's geographical location makes it vulnerable to an array of frequent natural disasters including, but not limited to, cyclones, earthquakes, tsunamis and volcanic eruptions. An estimated 70% of employment in Vanuatu is centered on agriculture. Economic development is hindered by dependence on relatively few commodity exports, its vulnerability to natural disasters and inability to access other markets. There has been recent development in the Vanuatu's national disaster management infrastructure.

❖ **Philippines**     

The Republic of the Philippines is located in Southeast Asia and is an archipelago comprising of 7,107 islands. The natural disasters experienced by the Philippines include typhoons, volcanic eruptions, landslides, earthquakes and tsunamis.⁶²⁵ With an estimated population of 92 million people, the Philippines is considered the 12th most populous country. The country is also estimated to have the second-largest gold deposit and one of the largest copper deposits in the world. New developments in disaster management aim at strengthening the national disaster management framework, reducing disaster vulnerability and increasing local capacity for recovery.

❖ **Fiji**     

Fiji comprises of over 300 islands in the South Pacific Ocean. Experiencing only slight temperature variation, Fiji's main natural hazard is cyclones. Endowed with forest, minerals and fish resources, Fiji is one of the most developed of the Pacific island economies. Fiji has adopted a modern national disaster management policy which has led to the establishment of the National Disaster Management Office and Fund. Fiji's comprehensive disaster management policy has taken full consideration of international humanitarian assistance in recovery and rehabilitation of disaster affected areas.

❖ **Micronesia**     

The Federated States of Micronesia is a constitutional government in free association with the United States under a Compact Free Association Agreement first entered into on November 3, 1986.⁶²⁶ It is made up of four states comprising of 607 islands extending 1,800 miles across the archipelago of the Caroline Islands. The islands' terrain varies geologically from high mountainous islands to low coral atolls. Natural resources include forests, marine products, deep-sea minerals and phosphates. Natural hazards for this region consist mainly of typhoons. Agriculture and fishing communities make up the bulk of Micronesia's economic revenues, which is complimented by Compact funds from the United States. Micronesia has recently developed both state and national level disaster funds to adequately finance both pre and post disaster initiatives.

❖ **Indonesia**   

Indonesia, located in Southeast Asia and Oceania is comprised of 17,508 islands and a population of around 230 million people. It is the world's sixteenth largest country by land area, fourth most populous country in the world, and the largest economy in Southeast Asia.⁶²⁷ Indonesia is one of the

⁶²⁴ <https://www.cia.gov/library/publications/the-world-factbook/geos/nh.html>

⁶²⁵ <https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html>

⁶²⁶ <https://www.cia.gov/library/publications/the-world-factbook/geos/fm.html>

⁶²⁷ See World Bank, *Natural Disaster Hotspots, A Global Risk Analysis* (Washington, DC: Disaster Risk Management Series, 2005)

most disaster prone areas in the world. According to a global risk analysis by the World Bank,⁶²⁸ Indonesia is among the top 35 countries that have high mortality risks from multiple hazards with about 40 percent of the population at risk.⁶²⁹ Indonesia is situated in one of the most active disaster hot spots where several types of disasters such as earthquakes, tsunamis, volcanic eruptions, floods, landslides, droughts and forest fires frequently occur.⁶³⁰ The country has extensive natural resources, including crude oil, natural gas, tin, copper and gold.⁶³¹ Indonesia's major imports include machinery and equipment, chemicals, fuels, and foodstuffs.⁶³² Since 2005, the government of Indonesia has undertaken a comprehensive reform of disaster management. The UNDP has pinpointed Indonesia as a global benchmark for disaster management reform and has stated that “practitioners working on [disaster risk reduction], either at national or at the sub-national level, can glean successful approaches from the process in Indonesia from 2005-2009.”⁶³³

DEVELOPED COUNTRIES⁶³⁴

❖ Australia

Australia is located between the Indian Ocean and the South Pacific Ocean.⁶³⁵ It is the smallest continent and the sixth largest country in the world with population estimated at just over 21 million people. Its terrain consists mainly of low plateaus with deserts and they are subject to several types of natural hazards including cyclones, severe droughts and forest fires. Australia is the world's largest net exporter of coal accounting for 29% of the global coal export and its per capita GDP is on par with the four dominant West European economies. Notwithstanding, Australia, like many of the target countries, is generally a service based economy with the majority of the labour force employed within the service industry.

❖ U.S.A.

The United States is the fourth largest country by total area, and the third largest by land area and population. The U.S. economy is the largest national economy in the world, with an estimated 2008 gross domestic product (GDP) of US \$14.4 trillion (a quarter of nominal global GDP and a fifth of global GDP at purchasing power parity). The US faces the gamut of natural disasters including, but not limited to, hurricanes, earthquakes, tornadoes, volcanoes, flooding, and drought. Since Hurricane Katrina in 2005, the US has made considerable benchmark changes to its emergency management operations including, but not limited to, revising the federal emergency management policies, enacting of key legislation to fulfill shortcomings revealed during Katrina, reorganizing the Federal Emergency Management Agency (FEMA); and enhancing and clarifying the mission, functions, and authorities of FEMA.⁶³⁶ The overhaul made in the US is by far the most comprehensive review of emergency policy and legislation to date worldwide.

❖ Canada

⁶²⁸ See World Bank, *Natural Disaster Hotspots, A Global Risk Analysis* (Washington, DC: Disaster Risk Management Series, 2005)

⁶²⁹ <http://gfdrr.org/ctrydrmmnotes/Indonesia.pdf>

⁶³⁰ <http://gfdrr.org/ctrydrmmnotes/Indonesia.pdf>

⁶³¹ [The World Factbook](#). Retrieved on 2007-08-14.

⁶³² [The World Factbook](#). Retrieved on 2007-08-14.

⁶³³ <http://www.undp.or.id/pubs/docs/Lessons%20Learned%20Disaster%20Management%20Legal%20Reform.pdf>

⁶³⁴ [IMF Advanced Economies List, World Economic Outlook, Database—WEO Groups and Aggregates Information, April 2009.](#)

⁶³⁵ <https://www.cia.gov/library/publications/the-world-factbook/geos/as.html>

⁶³⁶ <http://www.au.af.mil/au/awc/awcgate/crs/rl33729.pdf>

Canada is the second largest country in the world. It borders on three oceans, stretches across six time zones, encompasses mountains, plains, forests and tundra. It has a very diverse weather pattern that can range from Arctic to moderate, from continuous rains to drought, from numbing cold to heat waves. Natural hazards experienced in Canada include blizzards, earthquakes, floods, hail, landslides, snow avalanches, tornadoes, tsunamis, storm surges and volcanic eruptions.⁶³⁷ Through its Emergency Management Act, Canada has developed state-of-the-art national policies for response systems to deal with and manage the repercussions of natural hazards.⁶³⁸

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⁶³⁷ <http://www.publicsafety.gc.ca/res/em/nh/index-eng.aspx>

⁶³⁸ <http://www.publicsafety.gc.ca/prg/em/index-eng.aspx>

BENCHMARK COUNTRIES LEGISLATIVE FRAMEWORK

BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES				
THE GAMBIA	<p>Constitution⁶³⁹ Chapter. IV Section. 34: Declaration of State of Public Emergency</p> <p>Const. Ch. IV S. 35: Derogations from Fundamental Rights under Emergency Powers</p> <p>Const. Ch. IV S. 36: Persons Detained under Emergency Powers</p>	National Disaster Management Bill 2008 ⁶⁴⁰	<p>National Disaster Management Programme: Strategic Action Plan 2008-2011⁶⁴¹</p> <p>National Disaster Management Policy 2007⁶⁴²</p>	National Disaster Management Agency
<p><u>Declarations & Budget Appropriation:</u></p> <p>Section 34 of The Gambian constitution outlines the President's power to declare a state of emergency in the whole or any part of The Gambia.</p> <p>Part VII of the National Disaster Management Bill 2008 provides for the declaration of a State of Emergency during which period bestows on the government of Gambia extraordinary powers necessary to overcome the associated emergency. Part IX of the Bill provides for the establishment of a National Disaster fund to prevent, respond to, mitigate or recover from any threatening disaster situation. The Bill outlines the source of the funding as well as the disbursement considerations.</p>				
SOUTH AFRICA	<p>Constitution Chapter 2 S. 37: State of Emergency⁶⁴³</p>	<p>Disaster Management Act 2002⁶⁴⁴</p> <p>Disaster Management Regulations 2005⁶⁴⁵</p> <p>State of Emergency Act⁶⁴⁶</p>	Disaster Management Framework ⁶⁴⁷	National Disaster Management Center
<p><u>Declarations & Budget Appropriation:</u></p> <p>The South African constitution provides that declaration of emergencies should be done in accordance with an act of parliament addressed to that issue. Notwithstanding, the constitution places certain conditions and requirements with respect to such declarations.</p> <p>The State of Emergency Act provides instructions with respect to emergency declarations in South Africa generally, while the Disaster Management Act provides additional and specific guidance with respect to declarations at a time of a national, provincial or local disaster.</p>				

⁶³⁹ <http://www.ncce.gm/files/constitution.pdf>

⁶⁴⁰ Accessible and downloadable through http://www.gm.undp.org/gm-diaster%20bill_2008.htm

⁶⁴¹ Accessible and downloadable through http://www.gm.undp.org/gm-diaster%20bill_2008.htm and available at <http://www.gm.undp.org/Reports/diaster%20management%20strategic%20action%20plan.doc>

⁶⁴² Accessible and downloadable through http://www.gm.undp.org/gm-diaster%20bill_2008.htm

⁶⁴³ <http://unpan1.un.org/intradoc/groups/public/documents/UN/UNPAN005172.pdf>

⁶⁴⁴ Act No.57 of 2002 South Africa - <http://www.info.gov.za/view/DownloadFileAction?id=68094>, also accessible through <http://www.ndmc.gov.za/Documents/Acts.aspx>

⁶⁴⁵ <http://www.ndmc.gov.za/Documents/Framework/tabid/261/ctl/ViewDocument/mid/628/ItemID/17/Default.aspx>

⁶⁴⁶ *Republic of South Africa State of Emergency Act* [South Africa], 1997, available at: <http://www.unhcr.org/refworld/docid/3ae6b57818.html>

⁶⁴⁷ <http://www.ndmc.gov.za/Documents/Framework/tabid/261/ctl/ViewDocument/mid/628/ItemID/58/Default.aspx>

BENCHMARK COUNTRIES LEGISLATIVE FRAMEWORK

BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES	Direct funding for national disasters is primarily set out at Chapter 6 of the Disaster Management Act 2000. However, the following additional legislation provides a comprehensive context of the requirements for funding natural disaster prevention and response in South Africa: Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) ⁶⁴⁸ ; Municipal Finance Management Act, 2003 (Act No. 53 of 2003) (MFMA) ⁶⁴⁹ ; Municipal Systems Act, 2000 (Act No. 32 of 2000) ⁶⁵⁰ .			
INDIA	Constitution Part XVIII: Emergency Provisions, Articles 354 - 356 ⁶⁵¹	Disaster Management Act 2005 ⁶⁵²	National Disaster Management Framework of the Government of India Disaster Management India ⁶⁵³	National Disaster Management Authority
	<p><u>Declarations & Budget Appropriation:</u></p> <p>The Constitution is the primary instrument with respect to declarations of state of emergency in India.</p> <p>Section 6(2)(g) of the Disaster Management Act 2005⁶⁵⁴ provides the National Authority the power to recommend provision of funds for the purpose of mitigating against national disasters. Whereas section 16 provides for the recommendation of relief loans to the persons affected by disaster on such concessional terms as may be appropriate. Chapter XI of the Act deals with Finance, Accounts and Audit of Disaster Management calling for a National Disaster Response Fund to which there shall be credited an amount which the central government deems appropriate for the purpose of disaster management. Notwithstanding, India has not constituted the National Disaster Response Fund and uses the Calamity Relief Fund.</p>			
SINGAPORE	Constitution ⁶⁵⁵ Part XVII: Special Powers Against Subversion and Emergency Powers	Civil Defence Act ⁶⁵⁶ Infectious Disease Act ⁶⁵⁷ Red Cross Society Act ⁶⁵⁸ Requisition of Resources Act ⁶⁵⁹	Community Emergency Preparedness Programme ⁶⁶⁰	Ministry of Home Affairs Singapore Civil Defence Force

Constitution Part XI: Financial

Provisions

⁶⁴⁸ <http://www.agsa.co.za/Portals/1/AGTS/PFMA.pdf>

⁶⁴⁹ <http://www.info.gov.za/acts/2003/a56-03/a56-03a.pdf>

⁶⁵⁰ http://www.ppp.gov.za/Documents/ppp_legis/Municipal_Systems_act_32-00.pdf

⁶⁵¹ Available at <http://lawmin.nic.in/coi/coiason29july08.pdf>

⁶⁵² <http://www.ndmindia.nic.in/acts-rules/DisasterManagementAct2005.pdf>

⁶⁵³ <http://www.unisdr.org/eng/country-inform/reports/India-report.pdf>

⁶⁵⁴ <http://aurangabad.nic.in/htmldocs/disastermanagementact2005.pdf>

⁶⁵⁵ http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?&actno=Reved-CONST&date=latest&method=part

⁶⁵⁶ Accessible through <http://statutes.agc.gov.sg/>

⁶⁵⁷ Accessible through <http://statutes.agc.gov.sg/>

⁶⁵⁸ Accessible through <http://statutes.agc.gov.sg/>

⁶⁵⁹ Accessible through <http://statutes.agc.gov.sg/>

⁶⁶⁰ http://www.scdf.gov.sg/Community_and_Volunteers/Community_Preparedness/Community_Programmes/cepp.html

BENCHMARK COUNTRIES LEGISLATIVE FRAMEWORK

BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES				
	<p><u>Declarations & Budget Appropriation:</u></p> <p>Article 150 of the Constitution grants power and the corresponding instructions for a proclamation of emergency in Singapore. The Civil Defence Act Article 102 also provides for declarations when a state of civil defence emergency has occurred or is imminent.</p> <p>There are no definitive declarations or procedural requirements for the appropriation and dispensation of funding in the event of national emergency and disaster in Singapore. Notwithstanding, Part XI of the Singapore Constitution provides for the creation of a Contingencies Fund which can be accessed, on fulfilment of certain conditions, when there is an urgent and unforeseen need for expenditure.</p>			
MARSHALL ISLANDS (RMI)	Const. Article VIII Section 9 ⁶⁶¹	Emergencies Act 1979 ⁶⁶² Disaster Assistance Act 1987 ⁶⁶³ RMI-US Compact ⁶⁶⁴		National Disaster Committee
	<p><u>Declarations & Budget Appropriation:</u></p> <p>§ 1102 of the Emergency Act and §1005 of the Disaster Assistance Act provides for declaration of state of disaster and declarations of emergency in the RMI.</p> <p>The Disaster Assistance Act also establishes the Disaster Assistance Account, a [special revenue] account within the National Treasury and under the control and supervision of the Ministry of Finance - which provides for its administration in accordance with the Financial Management Act of 1990, as amended, 11 MIRC . The RMI also receives disaster funding assistance pursuant to the Disaster Assistance Agreement with the United States known as the RMI-US Compact.</p> <p>Additionally, Section 9 of Article VIII of the Constitution provides for appropriations to a Contingencies Fund when there has arisen an urgent and unforeseen need.</p>			
COLOMBIA	Const. Article 215 ⁶⁶⁵	Ley 46 of 1988 Decreto 1547/1984 Decreto 919/1989 Decreto 60/1993 Decreto 137/1994 Decreto 976/1997 Decreto 93/1998: National Plan for	National System for Disaster Prevention and Response (SNPAD) ⁶⁶⁶ Document CONPES 3146-2001 Guidelines to Act in Case of a Sudden Natural Disaster with National Impact	National Committee

⁶⁶¹ http://www.paclii.org/mh/legis/consol_act/cotmi363/

⁶⁶² http://www.paclii.org/mh/legis/consol_act/ea1979113/

⁶⁶³ http://www.paclii.org/mh/legis/consol_act/daa1987208/

⁶⁶⁴ <http://www.rmiembassyus.org/Compact/Compact%20Public%20Law%20108-188.pdf>

⁶⁶⁵ Unofficial English translation available at http://confinder.richmond.edu/admin/docs/colombia_const2.pdf

⁶⁶⁶ http://www.sigpad.gov.co/paginas_detalle.aspx?idp=13

BENCHMARK COUNTRIES LEGISLATIVE FRAMEWORK

BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES		Disaster Prevention and Attention Decree 332/2004: District Plan for Disaster Prevention and Attention	Guidelines to Produce Sectorial Emergency Plans	
	<p><u>Declarations & Budget Appropriation:</u></p> <p>Article 215 of the Constitution provides the conditions for declaration of a state of emergency in situations involving natural disasters.</p> <p>Articles 46 to 50 of Decree 137/1994 regulates states of emergency in Colombia with respect to natural disasters.</p> <p>Decree 93/1998 establishes the National Disaster & Prevention Attention System which includes, among other things, the National Calamity Fund, “Fondo Nacional de Calamidades”, dedicated to addressing the needs that arise in situations of disaster or calamity. The National Calamity Fund will have a permanent reserve of economic resources to assist the impacted community.⁶⁶⁷ Additionally Decree 60/1993 provides for pre-assigned resources for Disaster Prevention and Attention from the national budget.</p>			
VANUATU	Const. Part 11, Section 69 and 70 ⁶⁶⁸	Republic of Vanuatu National Disaster Act ⁶⁶⁹	Disaster Risk Reduction and Disaster Management National Action Plan (2006-2015) ⁶⁷⁰ Supplementary for Mainstreaming Disaster Management National Action Plan (2006-2015) ⁶⁷¹ National Adaption Program of Action (NAPA) Disaster Risk Management Framework.	National Disaster Committee (NDC) Ministry of Internal Affairs Ministry of Finance-Department of Economic and Sector Planning)
	<p><u>Declarations & Budget Appropriation:</u></p> <p>Part 4 at Section 13-15 of the National Disaster Act describes the conditions under which a state of emergency can be declared, the medium through which the declaration should be broadcasted and the duration for which the declaration shall last.</p> <p>Section 15 of the said Act also provides for emergency powers to the relevant Minister during such a state of emergency.</p> <p>Part 3 Section 8 of the National Disaster Act provides for the establishment of the National Disaster Management Office (NDMO), the responsibilities of which includes to control and direct the allocation of aid provided by government and non-government agencies and also to coordinate requests for aid.</p>			

⁶⁶⁷ The Fund was originally established by Article 1 of Decree 1547 of 1984, as amended by Article 70 of Decree 919 of 1989

⁶⁶⁸ <http://www.vanuatugovernment.gov.vu/government/library/constitution.html>

⁶⁶⁹ http://www.pacii.org/vu/legis/num_act/nda2000186/

⁶⁷⁰ <http://www.sopac.org/data/virlib/ER/ER0083.pdf>

⁶⁷¹ http://www.preventionweb.net/files/9259_vanuatudismanag.pdf

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES	<p>Section 9-11 of Part 3 also provides for the preparation of National Disaster, Support and Provisional Plans by the the object of which is to coordinate actions by provisional councils, municipal councils, government and non-government agencies in the prevention of, preparation for, response to and recovery from the related disaster.</p> <p>There are no definitive declarations or procedural requirements for the appropriation and dispensation of funding in the event of national emergency and disaster in Vanuatu. Notwithstanding the Vanuatu National Provident Fund Act⁶⁷² provides for the withdrawal of monies from this fund while a state of emergency is declared under Section 69 of the Constitution.</p>			
PHILIPPINES	Const. Article VI Section 23 and 26 Const. Article XII Section 17 ⁶⁷³	Presidential Decree No. 1566: Strengthening the Philippine Disaster Control, Capability and Establishing the National Program on Community Disaster Preparedness ⁶⁷⁴ Presidential Decree No. 477 ⁶⁷⁵		National Disaster Coordinating Council ⁶⁷⁶ Regional Disaster Coordinating Council The Office of Civil Defence Department of Social Welfare and Development
	<p><u>Declarations & Budget Appropriation:</u></p> <p>There is no specific provision for the declaration of a state of emergency in the Philippines however practice dictates that during the period of chaos or calamity the government may issue a declaration of a state of calamity in accordance with Article 7 Section 18 and Article 12 Section 17 of the Constitution.</p> <p>In accordance with Presidential Decree No. 1566 Section 9, funding shall be made available from the National Calamity Fund established under Presidential Decree No. 477 Section 27 which was set up to cover unforeseen expenditures arising from the occurrence of, inter alia, natural calamities. Section 9 of Presidential Decree No. 1566 also mandates that all local units shall program funds to be used for disaster preparedness.</p> <p>Additionally, under the National Disaster Coordinating Council , the Secretary of Budget and Management may release funds required by the departments for disaster operations.</p>			
FIJI	Const. Part 14 Sections 187-189 ⁶⁷⁷	Natural Disaster Management Act 1998 ⁶⁷⁸ Public Finance Management Act	National Disaster Management Plan	National Disaster Management Council

⁶⁷² http://www.paclii.org/vu/legis/consol_act/vnpfa347/

⁶⁷³ <http://www.lawphil.net/consti/cons1987.html>

⁶⁷⁴ <http://www.wpro.who.int/NR/rdonlyres/1F5252CC-8DCC-4483-9406-54A59321C494/0/PDNo1566.pdf>

⁶⁷⁵ http://www.lawphil.net/statutes/presdecs/pd1974/pd_477_1974.html

⁶⁷⁶ <http://ndcc.gov.ph/home/>

⁶⁷⁷ http://www.paclii.org/fj/legis/num_act/ca1997268/

⁶⁷⁸ http://www.paclii.org/fj/legis/num_act/ndma1998271/

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES		1999 ⁶⁷⁹ Emergency Powers Act 1998 ⁶⁸⁰		National Disaster Management Office (NDMO) National Emergency Operation Center
	<p><u>Declarations & Budget Appropriation:</u></p> <p>Section 2 of the Emergency Powers Act 1998 and Section 17 of the Natural Disaster Management Act 1998 outlines the conditions under which the President can declare a state of Emergency.</p> <p>Part 6 Section 28 of the Natural Disaster Management Act provides for funding assistance through the National Disaster agencies established by the National Disaster Management Plan. In addition to which the Act provides for the provision of assistance by Government and recognized Non-government organizations for the relief and recovery efforts of communities.</p> <p>Part 4 Section 18 of the Public Finance Management Act provides that where a state of emergency is declared in accordance with the Emergency Powers Act 1998 the Cabinet may approve such government financial transactions to meet the emergency as it thinks fit, whether or not those transactions are authorised by an appropriation.</p>			
MICRONESIA	Const. ⁶⁸¹ Article X Section 9	Disaster Relief Assistance Act 1989 ⁶⁸²	Emergency Preparedness Strengthening Program National Disaster Prevention and Preparedness Fund National Policy on Disaster Prevention and Management Regional Disaster Prevention and Preparedness Committee Relief and Rehabilitation Commission	Disaster Prevention and Preparedness Commission National Disaster Prevention and Preparedness Committee
	<p><u>Declaration & Budget Appropriation:</u></p>			

⁶⁷⁹ [http://www.paclii.org/cgi-bin/disp.pl/fj/legis/num_act/pfma1999206/pfma1999206.html?query=national disaster management plan](http://www.paclii.org/cgi-bin/disp.pl/fj/legis/num_act/pfma1999206/pfma1999206.html?query=national%20disaster%20management%20plan)

⁶⁸⁰ http://www.paclii.org/fj/legis/num_act/epa1998197/

⁶⁸¹ http://www.paclii.org/cgi-bin/disp.pl/fm/legis/consol_act/cotfsom468/cotfsom468.html?query=micronesia

⁶⁸² http://fsmlaw.org/fsm/code/title41/T41_Ch07.htm

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)		STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES	<p>In accordance with Article X Section 9 of the Const. and §705 of the Disaster Relief Assistance Act 1989, the President may declare a state of emergency if required to preserve the public peace, health or safety caused by, inter alia, a natural disaster.</p> <p>According to the Disaster Relief Assistance Act the responsibility for coordinating State and Foreign assistance lies with the President and the National Government. Subsection 7 of §705 of the Disaster Relief Assistance Act bestows on the President the power to provide immediate assistance from the Disaster Relief Fund.</p> <p>The President also has the responsibility to ensure the eligibility of funding for State emergency plans under the United States Emergency Management Act</p> <p>Additionally, under Chapter 2 Finance Management of Title 55 the Government Finance and Contracts, §210 provides for the establishment of a Foreign Assistance Fund for the receipt or acceptance of financial assistance or aid on behalf on any National or State governmental entity.⁶⁸³</p>				
INDONESIA	Article 12, The 1945 Constitution of the Republic of Indonesia	<p>Law No 24/2007 on Disaster Management</p> <p>Government Regulation (GR) No. 21/2008 on DM Operations</p> <p>GR No. 22/2008 on Funding & Management of Disaster Assistance</p> <p>GR No. 23/2008 on Participation of International Institutions and Foreign Non-Government Institution in DM</p> <p>Presidential Regulation No. 8 / 2008 on NDMA (BNPB)</p> <p>Ministry of Home Affairs Regulation No. 46/2008 on BPBD Organization and Works Mechanism</p> <p>Head of BNPB Regulation No. 3/ 2008 on BPBD</p>	National Disaster Management Action Plan ⁶⁸⁴	National Disaster Management Agency (BNPB)	
<p><u>Declarations & Budget Appropriation:</u></p> <p>Article 12 of the Indonesian Constitution is the relevant constitutional provision with respect to the declaration of state of emergency</p>					

⁶⁸³ http://fsmLaw.org/fsm/code/title55/T55_Ch02.htm

⁶⁸⁴ http://www.adrc.asia/documents/dm_information/indonesia_plan01.pdf

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPING COUNTRIES	<p>Article I, Section 19 of Law No 24/2007 on Disaster Management provides the relevant provisions for the declaration of a state of emergency in Indonesia.</p> <p>Law No. 24/2007 authorizes, during emergency response situations, the National Disaster Management Agency (BNPB) to utilize available funds allocated under the disaster management budget. While Government Regulation No. 22/2008 on Funding and Management of Disaster Assistance allows for disaster financing from three main resources: local and national government; community/private financing; and donor financing</p>			

BENCHMARK COUNTRIES LEGISLATIVE FRAMEWORK

BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPED COUNTRIES	<p style="text-align: center;">AUSTRALIA</p>			
	<p>No specific emergency provision in the Constitution,⁶⁸⁵ However, Section 51 has been interpreted as providing the basis for enacting emergency legislation in Australia.⁶⁸⁶ As noted in the case of <i>Farey v Burvett</i>, [1916] HCA 36; (1916) 21 CLR 433 (8 June 1916)⁶⁸⁷</p>	<p>Emergencies Act 2004⁶⁸⁸</p> <p>(Queensland) Disaster Management Act 2003⁶⁸⁹</p>	<p>Emergency Management Concepts & Principles⁶⁹⁰</p> <p>Emergency Management Arrangements⁶⁹¹</p> <p>Government Emergency Management Policy Statement.⁶⁹²</p> <p>State Emergency Management Plan⁶⁹³</p>	<p>Attorney-General Department – Emergency Management Australia</p>

⁶⁸⁵ <http://www.aph.gov.au/Senate/general/constitution/constit.pdf>

⁶⁸⁶ http://www.austlii.edu.au/au/legis/cth/consol_act/coaca430/notes.html

⁶⁸⁷ <http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/cth/HCA/1916/36.html>

⁶⁸⁸ http://www.austlii.edu.au/au/legis/act/consol_act/ea2004113/

⁶⁸⁹ <http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2003/03AC091.pdf>

⁶⁹⁰ [http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/\(3273BD3F76A7A5DEDAE36942A54D7D90\)~Manual01-EmergencyManagementinAustralia-ConceptsandPrinciples.pdf/\\$file/Manual01-EmergencyManagementinAustralia-ConceptsandPrinciples.pdf](http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/(3273BD3F76A7A5DEDAE36942A54D7D90)~Manual01-EmergencyManagementinAustralia-ConceptsandPrinciples.pdf/$file/Manual01-EmergencyManagementinAustralia-ConceptsandPrinciples.pdf)

⁶⁹¹ <http://www.emergency.nsw.gov.au/content.php/495.html>

⁶⁹² http://www.ema.gov.au/www/emaweb/emaweb.nsf/Page/AboutEMA_PolicyInitiatives_AustralianGovernmentEmergencyManagementPolicyStatement

⁶⁹³ Available at http://www.lga.sa.gov.au/webdata/resources/files/State_Emergency_Management_Plan_2008.pdf, Other plans are available at

http://www.ema.gov.au/www/emaweb/emaweb.nsf/Page/EmergencyManagement_PreparingforEmergencies_PlansandArrangements_AustralianGovernmentEmergencyManagementPlans

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)	STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPED COUNTRIES				
	<p><u>Declarations & Budget Appropriation:</u></p> <p>Part 5 of the Emergency Management Act and Part 7.3 of the Emergencies Act sets out the provisions and conditions for which a state of emergency shall be declared and the responsibilities which flow therefrom.</p> <p>Whereas primary responsibility for emergency management rests with the states and territories, the Government of Australia provides reasonable financial assistance when those states or territories cannot cope during an emergency. Toward this end Section 96 of the Constitution provides that Parliament may grant financial assistance to any state on such terms and conditions as it sees fit.</p> <p>The Australian Government also provides funding to states and territories through the National Disaster Relief and Recovery Arrangements (NDRRA) as established by the NDRRA Determination 2007⁶⁹⁴</p> <p>Part 7.5 of the Emergencies Act applies to monies received and donations⁶⁹⁵ made to territories for emergency management relief and the establishment of a charitable trust for the dispensation of the said monies.</p>			
CANADA	<p>No specific emergency provision in the Constitution.⁶⁹⁶ However, section 91 has been interpreted in the case of <i>Fort Francis Pulp & Power Co. v. Man. Free Press Co.</i>, [1923] A.C. 965⁶⁹⁷ as providing the impetus for disaster related activities</p>	<p>Emergency Mgmt. Act 2007⁶⁹⁸</p> <p>Department of Public Safety and Emergency Preparedness Act⁶⁹⁹</p> <p>Emergencies Act [1985 c.22 (4th Supp)]⁷⁰⁰</p>	<p>Public Safety & Emergency Preparedness⁷⁰¹</p> <p>Disaster Financial Assistance Arrangement & the National Mitigation Strategy⁷⁰²</p> <p>A Federal Policy for Emergencies⁷⁰³</p> <p>Emergency Management Framework⁷⁰⁴</p>	<p>Department of Public Safety & Emergency Preparedness Emergency Measures Organization</p>

⁶⁹⁴ [http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~NDRRA+Determination+2007.pdf/\\$file/NDRRA+Determination+2007.pdf](http://www.ema.gov.au/www/emaweb/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~NDRRA+Determination+2007.pdf/$file/NDRRA+Determination+2007.pdf)

⁶⁹⁵ <http://www.legislation.act.gov.au/ni/2006-222/current/pdf/2006-222.pdf>

⁶⁹⁶ <http://laws.justice.gc.ca/en/const/index.html>

⁶⁹⁷ See <http://www.uottawa.ca/constitutional-law/Division%20of%20Powers%20Topics%20-%20Residuary%20and%20Emergency%20Powers.htm>

⁶⁹⁸ <http://laws.justice.gc.ca/en/ShowTdm/cs/E-4.56/>

⁶⁹⁹ <http://laws.justice.gc.ca/en/P-31.55/index.html>

⁷⁰⁰ <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-22-4th-supp/latest/rsc-1985-c-22-4th-supp.html>

⁷⁰¹ http://www.safecanada.ca/topic_e.asp?category=4; <http://laws.justice.gc.ca/en/const/index.html>

⁷⁰² http://www.publicsafety.gc.ca/prg/em/ndms/_fl/NDMS_Web_E.pdf

⁷⁰³ <http://www.hc-sc.gc.ca/hc-ps/ed-ud/event-incident/radiolog/info/emergency-urgence-eng.phpu>

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BENCHMARK COUNTRIES	CONSTITUTIONAL PROVISION(S)		STATUTORY & OTHER LAWS	POLICY & STRATEGIC PLANNING INSTRUMENTS	INSTITUTIONAL / MINISTERIAL ENTITY
DEVELOPED COUNTRIES					
	<p><u>Declarations & Budget Appropriation:</u> Section 7 of the Emergency Management Act 2007 provides for the Minister of Public Safety and Emergency Preparedness to make orders or regulations, <i>inter alia</i>, declaring a provincial emergency to be of concern to the federal government.</p> <p>Section 4 of the Emergency Management Act 207 outlines the responsibilities of the Minister to include coordinating the provision of assistance to a province in respect of a provincial emergency</p> <p>The primary source of Government funding to provincial and territorial governments facing national disaster and emergency situations is in accordance with the Disaster Financial Assistance Arrangements (DFAA)⁷⁰⁵.</p>				
U.S.A	No specific constitutional provision.	The Robert T. Stafford and Emergency Assistance Act (P.L. 100-707) ⁷⁰⁶ Post-Katrina Emergency Management Reform Act of 2006 ⁷⁰⁷	Excess Disaster Assistance Payments as Budgetary Emergency Requirements (42 U.S.C. 5203) Federal Emergency Management Agency : Findings, Definitions and Declarations ⁷⁰⁸	Federal Emergency Management Agency (FEMA) ⁷⁰⁹	
	<p><u>Declarations & Budget Appropriation:</u> Sections 401-403: of Title IV of the Robert Stafford Disaster Relief and Emergency Assistance Act sets out the procedure for declaring a state of emergency and consequences that flow therefrom.</p> <p>Section 301 of Title III of the Robert T Stafford Disaster Relief and Emergency Assistance Act outlines the actions to be taken immediately upon the declaration of a state of major disaster or emergency. The Robert T. Stafford Emergency Relief and Disaster Assistance Act also establishes the Disaster Relief Fund (DRF), which is funded by direct annual governmental appropriations and is the main source of federal funding for response and recovery programs.</p> <p>Sections 310, 319 of the Robert T Stafford Disaster Relief and Emergency Assistance Act provides for the process of assistance applications from public bodies in times of disaster and emergency and federal loan facilities in accordance with cost-sharing provisions.</p> <p>Title III of the Post-Katrina Emergency Reform Act provides for emergency management performance grants for necessary expenses arising from flood emergency situations.</p>				

⁷⁰⁴ Available at http://www.scics.gc.ca/cinfo07/830903005_e.pdf

⁷⁰⁵ http://www.publicsafety.gc.ca/prg/em/dfaa/_fl/DFAAGuidelines2008-eng.pdf

⁷⁰⁶ http://www.fema.gov/pdf/about/stafford_act.pdf

⁷⁰⁷ http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ295.109.pdf

⁷⁰⁸ <http://classweb.gmu.edu/jkozlows/fema1.htm>; Section 5170 of provides for general federal assistance and the coordination of all disaster relief assistance. Additionally it provides for the disbursement of essential assistance to states to meet immediate threats to life and property resulting from major disaster.

⁷⁰⁹ <http://www.fas.org/irp/offdocs/eo/eo-12127.htm>

APPENDIX 3

CONSULTATIVE SESSION QUESTIONNAIRES

Country: Antigua & Barbuda

Agency/Organization: National Office of Disaster Service

Date: July 13, 2010

Completed By: Philmore Mullin

Contact Info: 268 460 7075

Title: Director

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body				
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N		
2.	Please describe the organisation structure of the agency structured?			The structure is one where the PM is ultimately responsible for disaster management; the disaster plan allows him to delegate that responsible to a Minister of his choice; under normal circumstance report to PS and under declared emergency report directly to PM or his designate
3.	Is the agency/organisation funded by government? If no, please explain.	Y		
3a.	What is the annual budget for the agency?			Fluctuates from time to time; EC\$ over 700,000.00 for operational budget; capital expenditure was approved at EC\$1.3 million but has been deferred based economic circumstances

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
3b.	How are funds allocated for the agency?			All government agencies present a budget through the MOF and that gets approved based on certain parameters, you have to justify your budget; funds are allocated to: Salaries, general upkeep, work program activities – such as annual training, and repetitive community level training, EO training
4.	What types of disasters are within the mandate of the agency/organisation?			All hazards are covered; the disaster management legislation lists the most prominent but there is a proviso that gives authority for all hazards,
5.	Please describe key the functions of the agency.			NODS is a secretariat that has mandate to utilize govt resources to deal with preparedness through mitigation of hazardous events; there is an uphill battle to breakout of the preparedness and response model
6.	Does the agency/organization perform mitigation and preparedness activities?	Y		
6a.	Describe the types of mitigation activities engaged in by your agency/organisation			Mitigation – updating hazards maps, identification of hot spots across the islands and mapping of those hot spots, function is more collaborative and to some extent we have a direct say in some specific issues, e.g. development & control authority – mandated to forward plans to NDOS for review and comments and we review and utilize hazard maps to overlay proposed development areas and make determinations as to the feasibility and hazard costs of the development
6b.	Describe the types of preparedness activities engaged in by your agency/organisation			Basically, we inspect shelters., train personnel, education programs throughout schools and communities for awareness,

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				telecom training, meetings etc.
7.	Does the agency/organisation perform recovery and reconstruction activities?	Y		
7a.	Describe the types of recovery activities engaged in by your agency/organisation			In the last 2 events, we prepare the final report with recommendations as to what should be done for recovery; the Ministry of Works deals specifically with public buildings; NDOS has been tasked with rebuilding homes for affected citizens; we coordinate the effort and rebuild the homes for the victims based on priority
7b.	Describe the types of reconstruction activities engaged in by your agency/organization			Primarily private homes, we will collaborate on the reconstruction of school buildings clinics, but NDOS is primarily tasked with reconstruction of private homes; cabinet is the authority that the divides the work
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?			Red cross, Lions, Rotary, Kiwanis Club, Adra, these are the main participants – they have submitted a MOU to govt stating their desired area of responsibility for relief efforts and they raise funds for reconstruction, the funds go to the National Relief Committee who will use the funds primarily for rebuilding homes; then there are international partners, UNESCO, USAID etc.
8a.	If yes, please name the entity(ies) and describe its(their) functions.			
Disaster Management Plan / Policy				
9.	Is there a national disaster management plan? If no go to question 10.	Y		
9a.	When was the plan developed?			1984 was the 1 st plan

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain	Y		NDOS
9c.	Has the plan been recently revised?	Y		
9d.	When was the revision made?			Started in 2009 and is not completed as yet; there is a number of changes that needed to be done and we are waiting on the disaster legislation revision so that it can all be synchronized
9e.	What areas of the plan were revised or newly adopted?			The entire plan: <ul style="list-style-type: none"> - Roles & functions - Environmental issues – environmental sub-committee to deal with these types of issues - Harmonization council – at the national is being recommended; the council should consider the DM executive body the added responsibility of harmonization; annually all various agencies would report on their risk reduction activities; is a mechanism to capture what is going on across the board with respect to DRR
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?	Y		
9g.	What are the deficiencies or shortcomings in the national plan?			1) Original plan had everything in one; the new plan breaks it down into chapters and deals with each type of hazard separately in annexes 2) Operational procedures need to be more

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				<p>clearly defined – being done in revised</p> <p>3) Linkage between the law and the national plan was not always a clear cut issue</p> <p>4) Struggle between ministries and NDOS, the ministries do not take enough ownership of DM as a component of each ministry</p> <p>5) Transfer of key personnel to other areas of government</p> <p>6) Finance</p>
9h.	What, if any, improvements need to be made to the disaster plan?			
9i.	Does the disaster management plan effectively address the following issues:			
	a) Mitigation & Preparedness	Y		We are in the process of assisting both public and private sector to address all phases and this is being included in the revised plan
	b) Disaster Declarations	Y		This is one of the issues that the revised legislation will seek to address; there are provisions in the existing legislation however it is felt there should be levels of activation
	c) Funding & Budget appropriation methods			Procedures for funding is in the Finance & Admin act should be formalized to meet the emergency situations will be apart of the revised plan; There is a emergency fund in the Finance & Admin act and we outlined the challenges
	d) Accountability & Authority			All accountability procedures are to be maintained but the process is being streamlined; there is auditing requirements; the final agreed procedures would be in the

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				plan and make reference to the legislation
	e) National Security & Health	Y		Plan is clear from inception, there is an annex that deals with both issues separately; there is however a separation of responsibility where the military will deal with certain security hazards
	f) International Aid, Relief & Recovery	Y		In an annex referred to external assistance and relief management
	g) Communication Systems	Y		This is one of the prioritises there is a fairly robust system the NDOS has a patch into that system and have isolated channel for emergency services; this is tested twice weekly; there is also a separate arrangement with the telephone providers; Antigua Alert allows the sending of text messages, satellite link to allows us to communicate and additional redundancies built into the system
	h) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response	Y		
10.	Is there a national disaster management policy? If no go to question 11.	N		This is an issue that has been flagged for priority; however this is one of the issues we asked CDEMA to look at; CDEMA is developing a generic policy which we will look at adopting
10a.	When was the policy developed?			
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.			
10c.	Has the policy been recently revised?			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
10d.	When was the revision made?			
10e.	What areas of the policy were revised or newly adopted?			
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?			
10g.	What are the deficiencies or shortcomings in the national policy?			
10h.	What if any, improvements need to be made to the disaster policy?			
10i.	Does the national disaster policy address the following issues:			
	a) Mitigation & Preparedness			
	b) Disaster Declarations			
	c) Funding & Budget appropriation methods			
	d) Accountability & Authority			
	e) National Security & Health			
	f) International Aid, Relief & Recovery			
	g) Communication Systems			
	h) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
11.	Is there a national emergency management plan? If no go to question 12.			
11a.	When was the plan developed?			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain			
11c.	Has the plan been recently revised?			
11d.	When was the revision made?			
11e.	What areas of the plan were revised or newly adopted?			
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?			
11g.	What are the deficiencies or shortcomings in the national plan?			
11h.	What, if any, improvements need to be made to the disaster plan?			
11i.	Does the emergency management plan address the following issues:			
	a) Mitigation & Preparedness			
	b) Disaster Declarations			
	c) Funding & Budget appropriation methods			
	d) Accountability & Authority			
	e) National Security & Health			
	f) International Aid, Relief & Recovery			
	g) Communication Systems			
	h) Functions, limitations & responsibilities of the relevant agencies and			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	ministries involved in disaster mitigation and response			
12.	Is there a national emergency management policy? If no go to question 13.			
12a.	When was the policy developed?			
12b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.			
12c.	Has the policy been recently revised?			
12d.	When was the revision made?			
12e.	What areas of the policy were revised or newly adopted?			
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?			
12g.	What are the deficiencies or shortcomings in the national policy?			
12h.	What if any, improvements need to be made to the disaster policy?			
12i.	Does the emergency management policy address the following issues:			
	a) Mitigation & Preparedness			
	b) Disaster Declarations			
	c) Funding & Budget appropriation methods			
	d) Accountability & Authority			
	e) National Security & Health			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	f) International Aid, Relief & Recovery			
	g) Communication Systems			
	h) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
Emergency Declarations				
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	Y		There are several amendments however it needs to be looked at; there are certain constitutional arrangements in place; there is a broad emergency system in place with the PM and GG; there is a issue with how this can be done if the parties cannot all come together to formalize the legislation
13a.	If no, please specify how declarations are issued and state the relevant authority.			
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y		
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.			1995 – Hurricane Luis
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration			
15.	Does the disaster legislation, policies or procedures include or define the following issues:			
	a) Authority for disaster declarations; Please identify relevant section.	Y		It is done in a very awkward way and is one of the issues being addressed in the revised legislation; looking to include partial declaration with provisos
	b) Definitions of disasters and emergencies; Please identify relevant	Y		The present legislation gives a very general

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	section.			description of what is a disaster and emergency; based on our interaction we are hoping this will be addressed to bring it more in line with the international acceptable language
	c) Declaration procedure; Please identify relevant section.	Y		In plan and law but the challenge is the actual scale of the declaration is not a part of that process
	d) A mechanism / instructions for publication of declarations; Please identify relevant section	Y		
	e) Duration of declarations; Please identify relevant section.	Y		
	f) Powers related to declarations; Please identify relevant section	Y		
	g) Declaration Coordination; Please identify relevant section.	Y		Limits parliamentary power and gives PM and GG certain powers; the revised legislation we would like to see a similar treatment given to DM issues as that is given for security issues; for example the movement of people and limitation of victims right to sue
	h) Declaration Responsibilities; Please identify relevant section.	Y		
16.	Are there any deficiencies in the disaster declaration process?	Y		The declarations process needs not to appear that the state is overusing its authority there is a need to balance emergency powers and democratic rights
16b.	If yes, how can those deficiencies be reduced and the overall process improved?			
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	Y		

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
17a.	What are the proposed revisions?			
17b.	What are the challenges to implementation?			
17c.	When is it anticipated to be adopted?			
18.	Which of the following best practices have been adopted in your jurisdiction:			
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster			
18b.	Declaration procedures are clearly and expressly stated			
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse			
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster			
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency			
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.			
International / Regional Agreements & Response Activities				
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:			.
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N		Had discussions with internal telecom dept but not aware we have signed
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures	Y		But is not at a stage were it is being implemented

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
19c.	Framework Convention on Civil Defense Assistance			Unsure
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency	Y		
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000			Unsure, there were ongoing discussion
19f.	Convention on Facilitation of International Maritime Traffic			Unsure
19g.	Convention on International Civil Aviation /Chicago Convention	Y		
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984			Unsure
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996			Unsure
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y		NDOS is currently doing it but there needs to be some clarity on the issues of foreign assistance; mention is made of the participation of foreign affairs but this unclear;
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority			
21a.	Mechanisms for the initiation and termination of international assistance	N		
	a) Is the provision effective? If no, please explain			
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	Y		Enshrined in the disaster management legislation
	a) Is the provision effective? If no, please explain.			
21c.	Coordination and chain of command for international relief activities?			Unclear, see Q20; I suspect that this is something that will need to be revisited; A&B has not had the type of large scale disaster like Haiti; in the past when agencies come to A&B to assist they are assigned to

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				an agency that will coordinate; eg. Foreign military coordinated by local military; foreign health by local health; Foreign NGOs coordinated by the Red Cross; not embedded in the legislation; it is also not adequate in the plan and needs to be revisited
	a) Is the provision effective? If no, please explain.			
22.	Have any of the following posed an issue for response activities:			
22a.	Delay in receiving and distributing needed international aid?	Y		1995 / 1998 when the security at airport was breached and we had to delay in bound traffic; however this has subsequently been looked at and addressed; however there has been no undue hardship on citizens as a result of the experienced delays
22b.	Receipt of unnecessary or unusable aid products?	Y		Has not affected the operations but this is always an issue; has not impacted to a point where it is severe; e.g. Kiwanis got a 40 ft container of firewood; another agency got a 20ft container of all ladies Left foot shoes and all had to be discarded
22c.	Lack of necessary medical supplies and facilities?	N		Lack of medical supplies no; but issue with the labelling being in a different language from English and would need a translator; this happened mostly in the early days but the system has been improved with CDEMA receiving a need list from the affected country and then CDEMA would stop unnecessary shipments
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	Y		There needs to be legislations or policy on how international aid should be dealt with; there needs to be directive on discarding items
24.	Which of the following best practices have been adopted in your jurisdiction:			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
24a.	Clear provisions for the initiation and termination of international aid relief	Y		
24b.	Privileges and immunities with respect to immigration & customs	Y		
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y		
24d.	Privileges and immunities with respect to taxes, tariffs and duty	Y		
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)	Y		
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	N		This process will have to be looked at and addressed
24g.	Immunity from prosecution for relief activities	Y		
24h.	Designated emergency relief / international aid country coordinator	N		Done by whoever is operating out of the EOC the logistics person from NDOS working at the centre
24i.	Emergency Relief / Internal Aid coordination plan	Y		
Communication Systems				
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y		
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).			Telephones, backup up network of VHF radios supported by HF , satellite phones
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y		Once it works, there are times when there are challenges, we recommend that antennas are taken down before the event so they can immediately after be re-erected

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y		Network coverage needs to be improved; communities that live beyond the mountain range tend to have communication issue; training is a critical area; tools and equipment for the technician to be able to quickly do the repairs; there is usually a significant cost to bring systems back on stram
28.	Which of the following best practices have been adopted in your jurisdiction:			
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N		
28b.	Stated emergency telecommunication action plan	Y		
28c.	Designated emergency telecommunications country coordinator	Y		What has happened in recent times; the govt has invested in security communication and there has been a designated coordinator but he is not well versed on what exists beyond that system therefore training is needed
28d.	Current and up-to-date inventory of telecommunication resources	Y		
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	Y		There is a proviso for that to be done; partners coming in will have to let NDOS know so that they can make the application to the Telecom officer
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	N		Probably needs to be formalized

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	N		Done a case by case basis; there is no formal procedure
Funding				
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	N		Debatable; there is an annual budget – from that budget we do some things; the budget is inadequate; depend on support partners to assist with pre-activities; there is no disaster fund; for post funding with use the emergency clause in the Finance & Admin act
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.			Some from NDOS and the others from external support agencies such as CDEMA, USAID, CIDA etc.
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.			Budget is revised, items are put on hold and are funded from the existing NDOS budget; there is a transfer of risk where certain critical sectors will approach govt for duty free concessions to restore their business; some assistance from external entities
32.	Does the government provide annual funding for disaster activities?	Y		Just the NDOS budget
32a.	Please explain the mechanism by which funds are allocated annually			The allocation is based on a budget submission and that is primarily due to the current expenditure plus an amount for work program activities
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?			current expenditure plus an amount for work program activities; everything is lumped together, cost activities plus recurrent; but all is subject to cuts

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
32c.	Is there a body that determines the required amount need? If yes please specify.	Y		NDOS, primarily; since the CDM framework adopted there is consultation with the other stakeholders in determining the needs and priorities
33.	What is the annual allocated budget for disaster activities?			Over EC\$700,000
33a.	Specify for Mitigation & Preparedness (including training & outreach)			US\$25,000
33b.	Specify for Relief			Relief is not factored into the budget
33c.	Specify for Reconstruction			not factored into the budget
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	Y		Recommendations are being made to streamline the process: once a warning the finance dept notified, once declaration funds transferred to an account
34a.	Who is responsible for approving funds to be disbursed?			Financial Secretary would have the authority to transfer initial portion if there is a requirement beyond that he will need approval from Ministry of Finance
34b.	What evidence or documents must be produced before funds can be disbursed?			Under the new dispensation rules, this needs to be clarified; the old process requires a certified bill; we need to however to streamline the process when the country in emergency mode without compromising accountability and governance
34c.	Is the process complex or straightforward? Please explain.			Fairly simply, once there is a requirement a request would be made and the director of operations would approve as long within a certain limit beyond that PM approval would have to be sought

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
34d.	Does the process lead to unnecessary delay? Please explain.	Y		From time to time there is some delay, in an emergency everything does not work they way you plan and there has been some delay in the past and I suspect there will be in the future
35.	Is there a mechanism for accountability and governance of disaster funding?	Y		
35a.	Describe the mechanism for accountability and governance.			Every service or purchase made has to be documented and have 2 signatures signing off before the disbursement takes place; once that is done there is a verification process with a 3 rd person
36.	Is there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify	Y		The accountability system is outlined in the Financial Administrative procedure; you have to go through all those checks and balances as outlined by law, but may be delayed slightly given emergency
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify	Y		Financial Secretary
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?	Y		Even though there is a built system for accountability the issue of the need to fast track some issues to accommodate emergency response has not be addressed; this needs to be revisited to see how they can be made simpler without compromising the accountability process
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain			
39a.	Amount of funding	N		Not designed to be sufficient; FS has authority to disburse an initial amount of

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				EC\$320,000; this is while assessments are being made; subsequent disbursement is on a case by case basis
39b.	Procedures for accessing funding			System in place has not been tested; any delay will
39c.	Management of disaster funds	N		Financial unit with NDOS is usually augmented by Ministry if required during in an emergency and they will account for all funds that being disbursed; there may be a need for additional capacity in-house
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.	Y		Easy access and smoothness of operation can be facilitated by the checking account system which allows for the quick disbursement of needed funds on the ground
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so	N		The procedures that govern funding needs to be directly in the legislation; there needs to be more funds directed into a disaster fund for risk reduction activities, re-allocation of some CCRIF funds may result in better returns
41a.	What are the proposed revisions?			
41b.	What are the challenges to implementation?			
41c.	Is there a stated time for adoption? Please specify.			
42.	Which of the following best practices have been adopted in your jurisdiction:			
42a.	Funding mechanisms provides dedicated annual and recurring funds	N		

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude	Y		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs	N		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard	Y		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders	N		Could be quite a challenge
42f.	Disaster funding mechanism is supported by legislation	Y	Finance & Admin Act	
General Assessment				
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?			<p>Strengths – clear understanding of the issues with respect to preparedness and response given the number of impacts A&B has had to face in the past;</p> <p>Challenges - the structure of DM now lends to volunteers, there needs to be away to give visibility / recognition to volunteers for their efforts; there is a need for an understanding on a national scale of the resource needed to address risk reduction issues</p>
43a.	Legislation, policies and procedures			Need to arrive at a point where DRR is incorporated in the development process; the issue of risk needs to be discussed on the front end with investors both locally and internationally; vulnerability reduction must be made a part of the responsibility of investor

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
43b.	Emergency declarations			
43c.	Funding mechanism / budget appropriation			The present budgetary allocation for disaster management is totally inadequate; cannot achieve risk reduction on the scale mandated by the ISDR and St. George's, there needs to be a serious financial commitment on the national level
43d.	Communication systems			Telecom is moving in leaps and bounds; need to slow down the pace and look at what is adequate over the long-term and invest in those mechanisms instead of trying to keep pace with industry; old systems are becoming more prevalent again, such as sirens etc.); need to look at and define what it is we need the system to do
43e.	International relief assistance			We need to identify the needs early and put that into the public domain; overseas offices need to be cognizant of the process and be part of the drive to eliminate the dumping of unneeded / dangerous products and take up the time we don't have during an emergency
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	Y		Elected officials only think in 5 year blocks, DRR and DM plans are 8, 10 or 15 year plans; lack of political support; there needs to be a sense of political maturity so there aren't significant shocks in the DM system when there is a change in the political directorate; the national program should go forward regardless of which party is in power.

Country: Dominica
 Date: Friday, February 26, 2010
 Contact Info: 1 (767) 448 8831

Agency/Organization: National Disaster Office
 Completed By: Nathaniel Isaacs
 Title: Executive Director

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N	
2.	Please describe the organisation structure of the agency structured?		National emergency planning organisation comprised of ministerial government perm sec and heads of dept and private sector organisations. Minister responsible for disaster management is chairperson of committee. National coordinator is the sec of National Emergency Planning Organisation. Office of Disaster man is secretariat of NEPO, which sets the plans and policies.
3.	Is the agency/organisation funded by government? If no, please explain.	Y	
3a.	What is the annual budget for the agency?		The budget for the Office of Disaster Management is about EC\$1 million annually. This is to cover the operations budget only and includes salaries, recurring expenses and education outreach.
3b.	How are funds allocated for the agency?		Contingency fund for rebuilding is allocated in budget (small events) anything on a large scale is from Min of finance budget. Subscribe to CRIP policy.
4.	What types of disasters are within the mandate of the agency/organisation?		Comprehensive approach- mitigation preparedness response and recovery for all scales and types of disasters.
5.	Please describe key the functions of the agency.		ODM- executes the directives of NEPO and work closely with CDEMA execute a 3 yr work program taking into account mitigation, preparation response and recovery. Run training sessions. Work closely on training with USAID. Facilitate outreach and other mitigation projects.
6.	Does the agency/organization perform mitigation and preparedness activities?	Y	
6a.	Describe the types of mitigation activities engaged in by your agency/organisation	Y	Outreach and special projects with other govt stakeholders eg local govt. Special funding like CEDA for retaining walls etc.
6b.	Describe the types of preparedness activities engaged in by your agency/organisation	Y	Education programmes earthquakes and volcanoes. Recently had a few earthquakes take the lead in education in schools and town halls. In terms of hurricanes the hurricane shelter lists are communicated and equipped with managers. Ministry of Public works assist with making shelters functional.

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
7.	Does the agency/organisation perform recovery and reconstruction activities?	Y	Work closely with other ministries to deal with recovery and reconstruction if needs be. However, it does not have primary responsibility for recovery and reconstruction.
7a.	Describe the types of recovery activities engaged in by your agency/organisation	Y	Hurricanes situation provide tarpaulins to temporarily displaced.
7b.	Describe the types of reconstruction activities engaged in by your agency/organization	Y	Advisory role-played here. If a disaster area is still vulnerable, relocation may be recommended. Trying to move away from providing direct assistance on an individual basis, that should be managed by local govt and welfare dept. The NEPO sub-committee structures provide for shelter, food provisions, telecommunications and education may take the lead role.
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y	
8a.	If yes, please name the entity(ies) and describe its(their) functions.		Red Cross- active roles in terms of mass casualties and disasters. A lot of training. St. John's Ambulance- fairly new discussions suggest full-time disaster management and Red Cross activities. Mostly training present. Certain govt departments take lead role in certain scenarios Fire & Ambulance services takes lead in search recovery.
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.	Y	
9a.	When was the plan developed?		2006 and is currently under review
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain	Y	Office of Disaster Management Working closely CDEMA.
9c.	Has the plan been recently revised?	Y	
9d.	When was the revision made?		Revision finished last month. Presentation to be made to permanent secretary of ODM.
9e.	What areas of the plan were revised or newly adopted?		The plan was made more comprehensive. Prior to this recovery and prep were focus.
9f.	Is the plan sufficient to address the disaster preparedness and response needs of	N	It was not comprehensive enough.

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
	your country?		
9g.	What are the deficiencies or shortcomings in the national plan?		Mitigation and response and recovery areas were weak.
9h.	What, if any, improvements need to be made to the disaster plan?		Plan does not cover all hazards mostly concentrated on hurricanes.
9i.	Does the disaster management plan address the following issues:		
	i) Mitigation & Preparedness	N	
	j) Disaster Declarations	Y	Plan is not supported by legislation. Refer to the Emergency Act primarily
	k) Funding & Budget appropriation methods	N	
	l) Accountability & Authority	Y/N	Reporting structures are provided for but not for financial accountability.
	m) National Security & Health	Y	Under the sub-committees there are provisions for that in the Annexes to the plan
	n) International Aid, Relief & Recovery	N	
	o) Communication Systems	Y	
	p) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response	Y	
10.	Is there a national disaster management policy? If no go to question 11.	N	
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
10g.	What are the deficiencies or shortcomings in the national policy?		
10h.	What if any, improvements need to be made to the disaster policy?		
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	k) Funding & Budget appropriation methods		
	l) Accountability & Authority		
	m) National Security & Health		
	n) International Aid, Relief & Recovery		
	o) Communication Systems		
	p) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.	N	
11a.	When was the plan developed?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		
11e.	What areas of the plan were revised or newly adopted?		
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	l) Accountability & Authority		
	m) National Security & Health		
	n) International Aid, Relief & Recovery		
	o) Communication Systems		
	p) Functions, limitations & responsibilities of the relevant agencies and		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
	ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.	N	
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
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12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	i) Mitigation & Preparedness		
	j) Disaster Declarations		
	k) Funding & Budget appropriation methods		
	l) Accountability & Authority		
	m) National Security & Health		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
	n) International Aid, Relief & Recovery		
	o) Communication Systems		
	p) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
Emergency Declarations			
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	Y	Emergency Act is relied on. No disaster management legislation. Also refer to CDEMA legislation, which is yet to be enacted.
13a.	If no, please specify how declarations are issued and state the relevant authority.		Depends on nature of hazards. Hurricane scenario the head of Med service. Health situation Chief Medical Officer, etc. Diff agencies depending on hazard.
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?		Difficult to answer . Not sure if Emergency Act procedure was followed. In his 15 months have not had to.
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
15a.	Authority for disaster declarations; Please identify relevant section.		
15b.	Definitions of disasters and emergencies; Please identify relevant section.		
15c.	Declaration procedure; Please identify relevant section.		
15d.	A mechanism / instructions for publication of declarations; Please identify relevant section		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
15e.	Duration of declarations; Please identify relevant section.		
15f.	Powers related to declarations; Please identify relevant section		
15g.	Declaration Coordination; Please identify relevant section.		
15h.	Declaration Responsibilities; Please identify relevant section.		
16.	Are there any deficiencies in the disaster declaration process?		
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:		
17a.	What are the proposed revisions?		
17b.	What are the challenges to implementation?		
17c.	When is it anticipated to be adopted?		
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster		
18b.	Declaration procedures are clearly and expressly stated		
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse		
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency		
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.		
International / Regional Agreements & Response Activities			
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations		
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures	Y	
19c.	Framework Convention on Civil Defense Assistance		Not sure
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency		Not sure
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000		
19f.	Convention on Facilitation of International Maritime Traffic		
19g.	Convention on International Civil Aviation /Chicago Convention		
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984		
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y	Under NEPO there is a sub-committee that deals with this
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance	N	

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
	b) Is the provision effective? If no, please explain		
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	N	
	b) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?	N	Certain established practices o procedures- not legislated. NEPO has committee with chain of command.
	b) Is the provision effective? If no, please explain.		
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?		Not in your experience
22b.	Receipt of unnecessary or unusable aid products?		
22c.	Lack of necessary medical supplies and facilities?		
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.		
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief		
24b.	Privileges and immunities with respect to immigration & customs		
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)		
24d.	Privileges and immunities with respect to taxes, tariffs and duty		
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)		
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)		
24g.	Immunity from prosecution for relief activities		
24h.	Designated emergency relief / international aid country coordinator		
24i.	Emergency Relief / Internal Aid coordination plan		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
Communication Systems			
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	In terms of a hurricane the specific procedures of MET service to interact with local forecast office in Barbados and then discussions with responsible Minister- Disaster coordinator to inform Cabinet Secretary. Outlined in DM Plan
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		Cell phones primarily and two-way radios UHF and VHF radios.
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y	But can still be developed further.
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	The communication for hurricanes is okay. For e.g. however a tsunami situation would provide great issues as there is no communication or warning system in place.
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations		Not sure
28b.	Stated emergency telecommunication action plan	N	There is something that guides the committee but no “action plan”
28c.	Designated emergency telecommunications country coordinator	Y	National Disaster Coordinator
28d.	Current and up-to-date inventory of telecommunication resources	Y	Whatever is under the jurisdiction of DMO- there is an inventory. No national inventory. No knowledge of equipment in other organisations.
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	Y	
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	Y	There have been instances where duty free concessions have been allowed.

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	N	
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?		Min of Finance
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		Funded through national budget. Preparations for shelter would come from ODM or other stakeholders.
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		National Budget and foreign assistance. Immediate relief contingency fund, long term from int'l agencies.
32.	Does the government provide annual funding for disaster activities?		
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?		
32c.	Is there a body that determines the required amount need? If yes please specify.		
33.	What is the annual allocated budget for disaster activities?		
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	Y	The finance committee headed financial secretary a division of NEPO- priority areas are identified and funds disbursed.

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
34a.	Who is responsible for approving funds to be disbursed?		Approval rests with the Financial Secretary and finally with Finance Minister.
34b.	What evidence or documents must be produced before funds can be disbursed?		In some instance depending on how grave, invoices would have to be provided for funds to be disbursed. The system is flexible enough to allow for disbursement without invoice.
34c.	Is the process complex or straightforward? Please explain.		Depends on situation. Never had direct contact.
34d.	Does the process lead to unnecessary delay? Please explain.		Don't know
35.	Is there a mechanism for accountability and governance of disaster funding?	Y	Depends on if mechanism in enforced. Provided for in DM Plan
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify	N	
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify		
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?		
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain		
39a.	Amount of funding		
39b.	Procedures for accessing funding		
39c.	Management of disaster funds		
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so		
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds		
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders		
42f.	Disaster funding mechanism is supported by legislation		
GENERAL ASSESSMENT			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		Challenges: Capacity in terms of human resource and finances. The topography of the island due to no of small hamlets. A lot of staffing issues and funds for executing work. Strengths: Persons available with experience in disaster management. Another strength is country well rehearsed in hurricane disaster management even without adequate policy and legislation.

FINAL DRAFT

	QUESTIONS	Y/N	RELEVANT AUTHORITY AND OBSERVATIONS / COMMENTS
43a.	Legislation, policies and procedures		Moving too slow
43b.	Emergency declarations		
43c.	Funding mechanism / budget appropriation		
43d.	Communication systems		
43e.	International relief assistance		
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain		
45.	What needs to be strengthened overall with respect to disaster activities?		While we take disaster seriously a lot more needs to be to put in place the plans and projects needed to have more effective mitigation and recovery practices.
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		
46	What are your views on the following suggested best practices in the identified areas?		

Country: Dominican Republic

Agency/Organization: Defensa Civil

Date: July 12, 2010

Completed By: General Luna Paulino

Contact _____

Title: _____

Info: _____

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body				
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N		A part of government, the Secretary of the Government
2.	Please describe the organisation structure of the agency structured?		Law 147-02 Law 257 Law 176 Law 54-00	We are part of the national emergency arm; The National Commission of Emergency- both Civil Defensa and NEC are headed by General Paulino - standard for one person to head both
3.	Is the agency/organisation funded by government? If no, please explain.	Y		Directly from the government
3a.	What is the annual budget for the agency?			US \$1 million annually
3b.	How are funds allocated for the agency?			We are part of the Secretary of Defence of the President and they allocated funds to the Dept.
4.	What types of disasters are within the mandate of the agency/organisation?			Natural and meteorological disasters are handled by the NEC;
5.	Please describe key the functions of the agency.			This is the institution that provides response, prevention, mitigation for disasters, manage the disasters
6.	Does the agency/organization perform mitigation and preparedness activities?	Y		
6a.	Describe the types of mitigation activities engaged in by your			Identify structural vulnerabilities and recommends preparation for all times of

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	agency/organisation			repairs Ministry of Res Publica
6b.	Describe the types of preparedness activities engaged in by your agency/organisation	Y		All preparedness activity throughout the country is handled by the Civil Defensa; National Committee of Prevention is in place to always prepare and do community outreach with churches, NGOs, etc directly activities for disaster; also make plans for emergency
7.	Does the agency/organisation perform recovery and reconstruction activities?			Res Publica is part of the NEC but Civil Defense is not responsible for this type of activity
7a.	Describe the types of recovery activities engaged in by your agency/organisation	N		
7b.	Describe the types of reconstruction activities engaged in by your agency/organization	N		
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y		
8a.	If yes, please name the entity(ies) and describe its(their) functions.			National Commission of Emergency – all government agencies have representation as well as private sector and NGO to work together; Private sector entities include – universities, security companies and tourist
Disaster Management Plan / Policy				
9.	Is there a national disaster management plan? If no go to question 10.	Y		National Plan of Emergency which is currently being reviewed; it is reviewed annually
9a.	When was the plan developed?			First adopted 10 years ago but reviewed annually
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain	Y		Dominicans – National Commission of Emergency; also multilateral entities such as the OAS are collaborating to review and

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				enhance the plan
9c.	Has the plan been recently revised?	Y		Annually
9d.	When was the revision made?			
9e.	What areas of the plan were revised or newly adopted?			Currently under review
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?	Y		The law requires the plan and the reviews and the reviews help to keep the plan current; addresses vulnerability and the influence of the public on the vulnerability; plan integrates all these element
9g.	What are the deficiencies or shortcomings in the national plan?			Need to include risk management as an element of the plan; we have to make a central authority who makes the coordination, supervision of the policy and the plan; other intl organization need to work with the central organization so that the authority will have knowledge of international cooperation and support; all the platforms will be more universal that can work in the whole island including Haiti.
9h.	What, if any, improvements need to be made to the disaster plan?			See above
9i.	Does the disaster management plan address the following issues:			
	q) Mitigation & Preparedness	Y		All the institutions in the country have to make in their internal ministerial plan must have mitigation and preparedness; currently in progress not fully implemented
	r) Disaster Declarations			There is a system of alerts; in case of a disaster we follow the procedures based on the type of the disaster – throughout the towns and cities; the three levels will be

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				alerted local, regional and nationals
	s) Funding & Budget appropriation methods	Y		Addressed the National Fund and the special procedures; it is managed at the national and government level; special commission with 5 members of national emergency commission; the fund has never been activated; the fund is 1% of the national budget which is allocated annually; in case of emergency the central govt. and ministries will provide the funds allocated in the individual ministry budget e.g. health issues will be funded by ministry of health; the president coordinates funding issues because the President is in charge of the national councils of emergencies and is the coordinator of the fund.
	t) Accountability & Authority	Y	Law 147-02 (NEC) Law 257 (Civil Defense)	The whole system of disaster mgt. has 3 levels: The National Councils of Emergency – President is the head National Commission of Emergency – Dir. Luna Paulino Province / Municipal Committee – they are governed by local government bodies
	u) National Security & Health	Y		
	v) International Aid, Relief & Recovery	Y		There is a minister that coordinates international help; International Ministry is responsible for coordinating the lateral and multilateral and all international cooperation and help; Ministry of International Cooperation
	w) Communication Systems	Y		In the commission there is an INTOTEL and they work with NEC in developing and

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				maintaining the telecommunications; the government telecommunication body is also a part of the NEC
	x) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
10.	Is there a national disaster management policy? If no go to question 11.			
10a.	When was the policy developed?			
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.			
10c.	Has the policy been recently revised?			
10d.	When was the revision made?			
10e.	What areas of the policy were revised or newly adopted?			
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?			
10g.	What are the deficiencies or shortcomings in the national policy?			
10h.	What if any, improvements need to be made to the disaster policy?			
10i.	Does the national disaster policy address the following issues:			
	q) Mitigation & Preparedness			
	r) Disaster Declarations			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	s) Funding & Budget appropriation methods			
	t) Accountability & Authority			
	u) National Security & Health			
	v) International Aid, Relief & Recovery			
	w) Communication Systems			
	x) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
11.	Is there a national emergency management plan? If no go to question 12.			
11a.	When was the plan developed?			
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain			
11c.	Has the plan been recently revised?			
11d.	When was the revision made?			
11e.	What areas of the plan were revised or newly adopted?			
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?			
11g.	What are the deficiencies or shortcomings in the national plan?			
11h.	What, if any, improvements need to be made to the disaster plan?			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
11i.	Does the emergency management plan address the following issues:			
	q) Mitigation & Preparedness			
	r) Disaster Declarations			
	s) Funding & Budget appropriation methods			
	t) Accountability & Authority			
	u) National Security & Health			
	v) International Aid, Relief & Recovery			
	w) Communication Systems			
	x) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
12.	Is there a national emergency management policy? If no go to question 13.			
12a.	When was the policy developed?			
12b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.			
12c.	Has the policy been recently revised?			
12d.	When was the revision made?			
12e.	What areas of the policy were revised or newly adopted?			
12f.	Is the policy sufficient to address the disaster preparedness and response needs of			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	your country?			
12g.	What are the deficiencies or shortcomings in the national policy?			
12h.	What if any, improvements need to be made to the disaster policy?			
12i.	Does the emergency management policy address the following issues:			
	q) Mitigation & Preparedness			
	r) Disaster Declarations			
	s) Funding & Budget appropriation methods			
	t) Accountability & Authority			
	u) National Security & Health			
	v) International Aid, Relief & Recovery			
	w) Communication Systems			
	x) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response			
Emergency Declarations				
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	Y		All the methods, responsibilities and the public policy and also makes representation to the communities
13a.	If no, please specify how declarations are issued and state the relevant authority.			
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y		

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.			All have been local emergencies; no national emergencies been declared; in 1 or 2 provinces on the specific level but no general islandwide emergencies
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration			
15.	Does the disaster legislation, policies or procedures include or define the following issues:	Y		
	i) Authority for disaster declarations; Please identify relevant section.	Y	Law 147 Law 257	Civil Defense makes recommendation to President; only president can make declaration; the national constitution makes a procedure about that
	j) Definitions of disasters and emergencies; Please identify relevant section.	Y		The laws define the emergencies
	k) Declaration procedure; Please identify relevant section.	Y		
	l) A mechanism / instructions for publication of declarations; Please identify relevant section	Y		
	m) Duration of declarations; Please identify relevant section.	Y		
	n) Powers related to declarations; Please identify relevant section	Y		
	o) Declaration Coordination; Please identify relevant section.	Y		
	p) Declaration Responsibilities; Please identify relevant section.	Y		
16.	Are there any deficiencies in the disaster declaration process?	N		The law is very clear and does not make any contradictions and there has not been any issues with administering the law; it however has to be reviewed as there is a

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				new constitution which outlines a procedure; so it needs to be reviewed and interpreted in terms of the constitutional revisions
16b.	If yes, how can those deficiencies be reduced and the overall process improved?			
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	N		No, there are no proposed revisions at this time; the constitution is brand new so the preliminary reviews need to get done; the new constitution always makes reference to the ministry of national defence working with civil defense with respect to disasters; it is not to remove the commission but to work in tandem with the commission; national defense has more resources and can make a large contribution to disaster management
17a.	What are the proposed revisions?			
17b.	What are the challenges to implementation?			
17c.	When is it anticipated to be adopted?			
18.	Which of the following best practices have been adopted in your jurisdiction:			
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster			
18b.	Declaration procedures are clearly and expressly stated			
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse			
18d.	Declarations are flexible in duration based on the circumstances of the			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
	emergency or disaster			
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency			
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.			
International Aid / Relief				
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:			Minister of Transfigera is responsible for all international agreements
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations			Unsure
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures			Unsure
19c.	Framework Convention on Civil Defense Assistance			Unsure
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency			Unsure
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000			Unsure
19f.	Convention on Facilitation of International Maritime Traffic			Unsure
19g.	Convention on International Civil Aviation /Chicago Convention			Unsure
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984			Unsure
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996			Unsure
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y		Minister of Transfigera / Ministry of International / National Cooperation; Secretary for the EU and the Embassies all

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				work together to coordinate international response ; Central American & Caribbean Emergency Agency – Conservative System of Central America & Dominican Republic
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority			
21a.	Mechanisms for the initiation and termination of international assistance	N		This is done by the President but we are making an agreement so that the country can more quickly determine and request help from other countries;
	c) Is the provision effective? If no, please explain			
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	N		During declaration of emergency any intl body making donations etc are relieved from taxes etc but it must be from government to government; Preside makes the authorization for the entry and movement of people; it is a practice but not a law; issue is being addressed so that it can be formalized into law
	c) Is the provision effective? If no, please explain.			
21c.	Coordination and chain of command for international relief activities?	Y		
	c) Is the provision effective? If no, please explain.			
22.	Have any of the following posed an issue for response activities:			
22a.	Delay in receiving and distributing needed international aid?	N		No issues in the past; however a new policy is being adopted that once aid comes to country that it must be immediately distributed to the NGOs and religious groups so that they can distribute to the people
22b.	Receipt of unnecessary or unusable aid products?			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
22c.	Lack of necessary medical supplies and facilities?			
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	N		All international aid is handled by a specific ministry and it is handled smoothly so that the aid gets to the people who need it
24.	Which of the following best practices have been adopted in your jurisdiction:			
24a.	Clear provisions for the initiation and termination of international aid relief	Y		
24b.	Privileges and immunities with respect to immigration & customs	Y		But not law currently only a practice but being addressed
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y		
24d.	Privileges and immunities with respect to taxes, tariffs and duty	Y		
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)	Y		
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	Y		
24g.	Immunity from prosecution for relief activities	Y		
24h.	Designated emergency relief / international aid country coordinator	Y		
24i.	Emergency Relief / Internal Aid coordination plan	Y		
Communication Systems				
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y		There is a national emergency centre which is a part of the NEC and is responsible for transmission of the alerts; it is the voice of the commission during the emergency
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).	Y		We have a USF BSF radio; internet; telephone; internal red phone;

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y		It is very effective and is continually being improved; on the local level there may have been communication failures; however on the national level the system is very good and has never failed.
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y		Need to improve the national way of communication; however too expensive to improve the infrastructure; internet needs to be used more widespread on all levels regional, local and national, no budget to adopt it on all levels
28.	Which of the following best practices have been adopted in your jurisdiction:			
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations			Unsure
28b.	Stated emergency telecommunication action plan	N		The COLPA is making the plan for capability and knowledge
28c.	Designated emergency telecommunications country coordinator	Y		There is a representative from INfotel that is responsible for that in the NEC in coordination with the telecommunications Centre in the commission
28d.	Current and up-to-date inventory of telecommunication resources	N		The practice is never to use the entire system; any member of the commission has his own equipment; when the emergency occurs the list is available and assignments are made; at the moment the list needs to be updated ; INFOTEL can produce the list but it is usually only generated when the disaster occurs

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	Y		
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	Y		
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	Y		
Funding				
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	Y		The national budget through the central government; special funding is allocated; additionally donations are used to supplement;
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.			Preparation – comes from the department budget; but most education activities always comes from international agencies (e.g. EU, Spain, etc); additionally OAS provides some funding for preparedness for activities; all funding usually from international agencies
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.			Post-Disaster –funding is provided by the central govt and its ministries and are directly responsible for allocation of the necessary funds
32.	Does the government provide annual funding for disaster activities?	Y		Special funding is asked for only if they need; the annual budget which is provided by government
32a.	Please explain the mechanism by which funds are allocated annually			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?			Day-to-Day activities are covered by the national budget; in case of emergency there will need to be a request for additional funds; members of the commission will request their own funding in emergencies e.g. health
32c.	Is there a body that determines the required amount need? If yes please specify.			Any institution in its own area will make an independent evaluation on what they will need and the amount and damage; that assessment will determine the request and the amount that will be funded; all members of the commission will have to make a report on all claims made during the emeergnce
33.	What is the annual allocated budget for disaster activities?			US \$1million
33a.	Specify for Mitigation & Preparedness (including training & outreach)			
33b.	Specify for Relief			
33c.	Specify for Reconstruction			
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain			
34a.	Who is responsible for approving funds to be disbursed?			President
34b.	What evidence or documents must be produced before funds can be disbursed?			Format: make the evaluation of the damage; complete the required forms and then he will make a determination and sign off on the amount to be granted
34c.	Is the process complex or straightforward? Please explain.			It is simple and direct and usually occurs

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
				very fast
34d.	Does the process lead to unnecessary delay? Please explain.	N		Once the President makes the declaration; the process is streamlined and the funds can be accessed be very quickly and we can go directly to the President for the funds; this is only in a declared emergency
35.	Is there a mechanism for accountability and governance of disaster funding?			
35a.	Describe the mechanism for accountability and governance.			
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify	Y		There are 2 institutions (Controlida & Auditory Centre) that have audit and governance over disaster funds; there is free access of public information law as such there must be clear documentary evidence on how funds are used
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify	N		Each agency has an internal person that is responsible; international funds are managed by an appointed commission but the national fund is governed by the 2 organizations
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?	N		It is okay and everyone has adapted to the law – National system of Accountability
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain			
39a.	Amount of funding	N		The needed amounts are generally approved; all amounts are generally approved

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
39b.	Procedures for accessing funding	N		The procedures are straightforward and involve evaluation, request and supervision;
39c.	Management of disaster funds	N		Funds are strictly governed and must be used based on the request
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.			
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so	N		
41a.	What are the proposed revisions?			
41b.	What are the challenges to implementation?			
41c.	Is there a stated time for adoption? Please specify.			
42.	Which of the following best practices have been adopted in your jurisdiction:			
42a.	Funding mechanisms provides dedicated annual and recurring funds	Y		
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude	Y		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs	Y		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard	Y		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders	Y		

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
42f.	Disaster funding mechanism is supported by legislation	Y		
General Assessment				
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?			In preparation there is need for more education on levels and there is need for more investment in education throughout the schools and communities; this is the principal need in preparedness; need to make disaster management a national priority for all the decision makers; need for more technology from the preparedness to the prevention; improve the law and legislation
43a.	Legislation, policies and procedures			
43b.	Emergency declarations			
43c.	Funding mechanism / budget appropriation			
43d.	Communication systems			
43e.	International relief assistance			
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain			Funding is an issue with respect to legislative reform; rely on international cooperation to get this achieved too difficult getting it done on the local level.
45.	What needs to be strengthened overall with respect to disaster activities?			
45a.	Disaster declarations			
45b.	Funding mechanisms / budget appropriation			

	QUESTIONS	Y/N	RELEVANT AUTHORITY	OBSERVATIONS / COMMENTS
46	What are your views on the following suggested best practices in the identified areas?			

FINAL DRAFT

Country: Jamaica
 Date: March 2, 2010
 Contact Info: 876 906 9299 / 876 430 5585

Agency/Organization: ODPEM
 Completed By: Mr. Jackson (rjackson@odpem.org.jm)
 Title: Director General

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	Y	Established by statute, so there is some amount of autonomy, certain circumstances when bound by government; e.g. measures for financing, budget appropriation, expenditure –ODPEM governed by govt. policy; otherwise they are autonomous with the exception of government framework for spending and reporting Disaster Management Act, 1993 - Powers of director - Establishes office in function Powers of PM under emergency conditions
2.	Please describe the organisation structure of the agency structured?		Organizational review under way. Director General and 2 deputy (preparedness / operations and mitigation planning & research); on the other side there is a SD corporate services reporting to DG and D of info training and SD projects and a HR development manager that reports to DG; recently acquired a senior internal auditor that reports to DG Corporate services – IT and admin and finance Preparedness & - logistics, and regional coordinators (interface with communities and parishes) Telecommunication- Mitigation planning & research – planning, research and mitigation program officers GRS specialist (also planning officer) Info & Training – training unit, library and PI officer (EMAIL organizational chart)
3.	Is the agency/organisation funded by government? If no, please explain.	Y	Salaries & overhead covered by govt; programs are almost 100% financed by donors and multilaterals; govt allocation insufficient to meet the project demands; almost 80-95% financed by donors

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
3a.	What is the annual budget for the agency?		(EMAIL) – last year was about \$500 million; however included amount for purchase of building; usually around \$170 million
3b.	How are funds allocated for the agency?		Budget submission goes thru parent ministry; ministry would make submission for funds; the parent ministry level determines how much funds is allocated; must put forth best justification for use of funds; there is always a reduction in the amount received from the amount requested; really comes down to how good an argument to defend position; transferred as per cash flow projection
4.	What types of disasters are within the mandate of the agency/organisation?		All natural disasters Primary – all natural hazards Secondary – most security events, and some major health events; provide support in the initial; Disaster Act
5.	Please describe key the functions of the agency.		Leading in terms of identification of hazards and the necessary steps that ought to be taken to build resilience including policy, legislation, mitigation, strengthening capacity at community and municipality level.; coordinate multidisciplinary teams during times of emergency and leading in early phases of recovery (Email for list)
6.	Does the agency/organization perform mitigation and preparedness activities?	Y	
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		Outside of commenting on development applications, primarily engaged in small scale mitigation events at the community level; assessments and risk of vulnerability; beyond that only makes recommendations for high level mitigation activities and investment – areas is quite expensive and generally fall under Ministry of Transport & Works
6b.	Describe the types of preparedness activities engaged in by your agency/organisation		Public awareness & training at all levels, policy, business sector, community and include first aid, damage assessment, telecommunications, incidence command systems ; procurement of equip. and supplies and pre-staging; plan development; simulations and scenarios
7.	Does the agency/organisation perform recovery and reconstruction activities?		Primarily provide recovery coordinator who functions more as a project manager; mainstreaming the recovery by giving guidance to the areas and primary considered ministries; ideally need a body in ODPEM to interface with various players; Act / Plan
7a.	Describe the types of recovery activities engaged in by your agency/organisation		
7b.	Describe the types of reconstruction activities engaged in by your		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	agency/organization		
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y	Government – local authority level; MOH – involved in health related issues; fire services; JDF and police; MOS, mines & geology; met office; earthquake unit; redcross and faith based organized (e.g. Baptist union and Jehovah's witnesses – spike in faith based groups)
8a.	If yes, please name the entity(ies) and describe its(their) functions.		
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.	Y	No policy only a plan; there is a hazard mitigation policy – this is probably the only thing that would be looked at as a policy and came after the development of the plan
9a.	When was the plan developed?		1 st plan was done in the 1980s, last revision was late 1990s; mitigation policy – 2005/2006
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain	Y	ODPEM
9c.	Has the plan been recently revised?		Late 1990s Email to confirm ; currently trying to get resources to revise the plan; certain components are being updated
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?	N	Needs updating to build on the recent disaster experiences; there is a need to re-examine the plans based on the current experience
9g.	What are the deficiencies or shortcomings in the national plan?		Financing for key elements of the plan; other deficiencies exist; however resources is the main issues; changes in govt agencies and the roles that need to be revised; the plan needs to reflect the current circumstances
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		
	y) Mitigation & Preparedness	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	z) Disaster Declarations	N	Addressed in the Act; the plan did not effectively address; the old act did not outline necessary steps before and after; this is one of the areas that was looked at in the new legislation and will be incorporated in the new plan; re-draft of the act to adequately address was not approved and hopefully be passed into law this 2010
	aa) Funding & Budget appropriation methods	N	There is a section for financing but it is not adequate and is quite outdated;
	bb) Accountability & Authority	Y	
	cc) National Security & Health	Y	Not currently spelled out in great detail but it is included
	dd) International Aid, Relief & Recovery	Y	There is an overseas assistance sub- plan EMAIL REQUEST
	ee) Communication Systems	Y	There is also a telecommunication sub-plan EMAIL REQUEST
	ff) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response	Y	Does not address limitations
10.	Is there a national disaster management policy? If no go to question 11.		
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10g.	What are the deficiencies or shortcomings in the national policy?		
10h.	What if any, improvements need to be made to the disaster policy?		
10i.	Does the national disaster policy address the following issues:		
	y) Mitigation & Preparedness		
	z) Disaster Declarations		
	aa) Funding & Budget appropriation methods		
	bb) Accountability & Authority		
	cc) National Security & Health		
	dd) International Aid, Relief & Recovery		
	ee) Communication Systems		
	ff) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.		
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11e.	What areas of the plan were revised or newly adopted?		
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	y) Mitigation & Preparedness		
	z) Disaster Declarations		
	aa) Funding & Budget appropriation methods		
	bb) Accountability & Authority		
	cc) National Security & Health		
	dd) International Aid, Relief & Recovery		
	ee) Communication Systems		
	ff) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.		
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	If yes, please state the name and area of responsibility; if no, explain.		
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	y) Mitigation & Preparedness		
	z) Disaster Declarations		
	aa) Funding & Budget appropriation methods		
	bb) Accountability & Authority		
	cc) National Security & Health		
	dd) International Aid, Relief & Recovery		
	ee) Communication Systems		
	ff) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		

Emergency Declarations

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	Y	Disaster Management Act
13a.	If no, please specify how declarations are issued and state the relevant authority.		They are issued by the PM and it must be gazetted; the plan states the PM may declare a disaster area under advise of Minister and DG of ODPEM; there gazette requires demarcation of area; disaster declaration rarely occurs due to political reasons
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y	Attempted to utilize in the past for hurricanes; challenges in gazetting and defining the area; there were no boundaries to specifically define the area – the boundaries to be used was no sufficient and difficulty in defining the population; However, Jamaica has used the state of emergency to address some of the security issues; so there is a clear distinction between disaster declaration and state of emergency; state of emergency is used where there is a reasonable threat of violence
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.	N	None, used in principle
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration	Y	Once in the last year, Ivan in 2004
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
	q) Authority for disaster declarations; Please identify relevant section.	Y	Disaster management act
	r) Definitions of disasters and emergencies; Please identify relevant section.	Y	Plan and Act
	s) Declaration procedure; Please identify relevant section.	N	Not spelled out in any details in the act or the plan; the plan review has taken a look at resolving this issue
	t) A mechanism / instructions for publication of declarations; Please identify relevant section	Y	Gazetting ; Act

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	u) Duration of declarations; Please identify relevant section.	Y	Not stated in any document is based on the determination of PM under advise of ODPEM
	v) Powers related to declarations; Please identify relevant section	Y	Largely conferred on PM; Act
	w) Declaration Coordination; Please identify relevant section.	Y	Under ODPEM portfolio
	x) Declaration Responsibilities; Please identify relevant section.	N	There is no instruction as to what occurs or what are the responsibilities once a disaster has been declared; only goes to concentration of resources
16.	Are there any deficiencies in the disaster declaration process?	Y	Stating exactly what are the specifics of what occurs after a declaration is issued; recommendations on how to ameliorate a risk; doesn't go far enough and give the sweeping capabilities of the prime minister to make adequate determinations
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	Y	There is a proposed revised act ; has not repealed 1993 Act (email request)
17a.	What are the proposed revisions?		Examining whether or the not the steps required were sufficient; more details on what are the next steps after declarations
17b.	What are the challenges to implementation?		Getting it to be seen as a priority; getting on the agenda; DM is seen as secondary to crime and finance and thus DM legislation has been stalled since 2007
17c.	When is it anticipated to be adopted?		
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster	Y	Takes into consideration the circumstances; gives the opportunity to declaring areas and national disasters; beyond the scope and capacity nationally it is a national disaster but some areas may not be declared and apply the definition accordingly
18b.	Declaration procedures are clearly and expressly stated	N	
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse	N	The act is general and thus there is room for abuse the more specific the act becomes less room for abuse

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster	Y	
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency	Y	States the powers of PM; PM would have to confer power on others; does not change coordination structure
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.	Y	PM can pass any additional legislation he may deem necessary
International / Regional Agreements & Response Activities			
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	Has been discussion but is not ratified; it is signed
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures		Unsure; Jamaica has simplified customs procedures under the Relief clearance plan – not sure if it is out of this protocol
19c.	Framework Convention on Civil Defense Assistance		Unsure; in the discussion but is not sure whether ratified
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency	Y	Been accessing programs because of participation in this agreement
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000	Y	
19f.	Convention on Facilitation of International Maritime Traffic	Y	
19g.	Convention on International Civil Aviation /Chicago Convention		Unsure
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984		Unsure
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		Unsure
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y	ODPEM

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance	Y	There is the mechanism that allows for the appeal / initiation; does not address termination but transitions according to the plan
	d) Is the provision effective? If no, please explain	Y	No issues experienced
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)		The plan addresses the privileges afforded and also addressed in some of the conventions that have been ratified; also in Overseas Relief Assistance Plan; unsure whether in the Act – the act addresses local relief actors
	d) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?		The receiving state maintains command and control unless overwhelmed; e.g. ODPEM maintains control
	d) Is the provision effective? If no, please explain.		
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?	N	
22b.	Receipt of unnecessary or unusable aid products?	Y	
22c.	Lack of necessary medical supplies and facilities?	Y	Recall an instance where medical supplies that were past expiration
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	Y	Issues : how do we effectively utilize the external HR that can be brought? The plan may not address effectively how to address the human resource issues
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	Y	No termination; not clear on how it is terminated; termination led by international discussion
24b.	Privileges and immunities with respect to immigration & customs	Y	
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y	
24d.	Privileges and immunities with respect to taxes, tariffs and duty	Y	
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)	Y	
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
24g.	Immunity from prosecution for relief activities	Y	In the context of the immunities and privileges
24h.	Designated emergency relief / international aid country coordinator	Y	Person is designated through the ODPEM DG
24i.	Emergency Relief / Internal Aid coordination plan	Y	
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	Electronic warning systems (no sirens); notification equipment for floods; notification via all available media; looking into sirens and electronic sign boards; info comes from met and other sensors
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		HF and VHF radios, sat phones – redundant means; reliance on cell phones; there is a national network for radios and sat phones
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	N	Could be improved
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.		All the key players needed to be on one platform; inter-operability is a key issues; broadening of coverage; there is an island wide communication system but there are blind spots
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	
28b.	Stated emergency telecommunication action plan	Y	There is a telecommunication plan (email request); it is being revised since 2009
28c.	Designated emergency telecommunications country coordinator	Y	Within ODPEM telecommunications officer which would become the dedicated personnel during an event
28d.	Current and up-to-date inventory of telecommunication resources	Y	The updating is under way

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources		Unsure; tampere not signed; not sure if we have cleared some of the barriers
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance		Unsure; see above
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance		Outside of CDEMA; this would be Tampere which has not been adopted
Funding			
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	Y	There is a national disaster fund; the fund is very inadequate and is less than the annual budget of ODPEM; unable to facilitate any response issues
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.	Y	Annual budget appropriation; would much prefer that a sub-committee to grow the fund; never been created; ODPEM has been in charge but there needs to be
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		
32.	Does the government provide annual funding for disaster activities?	Y	
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?	Y	It is a fixed amount; they approved 50 million annually; no assessment done to determine how much goes; ODPEM would do a cost assessment to determine the amount that would be required but not used by govt.; just fixed amount
32c.	Is there a body that determines the required amount need? If yes please specify.	Y	ODPEM – responsible for the fund
33.	What is the annual allocated budget for disaster activities?	Y	J\$50 million per year – the last 3 years; the funds roll over
33a.	Specify for Mitigation & Preparedness (including training & outreach)	N	No breakdown in the amount that is used; the fund gives construct that it can be

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
			used for those areas
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	N	
34a.	Who is responsible for approving funds to be disbursed?		ODPEM would make recommendation; Ministry of Finance approves and ratifies the recommendation
34b.	What evidence or documents must be produced before funds can be disbursed?		Normally what occurs; a program would be submitted detailing the objectives costs outline etc.; would be measured against the requirements of the fund and recommendation would be made for support from fund; this is also the procedure during emergency situations
34c.	Is the process complex or straightforward? Please explain.		Process is very straightforward
34d.	Does the process lead to unnecessary delay? Please explain.	N	There is always a delay because of the 3 rd party approval but delay is minimal
35.	Is there a mechanism for accountability and governance of disaster funding?	Y	Ministry of Finance; ODPEM procedures which requires the fund to be audited both internally and externally; and there is a finance sub committee that would look at annual proceeding and whether they conform to the TORS of the fund
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify	N	Falls under the ambit of the Finance Accountability act
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify	Y	ODPEM; DG would delegate duty
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?	N	No basis to say it does; the improvements needed are in the area of the amount of the funds and growing the funds;

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain		
39a.	Amount of funding	Y	
39b.	Procedures for accessing funding	N	
39c.	Management of disaster funds	N	
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.	Y	Looking at taxes for dedicated funding and is being strongly looked at; currently no positive feedback; there is some agreement that it is needed but no move to adopt
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so	N	
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds	Y	
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude		The common practice is reallocation of resources; grants and loans would be the other area
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs	N	
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard	Y	But could be more extensive but the balance is avoiding the delay; there are however areas that could be addressed; the issue is delay

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders	N	
42f.	Disaster funding mechanism is supported by legislation	Y	Disaster Act
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		Personnel is well trained; the agency is over 30 years old; pioneers in a number of areas which are recognized internationally; biggest strength is the knowledge and human resources; technical and financial resources lacking; gaps in legislation which supports gaps identified; strength of mainstreaming disaster risk management in key areas , agriculture, tourism but needs to be extended in other areas
43a.	Legislation, policies and procedures		
43b.	Emergency declarations		
43c.	Funding mechanism / budget appropriation		
43d.	Communication systems		
43e.	International relief assistance		
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	Y	DM is not high on the political agenda; this is not however unique to Jamaica; need a political champion that will move DM at the right pace for the political agenda
45.	What needs to be strengthened overall with respect to disaster activities?		Funding and technical resources and capacities need to be enhanced
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		

CELP Questionnaire : Component 1.3

Country: Jamaica
 Date: February 23, 2010
 Contact Info: 876-984-7860

Agency/Organization: Red Cross
 Completed By: Marcia Alexander
 Title: Coordinator

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.		
2.	Please describe the organisation structure of the agency structured?		
3.	Is the agency/organisation funded by government? If no, please explain.		
3a.	What is the annual budget for the agency?		
3b.	How are funds allocated for the agency?		
4.	What types of disasters are within the mandate of the agency/organisation?		
5.	Please describe key the functions of the agency.		
6.	Does the agency/organization perform mitigation and preparedness activities?		
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		
6b.	Describe the types of preparedness activities engaged in by your agency/organisation		
7.	Does the agency/organisation perform recovery and reconstruction activities?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
7a.	Describe the types of recovery activities engaged in by your agency/organisation		
7b.	Describe the types of reconstruction activities engaged in by your agency/organization		
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?		
8a.	If yes, please name the entity(ies) and describe its(their) functions.		
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.		
9a.	When was the plan developed?		
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
9c.	Has the plan been recently revised?		
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
9g.	What are the deficiencies or shortcomings in the national plan?		
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	gg) Mitigation & Preparedness		
	hh) Disaster Declarations		
	ii) Funding & Budget appropriation methods		
	jj) Accountability & Authority		
	kk) National Security & Health		
	ll) International Aid, Relief & Recovery		
	mm) Communication Systems		
	nn) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
10.	Is there a national disaster management policy? If no go to question 11.		
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10g.	What are the deficiencies or shortcomings in the national policy?		
10h.	What if any, improvements need to be made to the disaster policy?		
10i.	Does the national disaster policy address the following issues:		
	gg) Mitigation & Preparedness		
	hh) Disaster Declarations		
	ii) Funding & Budget appropriation methods		
	jj) Accountability & Authority		
	kk) National Security & Health		
	ll) International Aid, Relief & Recovery		
	mm) Communication Systems		
	nn) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.		
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11e.	What areas of the plan were revised or newly adopted?		
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	gg) Mitigation & Preparedness		
	hh) Disaster Declarations		
	ii) Funding & Budget appropriation methods		
	jj) Accountability & Authority		
	kk) National Security & Health		
	ll) International Aid, Relief & Recovery		
	mm) Communication Systems		
	nn) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.		
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	If yes, please state the name and area of responsibility; if no, explain.		
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	gg) Mitigation & Preparedness		
	hh) Disaster Declarations		
	ii) Funding & Budget appropriation methods		
	jj) Accountability & Authority		
	kk) National Security & Health		
	ll) International Aid, Relief & Recovery		
	mm) Communication Systems		
	nn) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		

Emergency Declarations

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?		
13a.	If no, please specify how declarations are issued and state the relevant authority.		
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?		
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
	y) Authority for disaster declarations; Please identify relevant section.		
	z) Definitions of disasters and emergencies; Please identify relevant section.		
	aa) Declaration procedure; Please identify relevant section.		
	bb) A mechanism / instructions for publication of declarations; Please identify relevant section		
	cc) Duration of declarations; Please identify relevant section.		
	dd) Powers related to declarations; Please identify relevant section		
	ee) Declaration Coordination; Please identify relevant section.		
	ff) Declaration Responsibilities; Please identify relevant section.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
16.	Are there any deficiencies in the disaster declaration process?		
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:		
17a.	What are the proposed revisions?		
17b.	What are the challenges to implementation?		
17c.	When is it anticipated to be adopted?		
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster		
18b.	Declaration procedures are clearly and expressly stated		
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse		
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster		
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency		
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.		

International / Regional Agreements & Response Activities

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		.
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations		Unsure
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures	Y	
19c.	Framework Convention on Civil Defense Assistance		Unsure
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency	N	
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000	N	
19f.	Convention on Facilitation of International Maritime Traffic	N	
19g.	Convention on International Civil Aviation /Chicago Convention	N	
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984	N	
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		Unsure
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y	National disaster office works with UN with regards to international relief; ODPEM
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance	N	
	e) Is the provision effective? If no, please explain		
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	Y	There is a policy in place that provides for a duty waiver on relief supplies; only thing aware of
	e) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?	Y	Included in the national disaster plan ;National disaster management plan

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	e) Is the provision effective? If no, please explain.		
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?	N	
22b.	Receipt of unnecessary or unusable aid products?	Y	Within the last 4 years; but has changed and clear instructions on what is needed has been issued to prospective donors
22c.	Lack of necessary medical supplies and facilities?	N	
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	N	Always been able to receive and have always received support of government
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	Y	
24b.	Privileges and immunities with respect to immigration & customs	Y	
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y	
24d.	Privileges and immunities with respect to taxes, tariffs and duty		
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)		
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	Y	
24g.	Immunity from prosecution for relief activities	N	Not aware of this; but no problems have arisen that
24h.	Designated emergency relief/ international aid country coordinator	Y	ODPEM designates an officer for this role
24i.	Emergency Relief/ Internal Aid coordination plan	Y	Embedded in national disaster plan
Communication Systems			
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	Information is gathered and disseminated through ODPEM; National disaster plan
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		Telephone; some agencies supported by 2-way radio; email and fax

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y	Effective so far for hurricanes; however if faced with a major earthquake not likely to hold up since some agencies not equipped with 2 way radios
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	For all emergency agencies together in a system that the can communicate in one locked system; everyone operates on a different level; e.g. ODPEM may not be able to contact police; need a more comprehensive system for emergency services
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	Y	
28b.	Stated emergency telecommunication action plan		Unsure whether this exist
28c.	Designated emergency telecommunications country coordinator	Y	ODPEM has a dept that deals with telecom
28d.	Current and up-to-date inventory of telecommunication resources		Unsure whether it is done
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	N	Red cross does not get waivers; must pay for all licenses
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	N	Not as far as their experience indicates
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance		Unsure, most providers are private sector owned, not sure what arrangements they have with govt.
Funding			
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		
32.	Does the government provide annual funding for disaster activities?		
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?		
32c.	Is there a body that determines the required amount need? If yes please specify.		
33.	What is the annual allocated budget for disaster activities?		
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain		
34a.	Who is responsible for approving funds to be disbursed?		
34b.	What evidence or documents must be produced before funds can be disbursed?		
34c.	Is the process complex or straightforward? Please explain.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
34d.	Does the process lead to unnecessary delay? Please explain.		
35.	Is there a mechanism for accountability and governance of disaster funding?		
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify		
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify		
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?		
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain		
39a.	Amount of funding		
39b.	Procedures for accessing funding		
39c.	Management of disaster funds		
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.		
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so		
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds		
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders		
42f.	Disaster funding mechanism is supported by legislation		
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		Strengths: number of incidents so there is a wealth of experience; there is a continued effort to improve coordination but still needs work
43a.	Legislation, policies and procedures		Over the years agencies have grown and changed; there is need for a review to better defined roles and responsibilities; what is on paper is not reflective of what the reality is on the ground
43b.	Emergency declarations		Not aware
43c.	Funding mechanism / budget appropriation		Preparedness – need to allocate most funds to preparedness instead of recovery; need more funds allocated for preparedness activities; most preparedness funding comes externally from donor agencies
43d.	Communication systems		

FINAL DRAFT

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
43e.	International relief assistance		So far, there has been clear communications on what needs to be done to receive international aid - red cross point of view
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	Y	There will be challenges in all areas; persons are programmed for response; the shift to preparedness will require shift
45.	What needs to be strengthened overall with respect to disaster activities?		Community response needs a lot of work; preparedness in communities is very insufficient and there needs to be more programs to empower communities to respond to disasters
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		
6	What are your views on the following suggested best practices in the identified areas?		

CELP Questionnaire : Component 1.3

Country: St. Lucia
 Date: February 24, 2010
 Contact Info: 1-758-452-3802

Agency/Organization: National Emergency Management Organization
 Completed By: Dawn French
 Title: Director

QUESTIONS		Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N	Under the office of the Prime Minister
2.	Please describe the organisation structure of the agency structured?		Have ,a coordinating agency – NEMO Secretariat; district & national committees
3.	Is the agency/organisation funded by government? If no, please explain.		Combination of local expenditure and special funding
3a.	What is the annual budget for the agency?		0.04% of the national budget – is an annual allocation: capital, recurrent and response
3b.	How are funds allocated for the agency?		Capital – one of investment – usually infrastructure; Recurrent – salaries etc.; response – if not used closed; is not compounded
4.	What types of disasters are within the mandate of the agency/organisation?		Once there is a disaster they are responsible, all disasters are covered by the agency
5.	Please describe key the functions of the agency.		Education, training, MOUs; coordinating agencies; coordinating through CDEMA
6.	Does the agency/organization perform mitigation and preparedness activities?		To some extent in partnership with other eg: climate change; manpower is limited to do most of these activities
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		Usually project driven by donors; not involved in community level activities
6b.	Describe the types of preparedness activities engaged in by your agency/organisation		Mostly in terms of public education; education and research; business continuity planning
7.	Does the agency/organisation perform recovery and reconstruction activities?		Immediate response; recovery is done ministry of physical development does long term recovery

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
7a.	Describe the types of recovery activities engaged in by your agency/organisation		
7b.	Describe the types of reconstruction activities engaged in by your agency/organization		
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y	The red cross – training, capacity assessment and community response teams; member of national advisory teams
8a.	If yes, please name the entity(ies) and describe its(their) functions.		
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.	Y	St.lucia.gov.lc/nemp
9a.	When was the plan developed?		
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
9c.	Has the plan been recently revised?		
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
9g.	What are the deficiencies or shortcomings in the national plan?		
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	oo) Mitigation & Preparedness		
	pp) Disaster Declarations		
	qq) Funding & Budget appropriation methods		
	rr) Accountability & Authority		
	ss) National Security & Health		
	tt) International Aid, Relief & Recovery		
	uu) Communication Systems		
	vv) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
10.	Is there a national disaster management policy? If no go to question 11.		
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10g.	What are the deficiencies or shortcomings in the national policy?		
10h.	What if any, improvements need to be made to the disaster policy?		
10i.	Does the national disaster policy address the following issues:		
	oo) Mitigation & Preparedness		
	pp) Disaster Declarations		
	qq) Funding & Budget appropriation methods		
	rr) Accountability & Authority		
	ss) National Security & Health		
	tt) International Aid, Relief & Recovery		
	uu) Communication Systems		
	vv) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.		
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11e.	What areas of the plan were revised or newly adopted?		
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	oo) Mitigation & Preparedness		
	pp) Disaster Declarations		
	qq) Funding & Budget appropriation methods		
	rr) Accountability & Authority		
	ss) National Security & Health		
	tt) International Aid, Relief & Recovery		
	uu) Communication Systems		
	vv) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.		
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	If yes, please state the name and area of responsibility; if no, explain.		
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	oo) Mitigation & Preparedness		
	pp) Disaster Declarations		
	qq) Funding & Budget appropriation methods		
	rr) Accountability & Authority		
	ss) National Security & Health		
	tt) International Aid, Relief & Recovery		
	uu) Communication Systems		
	vv) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		

Emergency Declarations

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	Y	Check website Disaster Management Act Water & Sewage Act Constitution
13a.	If no, please specify how declarations are issued and state the relevant authority.		
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y	This week for water related emergency; no state of emergency declared -
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
	gg) Authority for disaster declarations; Please identify relevant section.	Y	
	hh) Definitions of disasters and emergencies; Please identify relevant section.	Y	
	ii) Declaration procedure; Please identify relevant section.	N	Is in the regulations which are pending
	jj) A mechanism / instructions for publication of declarations; Please identify relevant section	Y	Form in the schedule
	kk) Duration of declarations; Please identify relevant section.	N	Is open-ended in the legislation – based on circumstances; need formal termination of declaration; sometimes embedded in legislation
	ll) Powers related to declarations; Please identify relevant section	N	Not included in the DMA; may be in the regs being drafted
	mm) Declaration Coordination; Please identify relevant section.	Y	Stated in act; but elaborated in plans and policies; Plans & Policies Act
	nn) Declaration Responsibilities; Please identify relevant section.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
16.	Are there any deficiencies in the disaster declaration process?	Y	Problem is with not having supporting regulations; tendency to write legislation and not give regulation; need to figure out what u need regulations- too piecemeal
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	N	New act done 2006; need to amend soon
17a.	What are the proposed revisions?		To incorporate the new CDEMA articles; definition to split state of emergency and declaration of emergency; power to PM to order mandatory evacuation
17b.	What are the challenges to implementation?		Challenge will be to implement the mandatory evacuation ; manpower to implement
17c.	When is it anticipated to be adopted?		
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster	Y	
18b.	Declaration procedures are clearly and expressly stated	N	
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse	N	
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster	Y	The only thing with timeline is power to protect person doing national duty
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency	N	Not in act or policies but in the actual declaration
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.	N	

International / Regional Agreements & Response Activities

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		.
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	Is under consideration; it is initialled but not ratified
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures		Unsure
19c.	Framework Convention on Civil Defense Assistance		Unsure
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency		Unsure
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000		Unsure
19f.	Convention on Facilitation of International Maritime Traffic		Unsure
19g.	Convention on International Civil Aviation /Chicago Convention		Unsure
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984	Y	
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		Unsure
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y	NEMO in conjunction with MoFA
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance	N	For initiating but not terminating; done thru EC donor group; PM makes intl call thru ambassadors
	f) Is the provision effective? If no, please explain		
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	Y	CDEMA articles – which are adopted and ratified in St. Lucia
	f) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?	Y	All intl must work thru logistics cell of NEMO based on theme e.g. telecom, etc.

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	f) Is the provision effective? If no, please explain.		
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?	N	No significant disaster to test the system
22b.	Receipt of unnecessary or unusable aid products?	N	
22c.	Lack of necessary medical supplies and facilities?	N	Only exception is the pandemic influenza vaccines
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	N	Would need to be tested to really be able to answer
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	Y	None for termination
24b.	Privileges and immunities with respect to immigration & customs	Y	CDEMA and RSS – included in CDEMA articles; not automatic for any other agency
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y	Protocols – donations plan
24d.	Privileges and immunities with respect to taxes, tariffs and duty	Y	Articles of CDEMA; there is a process though for getting the signature
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)	Y	No restrictions generally in the events that have occurred
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	N	Not automatically; there are protocols for granting emergency certifications
24g.	Immunity from prosecution for relief activities	Y	CDEMA articles
24h.	Designated emergency relief / international aid country coordinator	N	
24i.	Emergency Relief / Internal Aid coordination plan	N	Must comply with national plan
Communication Systems			
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	Authority: monitoring agency informs NEMO and NEMO informs government and then moves to public through news, text, radio
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		Cell phones

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y	
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	Tele com always need improvement; insufficient and dated; training
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	
28b.	Stated emergency telecommunication action plan	Y	
28c.	Designated emergency telecommunications country coordinator	Y	Chairman of telecom committee; functions of committee – advise in planning and prep on hardware, software, certifications, man telecom equipment
28d.	Current and up-to-date inventory of telecommunication resources	Y	
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	Y	
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	N	Is not automatic; system is flexible to get it done; prefer automatic
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	Y	Done through ITU, regional network of HAM radio operators
Funding			
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	Y	Disaster fund is for response; recurrent budget is done for pre-disaster activities

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		
32.	Does the government provide annual funding for disaster activities?	Y	Through NEMO allocation in annual budget
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?	Y	There is a process ; NEMO submits to ministry and goes through regular funding mechanism
32c.	Is there a body that determines the required amount need? If yes please specify.	Y	MOF
33.	What is the annual allocated budget for disaster activities?		
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	Y	Financial regulations govern
34a.	Who is responsible for approving funds to be disbursed?		House of Parliament
34b.	What evidence or documents must be produced before funds can be disbursed?		Once approved, the ministry released the fund NEMO
34c.	Is the process complex or straightforward? Please explain.	N	Is straightforward but tedious; sometimes there must be repeat requests

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
34d.	Does the process lead to unnecessary delay? Please explain.	Y	
35.	Is there a mechanism for accountability and governance of disaster funding?	Y	Audit department that audits the various ministries and office of PM (includes NEMO) – extended to district committees who are volunteers
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify	Y	
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify	Y	Treasury dept.
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?	N	Is effective so far; maybe finance ppl will have different view
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain	Y	Tried to recommend to govt. not to close and reopen account at the end of each financial year; the regulations require but clear view as to why it is done
39a.	Amount of funding		
39b.	Procedures for accessing funding		
39c.	Management of disaster funds		
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.	N	Everyone in the country functions under the same regulations
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so	N	
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds	Y	
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude	Y	
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs	N	Only covers first response; realistic for immediate response - fixed in EC\$500,000 regs allow for that amount to be maintained
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard	Y	
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders	N	Only donations
42f.	Disaster funding mechanism is supported by legislation	N	Is embedded in the financial procedures for St. Lucia; but no legislation
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		Not enough money, people, or time
43a.	Legislation, policies and procedures		
43b.	Emergency declarations		
43c.	Funding mechanism / budget appropriation		
43d.	Communication systems		
43e.	International relief assistance		

FINAL DRAFT

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	N	Only problem is to get it on the agenda of the house of parliament
45.	What needs to be strengthened overall with respect to disaster activities?		Business continuity aspect and mass crowd events; need to strengthen safety aspects of these events
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		
46	What are your views on the following suggested best practices in the identified areas?		

Country: St. Kitts & Nevis
 Date: February 23, 2010
 Contact Info: 869-466-5100 ext. 6892

Agency/Organization: National Emergency Management Agency
 Completed By: Carl Herbert
 Title: National Disaster Coordinator

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N	Department of Ministry of National Security
2.	Please describe the organisation structure of the agency structured?		The Minister responsible for ministry , PS – chief technical officer for ministry, head of NEMA
3.	Is the agency/organisation funded by government? If no, please explain.	Y	Additional funding is for technical assistance and rare donations – few and far between especially if of any substance
3a.	What is the annual budget for the agency?		Budget is heavily administrative – salary EC\$500,000.00
3b.	How are funds allocated for the agency?		Parliament approves budget for each ministry that is further subdivided into departments; each department sends estimate that are considered by cabinet at sessions prior to be taken to parliament – calendar year cycle
4.	What types of disasters are within the mandate of the agency/organisation?		Fire, hurricanes, floods, drought, earthquake, landslides, volcanic eruptions, terrorism – recent addition to the disaster activities; may be asked to provide assistance during riots but are not within direct mandate; also include biological and environmental
5.	Please describe key the functions of the agency.		Entire disaster mgt cycle, preparedness response recovery mitigation rehabilitation – whole disaster management cycle of which training is a major component along with public education and awareness
6.	Does the agency/organization perform mitigation and preparedness activities?	Y	
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		Liaise with physical planning division with relation to building codes, address issues of school safety – plans in place to address disaster in schools; public education and training – public to learn to reduce impact of disasters on property and persons; awareness of exit plans and flood prone areas
6b.	Describe the types of preparedness activities engaged in by your agency/organisation	Y	Hurricane is the main threat so there is an annual public awareness type programs which include info dissemination, talks, discussion and distribution of literature on the potential hazard

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
7.	Does the agency/organisation perform recovery and reconstruction activities?	Y	Do lead the process; are a part of a coordination management; during past hurricane part of management group for housing; major flood provide equipment for clean up and mobilize volunteers to contribute to and respond to related events
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?		Police and defence force, fire and rescue, red cross, seventh day Adventist relief arm; salvation arm; there is an umbrella church organization – St Kitts Christian Council , Nevis CC, St Kitts Evangelical Association; chamber of industry of commerce – address issues of food supply etc.; public works dept. in areas of engineering – assessment of damage and provision of manpower and building materials in the event resources are required.
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.	Y	
9a.	When was the plan developed?		1999
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain	Y	NEMA with input from all relevant stakeholders
9c.	Has the plan been recently revised?	N	Process underway for revision
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		Looking at entire document; new agencies have come on board; full comprehensive of entire plan
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?	N	
9g.	What are the deficiencies or shortcomings in the national plan?		Since it was developed several agencies (e.g. fire and rescue); have been put in place; need to revisit roles and responsibilities and the actual testing of roles and responsibilities
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		
	ww)Mitigation & Preparedness	Y	Definitely addresses response

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	xx) Disaster Declarations		Unsure; legislation speaks to this issued
	yy) Funding & Budget appropriation methods	N	Not sufficient; need more funding across the board
	zz) Accountability & Authority	Y	Although this is one of the issues being revisited now
	aaa) National Security & Health	Y	Committee to deal with search and rescue; there is also a medical committee provided for in the plan
	bbb) International Aid, Relief & Recovery	Y	Also committee addresses foreign assistance
	ccc) Communication Systems	Y	It generally does but it one of the areas that is also being addressed in the reform project – need to embrace new technology
	ddd) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response	Y	Also being addressed to conform the document to the realities
10.	Is there a national disaster management policy? If no go to question 11.	Y	The policy is however embedded in the plan
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
10g.	What are the deficiencies or shortcomings in the national policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10h.	What if any, improvements need to be made to the disaster policy?		
10i.	Does the national disaster policy address the following issues:		
	ww) Mitigation & Preparedness		
	xx) Disaster Declarations		
	yy) Funding & Budget appropriation methods		
	zz) Accountability & Authority		
	aaa) National Security & Health		
	bbb) International Aid, Relief & Recovery		
	ccc) Communication Systems		
	ddd) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.	N	This a terminology issue; in the Caribbean we use disaster management as the term as opposed to emergency
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		
11e.	What areas of the plan were revised or newly adopted?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	ww) Mitigation & Preparedness		
	xx) Disaster Declarations		
	yy) Funding & Budget appropriation methods		
	zz) Accountability & Authority		
	aaa) National Security & Health		
	bbb) International Aid, Relief & Recovery		
	ccc) Communication Systems		
	ddd) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.		
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	ww) Mitigation & Preparedness		
	xx) Disaster Declarations		
	yy) Funding & Budget appropriation methods		
	zz) Accountability & Authority		
	aaa) National Security & Health		
	bbb) International Aid, Relief & Recovery		
	ccc) Communication Systems		
	ddd) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
Emergency Declarations			
13.	Does the relevant legislation include instructions for disaster and or emergency	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	declarations?		
13a.	If no, please specify how declarations are issued and state the relevant authority.		
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y	Hurricane George in 1998 last disaster declaration
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
	oo) Authority for disaster declarations; Please identify relevant section.		Unsure. Believes legislation addresses the issue
	pp) Definitions of disasters and emergencies; Please identify relevant section.		
	qq) Declaration procedure; Please identify relevant section.		
	rr) A mechanism / instructions for publication of declarations; Please identify relevant section		
	ss) Duration of declarations; Please identify relevant section.		
	tt) Powers related to declarations; Please identify relevant section		
	uu) Declaration Coordination; Please identify relevant section.		
	vv) Declaration Responsibilities; Please identify relevant section.		
16.	Are there any deficiencies in the disaster declaration process?		Will have to look at matter to look at it more closely.

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	Y	There is a regional project looking at legislation; it is already established that the legislation need to be revisited
17a.	What are the proposed revisions?		
17b.	What are the challenges to implementation?		
17c.	When is it anticipated to be adopted?		
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster		
18b.	Declaration procedures are clearly and expressly stated		
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse		
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster		
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency		
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.		
International / Regional Agreements & Response Activities			
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		.
19a.	Tampere Convention on the Provision of Telecommunication Resources for	N	In the process; matter has been brought to govt, and is under consideration

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	Disaster Mitigation and Relief Operations		
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures		Unsure – verify with MOFA
19c.	Framework Convention on Civil Defense Assistance		
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency		
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000		
19f.	Convention on Facilitation of International Maritime Traffic		
19g.	Convention on International Civil Aviation /Chicago Convention		
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984		
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?	Y	NEMA with the assistance locally from MOFA; there may also be bilateral arrangements; because assistance is usually in form of money ministry of finance also involved
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance		Tied to regional response activities; otherwise handled through MOFA
	g) Is the provision effective? If no, please explain		
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)		Once it has to do with disasters; then automatically items are duty free; once NEMA contacts MOF and stamp is affixed as long as it comes under knowledge and endorsement of NEMA
	g) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?	N	This is handled on an operational level
	g) Is the provision effective? If no, please explain.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?		All depends on arrangements for receiving the aid. E.g. donor may say will provide X/Y but will be sent under condition of local body paying costs for transportation; this may pose a problem to obtain the aid
22b.	Receipt of unnecessary or unusable aid products?		There has been situations where aid was not considered usable had to be discarded
22c.	Lack of necessary medical supplies and facilities?		In the past there was an issue outdated medicines and supplies
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.		
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	N	
24b.	Privileges and immunities with respect to immigration & customs	Y	
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y	
24d.	Privileges and immunities with respect to taxes, tariffs and duty	Y	
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)	Y	
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)		Has to be done in conjunction with government may not be straightforward and is addressed on a case by case basis; cannot give broad brush approval – issues with terrorism and fraud
24g.	Immunity from prosecution for relief activities	N	Anyone who acts illegally or deliberately – no carte blanche approval
24h.	Designated emergency relief/ international aid country coordinator	Y	Humanitarian aid - NEMA is responsible as an agency; however for money – MOF Financial secretary
24i.	Emergency Relief / Internal Aid coordination plan	N	
Communication Systems			
24.	Is there a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	Included the disaster plan
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		Radio, cell phones, telephones, runners – physical movement of ppl

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	N	Not as should be needs to be revisited
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	Coverage and equipment
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	
28b.	Stated emergency telecommunication action plan	N	
28c.	Designated emergency telecommunications country coordinator	Y	St Kitts Nevis government information service; Department of technology – part of government; however this overall issue needs to addressed in the plan
28d.	Current and up-to-date inventory of telecommunication resources	Y	Dept. of Technology on behalf of govt.
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	N	That is why Tampere Convention being addressed; otherwise the current situation is on an as needed basis
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	N	No broad mechanism in place – case by case basis
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance		Unsure but does not think it is provided for
Funding			
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	N	No disaster fund; money is allocated for the management of the agency (personnel and operation)
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		There is a small allocation for training; the public works dept undertakes govt civil works which plays a big role in mitigation; is provided under different dept;

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
			NEMA only does preparedness and public works activities
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		There is no disaster fund specifically put aside for that; once assessments done and needs identified if it is be provided locally govt accesses consolidated fund or reaches out to donors or private sector or friendly govt.
32.	Does the government provide annual funding for disaster activities?	N	
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?		
32c.	Is there a body that determines the required amount need? If yes please specify.		
33.	What is the annual allocated budget for disaster activities?	N	
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	N	There is no predetermined guidelines as the extend and nature of disaster is unclear so no guidelines on this
34a.	Who is responsible for approving funds to be disbursed?		Ministry of Finance
34b.	What evidence or documents must be produced before funds can be disbursed?		There are financial instructions for the disbursement of funds generally through the govt.
34c.	Is the process complex or straightforward? Please explain.		Not a complex process once the needs are identified

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
34d.	Does the process lead to unnecessary delay? Please explain.	N	Depends on the volume and magnitude of the funds needed; there may be delays in govt. sourcing the funds from intl. agencies or institutions; multi issue depends on donor policies, volume of funds involved; and disbursement requirements
35.	Is there a mechanism for accountability and governance of disaster funding?	Y	Governed by govt financial regulation and rules; as well as intl funding institutions or donors have their accountability rules that must be follows
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify		
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify	Y	Ministry of Finance , Nema to some extent
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?		
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain	N	Not aware of any particular issues that have come to the fore
39a.	Amount of funding		Govt allocations are not adequate to fund NEMA activities described herein
39b.	Procedures for accessing funding	N	
39c.	Management of disaster funds	N	
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.	N	All funds are handled through MOF
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so	N	There is the call for legislation to be reviewed; there is a regional call for each country to be established a disaster fund; is supported by SKN but not implement
41a.	What are the proposed revisions?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
41b.	What are the challenges to implementation?		
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds		
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders		
42f.	Disaster funding mechanism is supported by legislation		
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		Financial resource and staff capacity issues
43a.	Legislation, policies and procedures		All needs to be revisited and modernized to strength the deficiency and gaps
43b.	Emergency declarations		
43c.	Funding mechanism / budget appropriation		Insufficient; access to more funds is the critical issued here
43d.	Communication systems		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
43e.	International relief assistance		
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	N	Twin island state; part of the challenge will be to make sure that any revisions addresses both islands appropriately
45.	What needs to be strengthened overall with respect to disaster activities?		
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		

Country: St. Vincent and The Grenadines
 Date: March 1, 2010
 Contact Info: 784-456-2975

Agency/Organization: National Emergency Management Office
 Completed By: Howie Prince
 Title: National Disaster Coordinator

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N	
2.	Please describe the organisation structure of the agency structured?		
3.	Is the agency/organisation funded by government? If no, please explain.	Y	
3a.	What is the annual budget for the agency?		Recurrent Budget which is 1 mill EC dollars and Capital Budget which is based on Physical work of 2-4 mill.
3b.	How are funds allocated for the agency?		
4.	What types of disasters are within the mandate of the agency/organisation?		Disaster Risk Reduction, Disaster Management, Disaster Mitigation, Disaster Recovery, Community Mobilisation
5.	Please describe key the functions of the agency.		
6.	Does the agency/organization perform mitigation and preparedness activities?	Y	
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		River Training
6b.	Describe the types of preparedness activities engaged in by your agency/organisation		House to House, Public awareness, Community Organisation Management.
7.	Does the agency/organisation perform recovery and reconstruction activities?	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
7a.	Describe the types of recovery activities engaged in by your agency/organisation		
7b.	Describe the types of reconstruction activities engaged in by your agency/organization		Homes, House, Bridges, ect.
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y	
8a.	If yes, please name the entity(ies) and describe its(their) functions.		Ministry of Work, Ministry of Education, Central Planning Board.
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.		
9a.	When was the plan developed?		
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
9c.	Has the plan been recently revised?		
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
9g.	What are the deficiencies or shortcomings in the national plan?		
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	eee) Mitigation & Preparedness		
	fff) Disaster Declarations		
	ggg) Funding & Budget appropriation methods		
	hhh) Accountability & Authority		
	iii) National Security & Health		
	jjj) International Aid, Relief & Recovery		
	kkk) Communication Systems		
	III) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
10.	Is there a national disaster management policy? If no go to question 11.	Y	
10a.	When was the policy developed?		2006
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		National Emergency Council
10c.	Has the policy been recently revised?		No Not recently
10d.	When was the revision made?		N/A
10e.	What areas of the policy were revised or newly adopted?		N/A
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10g.	What are the deficiencies or shortcomings in the national policy?		
10h.	What if any, improvements need to be made to the disaster policy?		Needs to address Climate Adaptation
10i.	Does the national disaster policy address the following issues:		Does not address each individually, but covers them.
	eee) Mitigation & Preparedness	Y	
	fff) Disaster Declarations	Y	
	ggg) Funding & Budget appropriation methods	Y	
	hhh) Accountability & Authority	Y	
	iii) National Security & Health	Y	
	jjj) International Aid, Relief & Recovery	Y	
	kkk) Communication Systems	Y	
	lll) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response	Y	
11.	Is there a national emergency management plan? If no go to question 12.		
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11e.	What areas of the plan were revised or newly adopted?		
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	eee) Mitigation & Preparedness		
	fff) Disaster Declarations		
	ggg) Funding & Budget appropriation methods		
	hhh) Accountability & Authority		
	iii) National Security & Health		
	jjj) International Aid, Relief & Recovery		
	kkk) Communication Systems		
	III) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.		
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	If yes, please state the name and area of responsibility; if no, explain.		
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	eee) Mitigation & Preparedness		
	fff) Disaster Declarations		
	ggg) Funding & Budget appropriation methods		
	hhh) Accountability & Authority		
	iii) National Security & Health		
	jjj) International Aid, Relief & Recovery		
	kkk) Communication Systems		
	lll) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		

Emergency Declarations

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?		
13a.	If no, please specify how declarations are issued and state the relevant authority.		
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?		Not since 2005
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		None has been issued in the past five years
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		None has been issued in the past five years
15.	Does the disaster legislation, policies or procedures include or define the following issues:		Yes it include all of the below.
	ww) Authority for disaster declarations; Please identify relevant section.		
	xx) Definitions of disasters and emergencies; Please identify relevant section.		
	yy) Declaration procedure; Please identify relevant section.		
	zz) A mechanism / instructions for publication of declarations; Please identify relevant section		
	aaa) Duration of declarations; Please identify relevant section.		
	bbb) Powers related to declarations; Please identify relevant section		
	ccc) Declaration Coordination; Please identify relevant section.		
	ddd) Declaration Responsibilities; Please identify relevant section.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
16.	Are there any deficiencies in the disaster declaration process?		Deficiency has not been tested
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		N/A
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	Y	
17a.	What are the proposed revisions?		Coincides with an entity called CDM – Comprehensive Disaster Management
17b.	What are the challenges to implementation?		The general challenge is peoples acceptance to change.
17c.	When is it anticipated to be adopted?		No date has been set
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster		Definition of disaster is not flexible.
18b.	Declaration procedures are clearly and expressly stated	Y	
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse	Y	
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster	Y	
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency	Y	
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.	Y	
International / Regional Agreements & Response Activities			

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:	Y	.
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	Y	
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures	Y	
19c.	Framework Convention on Civil Defense Assistance		Cannot speak to this.
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency		Cannot speak to this.
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000		Cannot speak to this.
19f.	Convention on Facilitation of International Maritime Traffic	Y	
19g.	Convention on International Civil Aviation /Chicago Convention	Y	
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984		Not sure
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		Not sure of the nature of the agreement
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?		Ministry of Foreign Affairs
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		There are no legislation that speaks to this.
21a.	Mechanisms for the initiation and termination of international assistance		
	h) Is the provision effective? If no, please explain	Y	
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)	Y	
	h) Is the provision effective? If no, please explain.	Y	
21c.	Coordination and chain of command for international relief activities?	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	h) Is the provision effective? If no, please explain.	Y	
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?	N	
22b.	Receipt of unnecessary or unusable aid products?		Yes may pose an issue with response.
22c.	Lack of necessary medical supplies and facilities?	Y	
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.		Have not tested, hence cannot speak to this.
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	Y	
24b.	Privileges and immunities with respect to immigration & customs	Y	
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	Y	
24d.	Privileges and immunities with respect to taxes, tariffs and duty		Based on the situation.
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)		Based on institution and or organisation that we have requested help from.
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)	Y	
24g.	Immunity from prosecution for relief activities		Depends on the relief
24h.	Designated emergency relief / international aid country coordinator	Y	Once there is an agreement.
24i.	Emergency Relief / Internal Aid coordination plan	Y	
Communication Systems			
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.		Various communication methods: Media, telecommunication system etc.
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y	Has been effective for National Disasters experienced thus far.
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	Yes, especially for Hazards like Tsunami
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations	N	
28b.	Stated emergency telecommunication action plan	Y	
28c.	Designated emergency telecommunications country coordinator	N	
28d.	Current and up-to-date inventory of telecommunication resources	Y	
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources		No blanket on this
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance		No blanket on this
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	Y	
Funding			
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?		There are no dedicated funds. It is based on the disaster.
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		Friendly Governments/ Organisation, it depends on the nature of the need.
32.	Does the government provide annual funding for disaster activities?	Y	
32a.	Please explain the mechanism by which funds are allocated annually		Recurrent and Capital Budget as explained in 3A.
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?	N	
32c.	Is there a body that determines the required amount need? If yes please specify.		Cabinet of Ministers
33.	What is the annual allocated budget for disaster activities?		Given in 3A.
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain		There are no clear guidelines, distribution is based on the magnitude of the disaster.
34a.	Who is responsible for approving funds to be disbursed?		Government
34b.	What evidence or documents must be produced before funds can be disbursed?		As long as there is a declared emergency, funds will be disbursed.
34c.	Is the process complex or straightforward? Please explain.		It is transparent and does not lead to delay
34d.	Does the process lead to unnecessary delay? Please explain.	N	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
35.	Is there a mechanism for accountability and governance of disaster funding?		There is a system in government that allows for accountability.
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify		We are open to audits
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify		Prime Minister/Minister of Finance.
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?		All systems in Government needs improvement
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain		
39a.	Amount of funding	N	
39b.	Procedures for accessing funding	N	Not Hard
39c.	Management of disaster funds	N	
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.	N	
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so		
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		Can't say
41c.	Is there a stated time for adoption? Please specify.		Can't say

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds	Y	
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude	Y	
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs	Y	
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard	Y	
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders	N	
42f.	Disaster funding mechanism is supported by legislation	Y	
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		The hazards that face us and the people's ability to bounce back.
43a.	Legislation, policies and procedures	Y	
43b.	Emergency declarations	Y	
43c.	Funding mechanism / budget appropriation		Not so good
43d.	Communication systems		Can be improved
43e.	International relief assistance	Y	
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain		Can't say

FINAL DRAFT

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
45.	What needs to be strengthened overall with respect to disaster activities?		
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation	Y	
46	What are your views on the following suggested best practices in the identified areas?		Can be strengthened

Country: Grenada
 Date: March 3, 2010
 Contact Info: 473) 440-838

Agency/Organization: National Disaster Management Agency
 Completed By: Terrence Walters (only in position 5 months)
 Title: Director

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
Disaster Management Agency / Responsible Body			
1.	Is your agency/organisation autonomous of government? If yes, please explain.	N	
2.	Please describe the organisation structure of the agency structured?		The entity is a government department, falling under the Office of the PM. The National Emergency Advisory Council, chaired by PM, acts as the Advisory Board for the organisation's Secretariat, with several sub-committees.
3.	Is the agency/organisation funded by government? If no, please explain.	Y	Fully funded by government. Budget is integrated in Office of the Prime Minister budget.
3a.	What is the annual budget for the agency?	N/a	Integrated budget
3b.	How are funds allocated for the agency?		Staff, upkeep of office, transportation
4.	What types of disasters are within the mandate of the agency/organisation?		All disaster natural and man-made the agency has lead responsibility. Working with other agencies
5.	Please describe key the functions of the agency.		Prevention and preparedness, mitigation, response and recovery.
6.	Does the agency/organization perform mitigation and preparedness activities?	Y	
6a.	Describe the types of mitigation activities engaged in by your agency/organisation		Working with communities on small projects, clean drains, rivers etc.
6b.	Describe the types of preparedness activities engaged in by your agency/organisation		Public education and awareness campaigns.
7.	Does the agency/organisation perform recovery and reconstruction activities?	Y	
7a.	Describe the types of recovery activities engaged in by your agency/organisation		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
7b.	Describe the types of reconstruction activities engaged in by your agency/organization		
8.	Are there any other government or NGOs that have disaster related responsibility or functions in your jurisdiction?	Y	National Emergency Advisory Council is made-up of several agencies:
8a.	If yes, please name the entity(ies) and describe its(their) functions.		Entities: 20 or more
Disaster Management Plan / Policy			
9.	Is there a national disaster management plan? If no go to question 10.	N	There is a draft plan which he believes is ready for review. Last review was in 2007
9a.	When was the plan developed?		
9b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
9c.	Has the plan been recently revised?		
9d.	When was the revision made?		
9e.	What areas of the plan were revised or newly adopted?		
9f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
9g.	What are the deficiencies or shortcomings in the national plan?		
9h.	What, if any, improvements need to be made to the disaster plan?		
9i.	Does the disaster management plan address the following issues:		
	mmm) Mitigation & Preparedness		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	nnn) Disaster Declarations		
	ooo) Funding & Budget appropriation methods		
	ppp) Accountability & Authority		
	qqq) National Security & Health		
	rrr) International Aid, Relief & Recovery		
	sss) Communication Systems		
	ttt) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
10.	Is there a national disaster management policy? If no go to question 11.	N	
10a.	When was the policy developed?		
10b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		
10c.	Has the policy been recently revised?		
10d.	When was the revision made?		
10e.	What areas of the policy were revised or newly adopted?		
10f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
10g.	What are the deficiencies or shortcomings in the national policy?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
10h.	What if any, improvements need to be made to the disaster policy?		
10i.	Does the national disaster policy address the following issues:		
	mmm) Mitigation & Preparedness		
	nnn) Disaster Declarations		
	ooo) Funding & Budget appropriation methods		
	ppp) Accountability & Authority		
	qqq) National Security & Health		
	rrr) International Aid, Relief & Recovery		
	sss) Communication Systems		
	ttt) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
11.	Is there a national emergency management plan? If no go to question 12.	N	
11a.	When was the plan developed?		
11b.	Is there a body or agency responsible for development of the plan? If yes, please state the name and area of responsibility; if no, explain		
11c.	Has the plan been recently revised?		
11d.	When was the revision made?		
11e.	What areas of the plan were revised or newly adopted?		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
11f.	Is the plan sufficient to address the disaster preparedness and response needs of your country?		
11g.	What are the deficiencies or shortcomings in the national plan?		
11h.	What, if any, improvements need to be made to the disaster plan?		
11i.	Does the emergency management plan address the following issues:		
	mmm) Mitigation & Preparedness		
	nnn) Disaster Declarations		
	ooo) Funding & Budget appropriation methods		
	ppp) Accountability & Authority		
	qqq) National Security & Health		
	rrr) International Aid, Relief & Recovery		
	sss) Communication Systems		
	ttt) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		
12.	Is there a national emergency management policy? If no go to question 13.	N	
12a.	When was the policy developed?		
12b.	Is there a body or agency responsible for development of the policy? If yes, please state the name and area of responsibility; if no, explain.		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
12c.	Has the policy been recently revised?		
12d.	When was the revision made?		
12e.	What areas of the policy were revised or newly adopted?		
12f.	Is the policy sufficient to address the disaster preparedness and response needs of your country?		
12g.	What are the deficiencies or shortcomings in the national policy?		
12h.	What if any, improvements need to be made to the disaster policy?		
12i.	Does the emergency management policy address the following issues:		
	mmm) Mitigation & Preparedness		
	nnn) Disaster Declarations		
	ooo) Funding & Budget appropriation methods		
	ppp) Accountability & Authority		
	qqq) National Security & Health		
	rrr) International Aid, Relief & Recovery		
	sss) Communication Systems		
	ttt) Functions, limitations & responsibilities of the relevant agencies and ministries involved in disaster mitigation and response		

Emergency Declarations

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
13.	Does the relevant legislation include instructions for disaster and or emergency declarations?	N	
13a.	If no, please specify how declarations are issued and state the relevant authority.		National Emergency Advisory Council will meet in the case of emergency. PM as Chair would make declaration
14.	Has there been cause to use the emergency or disaster declaration provisions in the past?	Y	
14a.	How many times in the last 5 years has a disaster declaration been issued? If used, please identify the nature of the disaster which prompted the declaration.		One- Hurricane Emily
14b.	How many times in the last 5 years has an emergency declaration been issued? If used, please identify the nature of the disaster which prompted the declaration		
15.	Does the disaster legislation, policies or procedures include or define the following issues:		
15a.	Authority for disaster declarations; Please identify relevant section.	Y	In draft disaster management plan
15b.	Definitions of disasters and emergencies; Please identify relevant section.	Y	In draft disaster management plan
15c.	Declaration procedure; Please identify relevant section.	Y	In draft disaster management plan
15d.	A mechanism / instructions for publication of declarations; Please identify relevant section	N	
15e.	Duration of declarations; Please identify relevant section.	N	
15f.	Powers related to declarations; Please identify relevant section	N	
15g.	Declaration Coordination; Please identify relevant section.	N	
15h.	Declaration Responsibilities; Please identify relevant section.	Y	

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
16.	Are there any deficiencies in the disaster declaration process?		
16b.	If yes, how can those deficiencies be reduced and the overall process improved?		
17.	Are there any proposed revisions to the legislation or procedures applicable to disaster declarations? If so:	Y	Draft plan exists
17a.	What are the proposed revisions?		
17b.	What are the challenges to implementation?		
17c.	When is it anticipated to be adopted?		unsure
18.	Which of the following best practices have been adopted in your jurisdiction:		
18a.	Definition of disaster is flexible and takes into consideration the actual circumstances (impacts, causes and results) of the disaster	N	
18b.	Declaration procedures are clearly and expressly stated	Y	In draft plan
18c.	Declarations process makes provisions for accountability, transparency and avoidance of abuse	N	unsure
18d.	Declarations are flexible in duration based on the circumstances of the emergency or disaster	N	
18e.	Declaration provisions clearly state the roles, responsibilities and powers during a declared emergency		
18f.	Declaration provisions provide for the vesting of authority to make emergency regulations, laws, etc.		
International / Regional Agreements & Response Activities			

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
19.	Is the country currently signatory to any international / regional agreements relating to any aspect of disaster management? If yes, specify from list:		
19a.	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations		
19b.	“Kyoto” Convention on the Simplification and Harmonization of Customs Procedures		
19c.	Framework Convention on Civil Defense Assistance		
19d.	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency		
19e.	Charter on Cooperation to Achieve the Coordinated Use of Space Facilities in the Event of Natural or Technological Disasters of 2000		
19f.	Convention on Facilitation of International Maritime Traffic		
19g.	Convention on International Civil Aviation /Chicago Convention		
19h.	Inter-American Convention to Facilitate Disaster Assistance of 1984		
19i.	Agreement Establishing the Inter-Governmental Authority on Development of 1996		
20.	Is there an agency or body that is responsible for coordinating international disaster relief response?		CDEMA
21.	Is there legislation, policy or regulations regarding the following: if yes, please specify the type of applicable authority		
21a.	Mechanisms for the initiation and termination of international assistance		unsure
	i) Is the provision effective? If no, please explain		
21b.	Privileges and immunities for international relief agencies and workers (immigration, customs, goods, taxes, transportation, legal authority etc.)		unsure
	i) Is the provision effective? If no, please explain.		
21c.	Coordination and chain of command for international relief activities?	N	unsure

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	i) Is the provision effective? If no, please explain.		
22.	Have any of the following posed an issue for response activities:		
22a.	Delay in receiving and distributing needed international aid?	N	Limited experiences with disaster Hurricanes Ivan and Emily- didn't pose a problem.
22b.	Receipt of unnecessary or unusable aid products?	N	
22c.	Lack of necessary medical supplies and facilities?	N	
23.	Are there any deficiencies in the legislation, policy or procedures with respect to the receipt of international assistance? If Yes, please indicate any deficiencies.	Y	There is none!
24.	Which of the following best practices have been adopted in your jurisdiction:		
24a.	Clear provisions for the initiation and termination of international aid relief	N	
24b.	Privileges and immunities with respect to immigration & customs	N	
24c.	Privileges and immunities with respect to goods & equipment (including medical supplies)	N	
24d.	Privileges and immunities with respect to taxes, tariffs and duty	N	
24e.	Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.)		
24f.	Legal status to international organization in domestic jurisdiction (operate, contract, sue)		
24g.	Immunity from prosecution for relief activities		
24h.	Designated emergency relief / international aid country coordinator		
24i.	Emergency Relief / Internal Aid coordination plan		
Communication Systems			
24.	Is there is a defined procedure for disseminating information and warnings to the general public and to officials during emergencies? If so, please describe.	Y	Information should come from Council/PM declaring emergency. NadMa Office then acts as central point for disseminating information.
25.	What are the primary means of communications for disaster personnel during emergencies? (e.g. HF radio, normal phone lines, satellite, etc.).		Radio, television, CB radio, mobile phone and satellite phones (limited to 6- one for PM, one for head of police, rest remain with NadMA

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
			distributed as necessary)
26.	Is the current communication system during national disaster emergencies effective? If no, please explain; If yes, what contributes to the effectiveness.	Y	
27.	Are improvements needed to the communication system being used during emergencies? If so, please explain the deficiencies and the needed improvements.	Y	NadMA has equipment for a radio station but it only covers the capital. Communication is good but needs upgrading.
28.	Which of the following best practices have been adopted in your jurisdiction:		
28a.	Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations		
28b.	Stated emergency telecommunication action plan	N	
28c.	Designated emergency telecommunications country coordinator	Y	Within NadMA Secretariat
28d.	Current and up-to-date inventory of telecommunication resources	Y	
28e.	Reduction or waiver of regulatory barriers to the use of telecommunications resources	N	unsure
28f.	Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance	Y	Waiver of licence fees that usually attaches to use of certain telecommunications. For e.g. hand held radio operators usually have to pay a licence fee if using as part of national relief effort they have to apply to receive a waiver. Submit letter, sent to National Telecommunications Regulations Commission for decision.
28g.	Clear provisions for the procedures for requesting and provision of telecommunications assistance	N	There is a draft policy that is being prepared by the Telecommunications Regulations Commission

Funding

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
29.	Is there a dedicated source of funding for disaster related activities pre and post disasters?	N	Govt can provide funding in case of disaster. No allocation
30.	How are pre-disaster activities funded? Please describe the pre-disaster funding mechanism in place in your country.		Funding from CDEMA for projects (EU, OAS, UNDP backed) which NadMA benefits from
31.	How are post-disaster activities funded? Please describe the post-disaster funding mechanism in place in your country.		
32.	Does the government provide annual funding for disaster activities?	N	Combined in the OPM budget are payments for staff, stationery, provision of office equipment, etc. But no funding for actual activities or initiatives.
32a.	Please explain the mechanism by which funds are allocated annually		
32b.	Is there a formula that determines the annual budgetary appropriations for disaster funding?		
32c.	Is there a body that determines the required amount need? If yes please specify.		
33.	What is the annual allocated budget for disaster activities?		
33a.	Specify for Mitigation & Preparedness (including training & outreach)		
33b.	Specify for Relief		
33c.	Specify for Reconstruction		
34.	Are there clear guidelines for the distribution of funds during a declared emergency? Please explain	N	
34a.	Who is responsible for approving funds to be disbursed?		The Cabinet
34b.	What evidence or documents must be produced before funds can be		unsure

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
	disbursed?		
34c.	Is the process complex or straightforward? Please explain.		No experience with that
34d.	Does the process lead to unnecessary delay? Please explain.		
35.	Is there a mechanism for accountability and governance of disaster funding?		
35a.	Describe the mechanism for accountability and governance.		
36.	Are there any legislation, regulations or administrative rules governing the accountability and governance of disaster funding? If yes, specify		
37.	Is there a designated person or entity responsible for oversight of disaster funds? If yes, specify		
38.	Does the rules / procedures in place for governing and the accountability of disaster funding need improvement? If so, why?		
39.	Are there any deficiencies in the funding mechanism with respect to the following: Please Explain		
39a.	Amount of funding		
39b.	Procedures for accessing funding		
39c.	Management of disaster funds		
40.	Have you identified any best practices for the funding of disaster related activities within your country? Please specify and explain.		
41.	Are there any proposed revisions to the legislation or procedures applicable to disaster funding? If so		

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
41a.	What are the proposed revisions?		
41b.	What are the challenges to implementation?		
41c.	Is there a stated time for adoption? Please specify.		
42.	Which of the following best practices have been adopted in your jurisdiction:		
42a.	Funding mechanisms provides dedicated annual and recurring funds		
42b.	There is a supplementary or contingency source of funds that can be accessed when the primary funds are exhausted or disaster exceeds certain magnitude		
42c.	Funds are allocated based on a realistic risk assessment of future disaster costs		
42d.	Disaster funds are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard		
42e.	Disaster funding mechanism allows for pooling of risk between public and private sector stakeholders		
42f.	Disaster funding mechanism is supported by legislation		
General Assessment			
43.	What are the strengths and the challenges for disaster preparedness and prevention in the country?		
43a.	Legislation, policies and procedures		
43b.	Emergency declarations		
43c.	Funding mechanism / budget appropriation		Funding is always a challenge. No

FINAL DRAFT

	QUESTIONS	Y/N	RELEVANT AUTHORITY & OBSERVATIONS / COMMENTS
43d.	Communication systems		Strength- country is small (pop. Of 100,000) easy to disseminate information. Communities are small so it is easier to work in the communities. Easy to coordinate logistics.
43e.	International relief assistance		Challenge- getting people to volunteer their time.
44.	Are there any unique local social, economic or political challenges to revising, adopting and implementing modern legislation, policies or procedures with respect to disaster management? If so, explain	N	It generally takes time to draft and implement legislation. The consultative process is lengthy.
45.	What needs to be strengthened overall with respect to disaster activities?		No existing legislation or policies. Only a draft plan in place which is used as a guide. Definite need for regulation and policies.
45a.	Disaster declarations		
45b.	Funding mechanisms / budget appropriation		