

Legal Aspects of International Disaster Response in Dutch Emergencies and Crisis Situations

***An analysis of Dutch legislation and policy in light of the Guidelines for the Domestic
Facilitation and Regulation of International Disaster Relief and Initial Recovery
Assistance (the IDRL Guidelines)***

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List of Abbreviations

ACO	Institute for General Crisis Deliberation
AT	Telecom Agency
BIG-register	Registration Professionals in Individual Healthcare
Birzo	Decree on public information in disasters and major accidents
Bkpr	Decree on the quality criteria for planning emergency management
BoO	Base of Operations
Bw	Fire Department Act
CECIS	Common Emergency Communication and Information System
COPI	Commander at the scene of the incident
CoRT	Commander of the Disaster Zone
CTPI	Coordination Team on Location of Incident
DCC	Departmental Coordination Centre
DIC	Customs Information Centre
EER	European Economic Area
EU	European Union
GGZ	Mental Healthcare Institution
GHOR	Medical Assistance during Accidents and Disasters
GRIP	Coordinated Regional Incident Response Procedure
IFRC	International Federation of Red Cross and Red Crescent Societies
ICRC	International Committee of the Red Cross
IDRL	International Disaster Response Laws, Rules and Principles
INSARAG	International Search and Rescue Advisory Group
IOOV	Inspection Institute for Public Order and Safety
KLPD	Corps National Police Force
LEMA	Local Emergency and Management Authority
LOCC	National Operational Coordination Centre
MBT	Ministerial Policy Team
MIC	Monitoring and Information Centre
MvT	Commentary on the law
NAVO	North Atlantic Treaty Organization
NCC	National Crisis Centre
NGO	Non-governmental organization

NRK	The Netherlands Red Cross
NVC	National Information centre
OSC	On-Site Commander
OSOCC	On Site Operations Coordination Centre
OvD	Officer of Service
PCC	Provincial Coordination Centre
RBT	Regional Policy Team
RCC	Regional Coordination Centre
RDC	Regional Service Centre
ROT	Regional Operational Team
TVo.CDW	Application regulation to the Communal Code of Law
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
UN	United Nations
VAT	Value Added Tax (Dutch: BTW)
VWS	Public Health, Welfare and Sports
Wghor	Medical assistance during accidents and disasters Act
Wkr	Quality promotion for emergency management Act
Wrzo	Disasters and Major Accidents Act

Part 1

I Preface

'This national crisis exceeds our domestic capacity; we will need to seek assistance from abroad as soon as possible.' Suppose the Minister of Interior Affairs utters this sentence in the Trêves Hall to his or her colleagues. That would mean The Netherlands is no longer able to face the crisis alone because domestic relief has been exhausted – not a scenario that is necessarily unlikely to occur. What are the next steps to be taken should national resources for disaster relief turn out to be insufficient?

Before you lies the report 'International Disaster Response in Dutch Emergencies and Crisis Situations'. In it you will find an analysis of Dutch policy and legislation regarding disaster response in The Netherlands, reviewed in light of the Guidelines for the Domestic and Regulation of International Disaster Relief and Initial Recovery Assistance (the IDRL Guidelines). The main question of the report: is The Netherlands prepared legally to request and receive international disaster response in an efficient and orderly way?

This report is one element of a broader project being undertaken by the International Federation of the Red Cross and Red Crescent Societies (IFRC) and the National Red Cross Societies of Austria, Bulgaria, France, Germany, The Netherlands and the United Kingdom to study EU and EU Member States' regulations for cross-border assistance within Europe. The project was supported by the Civil Protection Financial Instrument of the European Community.¹ However, sole responsibility for its contents resides with the authors. The European Commission is not responsible for any use that may be made of the information herein.

Through this report The Netherlands Red Cross hopes to contribute to the further development of legislation concerning (international) disaster management in The Netherlands. We would like to thank those who generously assisted us with their expertise in the field of crisis control and emergency management. In particular we would like to mention the Ministry of the Interior and Kingdom Relations, and in particular the LOCC, for their active participation in and support of this study.

¹ European Commission DG Environment, *Grant Agreement, Analysis of law in the EU pertaining to cross-border disaster relief*, IDRL study, 070401/2008/507842/SUB/A3, 8 September 2008.

II Introduction

Research indicates that disasters are on the rise all over the world. Moreover, in a recent report the IFRC concludes that natural disasters are increasingly related to climate change.² In practice, it appears that international disaster response regularly suffers from delay caused by domestic legislation and/or domestic (policy) procedures.³ National legislation often does not facilitate international disaster response with special legal arrangements. This gap in domestic legislation may result in unnecessary delay at the border of the State in need, unnecessary expenses and slow or even failed aid distribution. On the other hand, uncoordinated and sometimes inappropriate behaviour on the side of assisting actors leads to a similar failure to deliver efficient and high quality disaster relief.

The current report presents the results of a desk study of the laws and policies on incoming disaster relief in The Netherlands. A draft of this report has been augmented with results of a workshop held in The Hague on 17 December 2009, in which various stakeholders in disaster management in The Netherlands participated. This research project on the rules and regulations in The Netherlands forms part of a wider European study on International Disaster Response Laws, Rules and Principles (IDRL), coordinated by the International Federation of Red Cross and Red Crescent Societies (IFRC). Similar studies took place in Austria, Bulgaria, France, Germany and the United Kingdom. The results of the various national reports will be compiled in a synthesis report for the European Union, and will be offered for consideration to the national governments of the participating countries, the European Commission and other European stakeholders in international disaster response.

What is the purpose of the IDRL Guidelines?

The IDRL Guidelines are designed to be a tool for Governments to improve the efficiency and quality of (international) relief operations in their territory. The Guidelines are not intended to be legally binding, although they draw on existing international norms and practical experience. They aim to express an international consensus on what type of legal and policy arrangements a Government may develop to enhance its domestic regulatory frameworks, so as to ensure that if international assistance is required, the right assistance arrives at the right time – without displacing domestic relief and recovery efforts. In part 2 of this report we will have a closer look at the content of the IDRL Guidelines.

What is the purpose of this report?

This report outlines Dutch legislation and policy regarding emergency management and crisis control. It assesses to what extent the IDRL Guidelines could contribute to the further development of the legal framework for incoming international disaster response in The Netherlands.

The report contains an analysis on the basis of the IDRL Guidelines and asks the question whether The Netherlands is prepared in a legal sense for incoming international disaster response in a domestic crisis. The central questions are:

- How can The Netherlands benefit from the IDRL Guidelines?
- Does The Netherlands have a legal framework, i.e. legislation, regulations and policy, to facilitate international disaster response?
- If there is such a legal framework, are there any gaps in the existing legislation, regulations or the policy in relation to international disaster response?

² For example: Government of Indonesia and UN, *Post-Tsunami Lessons Learned and Best Practices Workshop. Report and Working Groups Output*, Jakarta, Indonesia, 16-17 May 2005, p. 4, and

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative, Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, Washington, 15 February 2006, p. 2.

³ For background information: 'Magazine Nationale Veiligheid en Crisisbeheersing, thema : burgerparticipatie en (zelf)redzaamheid bij rampen en crises, December 2008, vol. 1, nr. 12.

III Methodology and structure of this report

The research on which this report is based consisted of a desk study of current and developing legislation, as well as policy regarding crisis control and emergency management. In addition to this, interviews have been conducted with experts from the Ministry of the Interior and Kingdom Relations as well as from the Ministry of Foreign Affairs, scholars and other stakeholders.

The first chapter introduces the IDRL-Guidelines. To obtain a clearer idea of what type of issues IDRL deals with, Chapter 2 introduces a fictional disaster scenario, which serves as an illustration to the questions which may arise in case of incoming international disaster response. Chapter 3 contains an overview of Dutch legislation as well as EU and international legislation. Chapter 4 outlines the organizational structure and the decision-making procedures with regard to crisis control and emergency management in The Netherlands. Chapter 5 analyses the applicable legislation in light of the IDRL-Guidelines. Finally, Chapter 6 will summarize the findings of this analysis and presents several recommendations to the Dutch authorities.

*Community Disaster Preparedness*⁴

Although community preparedness for disasters is beyond the scope of this study, we would like to draw at least some attention to this topic. IDRL forms the legal element of general disaster preparedness. Disaster preparedness, including community and legal preparedness, should be part of disaster management legislation and policy. After all, when a disaster strikes, (international) relief may not be immediately available. It is therefore important to prepare the public for situations of disaster, by way of information sharing and exercises. The Dutch government acknowledges this important issue and initiated several campaigns to increase the awareness of risks.⁵ The national campaign 'Denk vooruit' (Think ahead), initiated in 2009, has increased the awareness of the need to individually prepare for disasters from 65% to 79%. In several regions the campaign was adopted by the local authorities to initiate their own campaigns. Currently, the Government is developing strategies to enable persons with disabilities to acquire more resilience in times of disaster.

The EU office of the Red Cross in Brussels, with support of the European Commission, is active in this field with the project 'Informed. Prepared. Together'.⁶ The project aims for civilians, private companies and community organizations to cooperate during disaster relief based on the principles of information, preparation, collaboration and resilience.⁷ In draft Safety Regions Act, which will be analysed in detail below, the initiative to involve these (private) actors in disaster preparedness plans lies with the Safety Regions. The Netherlands Red Cross encourages such cooperation between public and private actors in preparing for emergencies and crises.

⁴ For background information: 'Magazine Nationale Veiligheid en Crisisbeheersing, thema : burgerparticipatie en (zelf)redzaamheid bij rampen en crises', December 2008, vol. 1, nr. 12.

⁵ Ibid. p. 4.

⁶ See <www.informedprepared.eu>.

⁷ Red Cross/EU Office, *Human Aspects in Civil Protection – putting the principle into practice*, Brussels 2009.

Part 2

1 Introduction to the guidelines

1.1 The IDRL Guidelines

The *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (the IDRL-Guidelines) are recommendations meant for national governments. They are based on existing international legal and policy documents. The guidelines provide governments with a guide to the minimum quality criteria for domestic crisis control and emergency management legislation, as well as policy and planning, when it concerns cross-border relief. In addition, the IDRL Guidelines give advice on developing legal facilities for cross-border relief. In other words: the essence of the IDRL Guidelines is taking away unnecessary bureaucratic obstacles and stimulating adequate coordination in crises and disasters in order to bring about more efficient and quality disaster response.

1.2 Source of the Guidelines

In 2001 the IFRC initiated the IDRL program. At the 28th International Conference of the Red Cross and Red Crescent, in 2003, it was decided on the basis of extensive research to encourage the development of tools, models and guidelines for practical use during disaster response operations. The IDRL Guidelines are a result of this. In November 2007, during the 30th International Conference of the Red Cross and Red Crescent, the IDRL Guidelines were adopted.⁸ The States present, among which also The Netherlands, in a joint Pledge with the EU, pledged to support the IDRL Guidelines.⁹

1.3 For whom are the IDRL– Guidelines intended?

The IDRL Guidelines are primarily intended for policy makers, lawyers and those responsible in the (de)central authorities who work in the field of crisis control and emergency management. In addition, operational authorities can use the IDRL Guidelines as guide for additional regularization or policies. Of course, the Guidelines may be of interest to scholars and researchers on the field of disaster management and disaster response.

1.4 How can the IDRL Guidelines be of use?

From practice it appears that international relief experiences lots of legal, bureaucratic and operational problems.¹⁰ The IDRL Guidelines intend to address these problems and provide solutions to them. In the international practice of humanitarian assistance, there are lots of examples where relief goods and workers arrived far too late - or not at all - where they were needed, because the domestic legislation of the receiving State did not provide special regulation to facilitate such international assistance. One example is the delays caused by the bureaucracy of registration of relief workers in Thailand after the 2004 Tsunami, and the 270 containers with relief goods which were held up by the customs of Indonesia at that same time.¹¹ Along the same lines, international relief in the wake of

⁸ 30th International Conference of the Red Cross and Red Crescent, Resolution 4: Adoption of the Guidelines for the domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery assistance, 30IC/07/R4, Geneva, Switzerland, 26-30 November 2007, available at <<http://www.ifrc.org/Docs/pubs/idrl/guidelines/idrl-ic2007-pledge-chart.pdf>>.

⁹ See for The Netherlands: <<http://www.ifrc.org/Docs/pubs/idrl/guidelines/idrl-ic2007-pledge-chart.pdf>>. Both Resolutions of the Red Cross and Red Crescent and the Guidelines themselves are not as such legally binding. This implies that despite the fact that a State may have accepted the resolution it cannot be enforced by law. Therefore by signing the resolution no legal obligations result from that, see Annex under 1, sub 1 of the IDRL-guidelines.

¹⁰ IFRC 2007 p. 13-16.

¹¹ V. Bannon and D. Fisher 'Legal lessons in Disaster Relief from the Tsunami, the Pakistan Earthquake and Hurricane Katrina', ASIL Insights, vol. 10, issue 6, March 15, 2006.

Hurricane Katrina in the US led to problems. In this context, 400,000 military rations were quarantined by the USDA, because the US health regulations at the time prohibited the import of British beef.¹² This example illustrates that legal obstructions to disaster relief may lead to problems in Europe and North America just as they may elsewhere in the world.

Beside restrictions and delays at customs, other issues the Guidelines aim to address are related to:¹³

- Obtaining and/or renewal of visa, work permits, recognizing certificates of specialized personnel (in particular, medical personnel) and liability issues;
- Administrative and operational responsibilities of authorities and relief organizations;
- Legal status of humanitarian actors and relief workers and regulations regarding relief goods and equipment;
- Transportation issues, taxes, safety of relief workers and costs of emergency assistance.

1.5 Why can the guidelines be of use to The Netherlands?

Should the case arise that cross-border relief is necessary in The Netherlands, the Government assumes this will normally come in the form of European relief or assistance from one of our neighbouring countries. The Netherlands prepared itself for such incoming disaster assistance; the exercise Floodex 2009 in the province Noord-Holland is an example of how crisis control is exercised on a European level.¹⁴ However, it may occur that relief has to be requested from non-European countries because European emergency management might be exhausted, extra-European aid may turn up unrequested, or because specialists in a particular area are only available outside of Europe.¹⁵ That is why The Netherlands have to be prepared at all times for cross-border relief from Europe as well as outside Europe. In this respect the IDRL Guidelines may be a useful instrument as guide to assess and develop improved policy, improved law and, although The Ministry of Interior Affairs has designed procedures on cross-border relief in manuals, new operational rules and regulations.

1.6 More IDRL

Additional information and background on the Guidelines can be found on www.ifrc.org/idrl. In particular, the report '*Analysis of Law in the European Union pertaining to Cross-Border Disaster Relief*' (March 2010), which was developed in the context of the EU IDRL Pilot project that the current report is also a part of, may be found on the website as well.¹⁶ Other useful information includes:

- *Annotations to the guidelines*: the annotations refer to international legal policy documents which form the base of the IDRL-Guidelines.
- *Desk and case studies*: individual, regional and national case studies from over 20 countries are available.
- *IDRL database*: a database containing over 600 international and national legal instruments concerning international relief.
- *Monthly newsletter*: up-to-date developments in a monthly electronic newsletter.

¹² Bannon and Fisher 2006, p. 1.

¹³ IFRC, Introduction to the Guidelines for the Domestic Facilitation and Regulation of International disaster relief and Initial Recovery Assistance, Geneva 2008.

¹⁴ See <www.floodex.eu>.

¹⁵ For instance, The Netherlands government concludes that it is unlikely that there will be sufficient medical assistance available, should a major disaster strike, as can be found in cabinet letter no. 2009-0000205997, dated 29th June 2009, p. 5. In other words: Dutch medical institutions may very well require external assistance from either EU or non EU medically trained personnel.

¹⁶ <http://www.ifrc.org/Docs/pubs/idrl/193300-Analysis-of-law-in-EU-EN.pdf>.

2 Scenario

2.1 Introduction

The Netherlands has seen a number of serious disasters since 1945. During the Flood of 1953,¹⁷ when a large part of the province Zeeland flooded, 1836 people didn't survive. Another example is the flood of 1995, during which 250,000 people were evacuated from the province Gelderland. At the Bijmer disaster in 1996 a plane crashed into an Amsterdam residential area, killing 43 civilians. Cross-border assistance took place a total of two times: during the flood of 1953 and after the explosion of fireworks factory in Enschede in 2000.¹⁸

The Dutch disaster management authorities take international disaster response into account by way of the development of operational procedures, but have a tendency to focus on assistance from other EU members. In September 2009, The Netherlands hosted the disaster exercise *Floodex*, in which several European countries participated.¹⁹

The following risk diagram, developed by the Ministry of Interior Affairs, indicates the likelihood as well as the impact of disasters in The Netherlands.

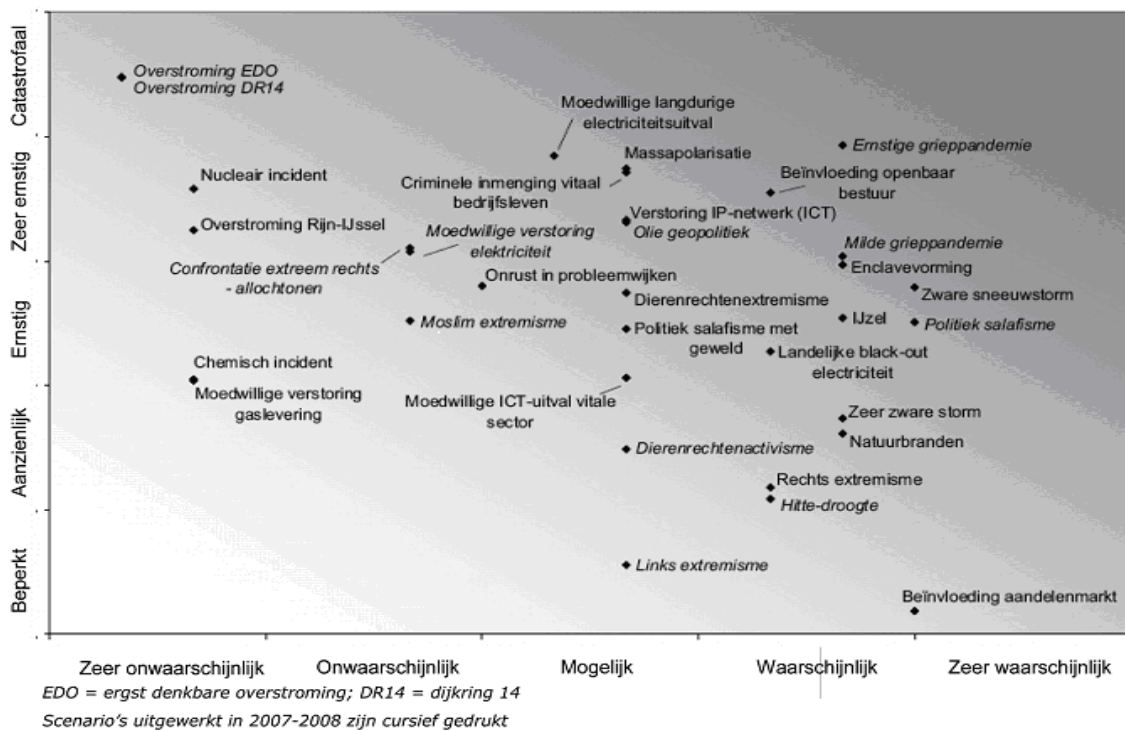


Figure 1, risk diagram of Dutch crises.²⁰

The schedule arranges anticipated risks by the categories of likelihood and intensity. By way of example, it is more likely that a flu pandemic or drought occurs than a disastrous flood or *EDO*

¹⁷ During the flood of 1953 military assistance was offered by France, Belgium, US, Germany and the UK.

¹⁸ See <http://www.zero-meridean.nl/ramp_sel.html>. See also the report "Crisisbeheersing in Bulgarije: Lessen voor Nederland (Crisis control in Bulgaria: Lessons for The Netherlands), Ministry of Interior Affairs, April 2008, p.5.

¹⁹ Check <www.floodex.eu>.

²⁰ Source: according to diagram in : Ministry of Interior Affairs, *Nationale Risicobeoordeling Bevindingenrapportage 2008*, The Hague, p. 19.

(acronym for *Ergst Denkbare Overstroming*, which means 'Worst Imaginable Flood').²¹ However, even though the occurrence of a such an EDO is less likely, the impact of it would be relatively high. Hence, the Dutch authorities work with flooding scenarios for their disaster exercises, like *Waterproef* ('Waterproof') of 2008 and the *Floodex* exercise of 2009.²²

As international assistance has only occurred sporadically in The Netherlands, this chapter introduces a fictional disaster scenario to serve as an illustration of the type of legal issues that is involved with incoming emergency assistance. We decided to follow the example of the authorities and focused our scenario on water as well.

²¹ Ministry of Interior Affairs, *Nationale Veiligheid, Nationale Risicobeoordeling*. Leidraad Methode 2008, June 2008.

²² Ministries of Interior Affairs and of Traffic and Public Works Dept., *Evaluation Crisis exercise Waterproef* (summary), Amersfoort, 20th March 2009.

2.2 Scenario ²³

Due to a combination of prolonged high water levels and extreme wind speeds at the Dutch coast several dikes at the Western coast break.²⁴ Steadily, the provinces Zeeland, Noord- and Zuid- Holland, Flevoland, Utrecht, Friesland and parts of Gelderland and Groningen are flooded. The coastal area as well as the IJsselmeer region are affected.²⁵ As various regions (and therefore municipalities) are involved, the coordination of the disaster upgrades to the national level.

As a result of the geographic reach of the disaster, the operation and availability of Dutch domestic disaster relief is compromised. In addition, European assistance and expertise are insufficient, as EU Member States like France, Belgium and the UK have been stricken by floods as well. As a result, not only EU assistance, but extra EU assistance is absolutely essential. International assistance quickly steps into the vacuum. The emergency relief from Russia consists of specialized medical staff.²⁶ The Israeli authorities send sniffer dogs and technicians specialized in evacuation, while a Swedish NGO sends containers of food aid. Finally, the Canadian Red Cross sends 35 trucks, with drivers, to transport victims to safe areas.

Questions that may arise concerning international assistance in this scenario:

- Is The Netherlands prepared to accept spontaneously rendered international assistance or should the Dutch government request international relief?
- Do Dutch policy and legislation prescribe in a clear sense which person or which institution coordinates international relief?
- Can medical staff from Russia enter The Netherlands without a visa, or will they receive an emergency visa?
- Can Russian medical staff immediately practice their profession, or do they have to comply with additional regulations to have their qualifications recognised?
- Is the payment of import duties required over Swedish food aid?
- What is the legal position (liability and illness/death) of the Russian medical staff and Israeli technicians?
- Are trucks allowed to drive in The Netherlands with a Canadian registration document?
- Can any Canadian drive a vehicle in The Netherlands without an exemption?
- Can the Israeli authorities import sniffer dogs and, if so, under what conditions?
- Who is the coordinating entity during the relief in case there is a collaboration with foreign Non-Governmental Organisations or Red Cross Societies?

Some of these questions might be relatively easy to answer, as the Netherlands has developed a large degree of legal and policy preparedness for disasters. However, other questions are not so easy to respond to. The following chapters will demonstrate which questions fall in the former category, and which ones fall in the latter.

²³ The scenario used in this report has been reviewed by the National Operational Coordination Centre (LOCC).

²⁴ B. Kolen and R. Geerts, *Als het toch misgaat: Overstromingsscenario's voor rampenplannen*, November 2006, page 4-3 to 4-5.

²⁵ Ibid, see chapter 5.

²⁶ Inspection Institute for Public Order and Safety, *'De organisatie van de geneeskundige hulpverlening bij ongevallen en rampen (GHOR)'*, February 2009. From the report it appears that no safety area has sufficient medical relief available. That is why at the moment relief from outside the region is needed when there is a major disaster. Also see the reaction to this report from the Ministry of Interior Affairs to the Chairman of the Lower House dated 29th June 2009, p.5.

3 Summary of legislation and policy on disaster management

3.1 Introduction

The first part of the current chapter outlines Dutch legislation dealing with disaster management, or crisis control and emergency relief. In the second part a summary of international laws, rules and guidelines will be provided, *i.e.* bilateral agreements, some European regulations and international treaties. But before we turn to legislation a few general remarks are in place.

The main aim of Dutch current security policy is to enhance the efficiency of disaster response as well as the quality of it. In view of this, several developments concerning Disaster Management Law and policy have taken place in The Netherlands.

The Dutch government is currently in the process of revising its legislation to realise a more streamlined set of laws to match a more streamlined organisation of disaster response. This *Safety Regions Act* should come into force on October 1st 2010. Paragraph 3.3 of this chapter will explore this new Act in more detail.

In the policy realm, the National Operational Coordination Centre (LOCC) has developed and tested the operational procedures for national crisis control and emergency management.²⁷ On the topic of incoming disaster relief, the LOCC developed the operational *Manual for Incoming Foreign Assistance*. The Manual is divided in 3 parts dealing separately with the topics of National Disaster Response, Cross-Border Assistance (Germany and Belgium) and International Assistance (EU and non-EU) respectively.²⁸ Procedures from this Manual will feature often in the analysis of the IDRL Guidelines below.

3.2 Domestic law

In The Netherlands legislation distinguishes between an emergency and a crisis. Both the emergency and the crisis should be considered as subtypes of a disaster. Dutch legislation relating to emergency management and crisis control is currently laid down in a number of separate laws and acts. This legislation will mostly be integrated, but partly adjusted, by the draft Safety Regions Act (see below). In this paragraph you will find an outline of the most important current legislation. The next paragraph will outline the changes and developments in the draft Safety Regions Act.

- *Disasters and Major Accidents Act 1985 (Wrzo)*:²⁹ This Act forms the basis of disaster management legislation in The Netherlands. It outlines the capacities and responsibilities of the various actors during emergency management. Furthermore, the Act lays down the command structures during disaster response operations, regulates the content of disaster plans, emergency management plans and coordination plans, as well as regulations concerning emergency management in extreme situations. National funding for decentralised emergency management in the Municipalities is also regulated in this Act.
- *Fire Department Act 1985 (Bw)*: This Act regulates the preparation for and relief during disasters and major accidents by the Fire Department.³⁰
- *Medical Relief during Accidents and Disasters Act (Act GHOR)*:³¹ This Act regulates the organization of medical relief during disasters. It forms the legal base for the GHOR region

²⁷ In connection with an evaluation of the worldwide crises of the past few years, among which the attacks on 11th September 2001, the war in Iraq, the bird flu, and the threat of the SARS epidemic, the Dutch cabinet was of the opinion that the present system on crisis control focused too much on the "classic" disasters and therefore was not adequately adapted nor prepared for modern threats because they have become more complex and large-scaled and in addition concern several sectors. Parliamentary documents II 2003/04, 29 668, nr. 1, *Beleidsplan crisisbeheersing 2004-2007*, June 2004, p 5, and the letter from the Minister of Interior Affairs to Parliament on the end report *Beleidsplan Crisisbeheersing 2004-2007* dated 11th July 2008, p. 1.

²⁸ LOCC, *Handboek Bijstand, definitie concept*, part 1 'Nationaal', part 2 *Grensoverschrijdende bijstandverlening, versie 1.1 and part 3 Inkomende buitenlandse bijstand*, versie 2, februari 2009.

²⁹ Wrzo Act of 30th January 1985, holding rules concerning emergency management and the preparation thereof.

³⁰ idem.

and medical assistance during disaster relief. In addition, the Act contains regulations on the recognition of medical institutions and financial compensation for medical assistance.

- *Police Act 1993*: This Act regulates, amongst other things, Police tasks and responsibilities during emergency management and crisis control.
- *Quality promotion emergency management Act (Wkr)*: This Act amends the Bw, Act GHOR and Wrzo.³² It was implemented to increase risk awareness of governance, civilians, companies and relief workers. The Act prescribes disaster management planning by governance agencies and response actors. It secures the quality of supervision, reporting and evaluation.³³

In addition to these basic laws, which form the basis of Dutch crisis control and emergency management, the following Acts are relevant:

- *Water Management Act 1900*: This Act creates the obligation for the Regional Water Authorities (of which there are 27 in The Netherlands) to make preparations for disasters by means of a calamity plan for water related disasters, like water management failure and flooding caused by the overflowing of rivers.³⁴
- *Coordination Act for Exceptional Circumstances*: This Act lays down rules on the proclamation of beginning and end of emergency situations, in which certain other laws may be derogated.³⁵
- *Compensation for Damages during Disasters and Major Accidents Act*: This Act regulates compensation for damage suffered through freshwater floods, earthquakes or other disasters and major accidents.³⁶
- *Decree Information regarding Disasters and Major Accidents (Birzo 1994)*: This Decree regulates the flow of information between the Authorities and private entities, like citizens and private companies, during and after a disaster focussing particularly on the confidentiality of that information.³⁷
- *Decree Risks and Major Accidents (Brzo 1999)*: This Decree lays down rules for prevention and control of disasters caused by dangerous substances.³⁸
- *Decree Emergency Management Planning (Bri 1999) and Decree Quality Criteria Emergency Management Planning (Bkpr 2004)*: Both decrees regulate the content and realization of emergency management plans, which (currently) have to be determined by the Mayor of a municipality.³⁹ In the draft Act Safety Regions, responsibility for planning is located at the Security Region level.

³¹ Act of 14th November 1991, holding rules regarding the organization and execution of medical relief during disasters, as well as the preparation thereof.

³² Act of 13th April 2004, Stb. 2004 184, to modification of the Fire Department Act 1985, the Act Disasters and Major Accidents and the Act medical relief during disasters with the promotion of the quality of the emergency management by means of a planned approach and the sharpening of provincial supervision and to modification of the Act Ambulance transport (*Act Quality promotion emergency management, Wkr*).

³³ Brochure *Act Quality promotion emergency management*, Ministry of Interior Affairs, July 2004.

³⁴ Act of 10th November 1900, holding general rules regarding management of Public Works Department, review 16th May 2002, see Article 68, 1st sub, of the Public Works Act 1900. Act of 25th May 1998, holding rules regarding compensation for damages and the cost in case of freshwater floods, earthquakes or other disasters and major accidents (*Act compensation damages during disasters and major accidents*).

³⁵ Act of 3rd April 1996, stb 1996 365 holding regulations regarding exceptional situations. (*Coordination Act exceptional situations*). Following Article 1, 1st sub of the Coordination Act exceptional situations, when extraordinary circumstances deem it necessary, by Royal Decree a state of emergency can be declared, like with a flood or hurricane.

³⁶ Act of 25th May 1998, holding rules on compensation of damages and the cost in case of freshwater floods, earthquakes or other disasters or major accidents. (*Act compensation in the event of disasters and major accidents*). Also Decree of 10th November 1998 holding rules to execute the Act compensation damage with disasters and major accidents.

³⁷ Decree of 20th June 1994, holding rules with relation to the provision of information during disasters (*Decree information during disasters and major accidents*).

³⁸ Decree of 27th May 1999 implements the Decree risks major accidents 1999 and amends several other decrees in connection with Council Directive 96/82/EG of the Board of the European Union of 9th December 1996 concerning the control of the dangers of major accidents with dangerous goods involved.

³⁹ Decree of 7th June 1999 holding rules with relation to emergency management plans for certain categories of institutions falling under the range of guideline 96/82/EG of the Council of Europe of 9th December 1996

3.3 Towards Safety Regions

The draft Safety Regions Act

- a) forms the legal basis for the Safety Region, a supra-local entity which is already applied in practice;⁴⁰
- b) realizes efficient and high-quality coordination of fire departments, medical services; emergency management and crisis control under a regional Safety Committee;
- c) manages the distribution of information and the official lines of communication during disasters and crisis control.

The draft Safety Regions Act has been approved by Parliament and the Senate, which is the last review stage before any law can be adopted in The Netherlands. The draft Act focuses on the integration of the three most important Acts on crisis control and emergency management currently in place, being the Fire Department Act (Bw), The Medical Assistance During Accidents and Disasters Act (GHOR Act) and the Disasters and Major Accidents Act (Wrzo Act). The draft Safety Regions Act seeks to replace to partly reorganise the structure of disaster response units of the three current Acts.

The draft Act is the legal embedding of the Safety Region, which is a multidisciplinary, supra local (but sub-Provincial) institution for disaster management and response.⁴¹ The draft Safety Regions Act legalises an organisational structure that is already applied in practice. A Safety Region, of which there are 25 in The Netherlands, is formed by a conglomeration of several municipalities, and is therefore supra local, and encompasses the fusion of command for the several disaster response actors, like fire department, the police and medical services (multi disciplinary). Supreme Command of the Safety Region is exercised by the Mayor of one of the several municipalities, namely the Mayor who has been appointed as Corps Manager of the regional Board of Police. In the case of a widespread disaster, upgrading of the disaster response coordination to supra regional coordination will occur. Should this be the case, all Mayors will remain in supreme command in their own Municipality in matters of order and public security, while the disaster response policy will be determined by the RBT (see below) and implemented under the responsibility of the Chairman of the Safety Region (i.e. the Mayor who is also Corps Manager of the Regional Board of Police). Furthermore, the draft Act manages streams of information and policy on communication during emergency management and crisis control.⁴² Finally, the draft Act installs the formation of a multi disciplinary regional operations team. This team will consist of the Management of all disaster response actors, *i.e.* Fire Department, Police and Medical Services.

Other changes include:

- Local emergency management will be tuned in more accurately with supra regional crisis control; Municipal disaster management planning will be replaced by planning on the regional level, by way of the Policy Plan for the Safety Region. This Policy Plan will be determined by the Board of the Safety Region. The purpose of this regionally concentrated planning is to secure the unity of disaster management planning of all Municipalities in one Safety Region.⁴³ This unity is further enhanced by the capacity of the Minister of Interior Affairs to determine indicative national disaster management policy targets. On the basis of these regional and national policies for the Safety

concerning the control of the dangers of major accidents with dangerous goods involved (*Decree emergency management institutions*) and Decree of 18th May 2004 to determine criteria to test the quality of the disaster plan, the emergency management plan and the control plan and to determine conditions regarding the contents of the organization plan (*Decree quality criteria planning emergency management, Bkpr*).

⁴⁰ Parliamentary documents / 2008/09 31 117, A.

⁴¹ Draft Commentary on the Safety Regions Act, p. 4-5

⁴² Advisory Committee Coordination ICT Emergency management, Parliamentary documents II, 2004/05, 26 956, nr. 37.

⁴³ Draft Commentary to the Safety Regions Act, p. 11.

Region, the Board of the Safety Region will determine an operational crisis- and emergency management plan.⁴⁴

- For the purpose of disaster response, the various fire departments within a Safety Region will be merged into one Department with one Corps Commander.
- In addition to the merging of local fire departments, regional police management will be integrated in the Board of the Safety Region. This arrangement should lead to better cooperation and shorter communication lines.
- The draft Act provides that the crisis plan should include agreements with healthcare services.⁴⁵
- The new law aims for a much more intensive collaboration between the Board of the Safety Region and other disaster management actors, like the Regional Water Authorities, the Ministry of Defence and the Netherlands Red Cross.⁴⁶ Beside those actors, (semi) private organizations like hospitals, Dutch Railways and the Royal Dutch Rescue Society play an important role in disaster management and response.⁴⁷

3.4 Bilateral agreements

Cross-border assistance to and from Belgium, Germany and Luxembourg is facilitated by means of bilateral agreements.⁴⁸ These agreements are based on the Executive Agreement of Madrid of 1980, which offers regional and local authorities a framework to cooperate in matters of disaster response on a public legal basis.⁴⁹

Cross-border assistance at the national level

- *Benelux*: cross-border cooperation in the Benelux has a legal base in the Benelux Agreement of 1991.⁵⁰ In the wake of this agreement, several cross-border treaties and agreements were possible. For example, the Memorandum of Senningen (2004) and the related treaty of 2006 between The Netherlands, Belgium and Luxembourg regulate cross-border police assistance.⁵¹ Furthermore, a memorandum of agreement is being prepared regarding disaster response with possible border-crossing consequences in the Benelux nations.⁵²

⁴⁴ This crisis plan describes possible disaster scenarios in the region concerned, rules regarding management and performance and refers to specific emergency management planning or crisis scenarios. The emergency management planning is an operational plan in which the approach of concrete disaster situations for specific institutes is described, see Ministry of Interior Affairs 2007, p. 7.

⁴⁵ Within the scope of initial relief during disasters, relief workers of hospitals, ambulance staff, doctors, volunteers of the Red Cross and GGZ staff need to learn skills, see MvT, p. 19.

⁴⁶ Decree of 22nd December 1988, containing determination from a general measure from government committee to arranging voluntary relief for wounded and sick people, prisoners of war, internees and people in need for other reasons, by recognized and admitted associations.

⁴⁷ Ministry of Interior Affairs 2007, p. 11.

⁴⁸ An overview of the (de)central bilateral treaties can be found in : M. van Ettinger a.o. Study border crossing collaboration during crisis control ordered by the Ministry of Interior Affairs, Utrecht, Capgemini Nederland bv 2008, also see note 58.

⁴⁹ Executive agreement regarding border crossing collaboration between territorial communities or authorities dated 21st May 1980, Madrid.

⁵⁰ Benelux Agreement regarding border crossing collaboration between territorial collaborations or authorities (1991).

⁵¹ Memorandum of Senningen – Treaty between the Kingdom of the Netherlands, the Kingdom of Belgium and the grand duchy Luxembourg regarding border crossing police action (2004) and Treaty between the Kingdom of the Netherlands, the Kingdom Belgium and the Grand Duchy of Luxembourg regarding border crossing police action (2006).

⁵² Memorandum of agreement regarding the collaboration in the field of crises control with possible border crossing consequences between the Kingdom Belgium, the Kingdom of the Netherlands and the grand duchy Luxembourg – Declaration of Intent (2006) based on the joint declaration for border crossing collaboration the Netherlands, Belgium, Flanders and Walloon provinces of 2002 regarding the collaboration of police and the collaboration in emergency management.

- *Belgium*: Belgium and The Netherlands have an agreement (1984) regarding cross-border assistance during a disaster or major accidents.⁵³
- *Germany*: the Treaty of Anholt provides a legal base to collaborate on border-crossing cooperation in general.⁵⁴ The Treaty of Enschede regulates border-crossing police assistance between the two States.⁵⁵

States that are a party to the Treaty of Prüm (Schengen III) support the improvement and simplification of the exchange of information and operational cooperation.⁵⁶

Border crossing relief at decentralised level

In addition to bilateral treaties at the national level, border-crossing disaster response assistance is facilitated at decentralised level by means of agreements between border towns on the Dutch-German and Dutch-Belgian border (e.g. the agreement between Zundert (NL) and Hoogstraten (BE)), as well as between Dutch provinces and adjacent foreign provinces (e.g. Zeeland (NL) and East –Flanders (BE)).⁵⁷ There are over one hundred agreements of this kind in place. They facilitate a substantial part of the collaboration between towns, provinces and relief services in border-crossing relief.⁵⁸ One must take into consideration that these agreements are not always legally binding.

3.5 Communal Instruments

- *Council Directive 96/82/EG, SEVESO II*: In this Directive conditions have been inserted relating to safety systems, emergency plans, town and country planning, as well as strengthening the inspection- and information rules. Contrary to SEVESO I, in this Directive the environment has been given a more central place.⁵⁹
- With *Decree 98/685/EG 23 March 1998 of the Council of Europe* the Treaty of Helsinki (see below) has been approved.⁶⁰ In this Decree however, some reservations have been made, because the threshold conditions in the Treaty of Helsinki do not correspond entirely with the threshold conditions the SEVESO II Directive holds. Both regulations concern conditions regarding border crossing collaboration with major accidents in relation to industrial accidents and disasters.

⁵³ Agreement between the Kingdom of the Netherlands and the Kingdom of Belgium regarding mutual offering of assistance when fighting disasters and accidents 1984.

⁵⁴ Agreement the Kingdom of The Netherlands, Germany, Lower Saxony and Noordrijn-Westfalen regarding border crossing collaboration 1991 and joint declaration The Netherlands-Noordrijn-Westfalen regarding border crossing collaboration 2000.

⁵⁵ Treaty between the Kingdom of the Netherlands and the Federal Republic of Germany regarding the border crossing police collaboration and the collaboration in criminal cases; Enschede, 2nd March 2005.

⁵⁶ Treaty between the Kingdom of Belgium, the Federal Republic of Germany, The Kingdom of Spain, The Republic of France, the grand duchy Luxembourg, the Kingdom of the Netherlands and the Republic Austria regarding intensifying border crossing collaboration, in particular to fight terrorism, border crossing criminality and illegal migration; Prüm, 27th May 2005.

⁵⁷ A summary of the (de)central bilateral treaties can be found in: M. van Ettinger a.o., *Study border crossing collaboration in crisis control ordered by the Ministry of Interior Affairs*, Utrecht: Capgemini Nederland bv, 2008.

⁵⁸ From a practical and topographical point of view it is sometimes more efficient to receive assistance from a adjacent foreign city than Dutch help. See for a summary of bilateral agreements Ettinger a.o. 2008, app. 3 and M. Ramakers e.a., *Grensoverschrijdende hulpverlening in de Euregio Maas-Rijn, Wet- en regelgeving, overeenkomsten en afspraken met betrekking tot de grensoverschrijdende ambulance- en brandweezorg in de Euregio Maas-Rijn*, EMRIC-GGDZuid-Limburg, augustus 2007. p. 78 a.f., also see note 58.

⁵⁹ Directive 96/82/EG of the Council of Europe, 9th December 1996 concerning the control of the dangers of major accidents with dangerous goods involved. The present Directive replaces the SEVESO I Directive 82/501/EEG.

⁶⁰ Decree of the Council of 23rd March 1998 concerning closing the Treaty regarding border crossing consequences of industrial accidents (98/685/EG).

- *Decree 2007/779/EG of 8th November 2007* of the Council of Europe:⁶¹ This Decree governs the determination of a communal mechanism for civil protection in emergency situations or the immediate threat of that, inside as well as outside the European Union. Following Article 1, 2nd sub of the decree the mechanism secures the protection of persons, but also of the environment and property, including cultural property, both during accidents of technological, natural or of radiation- or environmental nature, including marine pollution.

3.6 International Instruments

International legal instruments and guidelines include (but are not limited to)

- The *Treaty of Helsinki* determines procedures for international collaboration regarding the prevention of, the preparation of, and the response to industrial disasters or crises where dangerous goods are involved that can have border crossing consequences.⁶²
- *Oslo guidelines 1994 (rev. 2007)*: These guidelines arrange the deployment of personnel, equipment and services by foreign military, civil defense and civil protection forces when a State has been struck with disaster.⁶³
- *INSARAG guidelines*: These guidelines, which have been developed at the initiative of the UN, offer a framework for international search and rescue operations.⁶⁴
- *NATO Policy on Cooperation for Disaster Assistance in Peacetime (1995)*:⁶⁵ Member States and Partnerships for Peace countries can in peace time appeal to the NATO as medium for the exchange of information, for assistance when coordinating during disasters and crises, or for the input of NATO materials and staff. For this purpose, the Euro Atlantic Disaster Response coordination centre has been introduced. The Netherlands Minister of the Interior and Kingdom Relations, Dr. Ter Horst, signed a Memorandum of Understanding (MoU) on the Facilitation of Vital Civil Cross Border Transport in the presence of NATO Secretary General on 25 June 2008. This Memorandum aims to improve speed and efficiency in the provision of international humanitarian assistance following terrorist attacks, natural and man-made disasters and was developed by the Senior Civil Emergency Planning Committee (SCEPC).⁶⁶
- *Tampere Convention*:⁶⁷ The treaty has the purpose to promote reliable communication systems and the provision of telecommunication resources during a.o. disasters.⁶⁸

⁶¹ Decree of the Council of 8th November 2007 to determine a communal mechanism for civil protection (2007/779/EG, Euratom) and Decree of the Council of 5th March 2007 to install a financing instrument for civil protection (2007/162/EG, Euratom).

⁶² Treaty of Helsinki of 18th March 1992 (signing) , ratification for The Netherlands 6th November 2006; became in force 4th February 2007.

⁶³ *Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief*, UN OCHA, Oslo, 1994, update November 2006.

⁶⁴ Accepted by the General Meeting of the UN through Resolution 57/150 of 16th December 2002 '*Strengthening the Effectiveness and Coordination of international USAR assistance*'.

⁶⁵ Approved by the North-Atlantic Council on 9th May 1995; also see <<http://www.nato.int/docu/loji-en/1997/lo-1124.htm>>.

⁶⁶ <http://www.nato.int/docu/update/2008/06-june/e0625a.html>.

⁶⁷ *The Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations*, Tampere, Finland, 18th June 1998. The Netherlands signed the convention on 19th December 2000 and silently accepted it on 6th July 2001.

⁶⁸ Parliamentary documents I and II 2000-01, 27 666 (R 1680), nr. 257, nr. 1.

4 Emergency management and crisis control in The Netherlands

4.1 Introduction

As we have seen in the previous chapter, emergencies and a crises are the two categories of disaster management. This distinction is inspired by the separate line of (command) responsibilities when it comes to disaster management on the local, regional and the national level. The responsibility regarding emergency management lies with the Municipality or the Safety Region. The coordination of relief during a crisis takes place at national level.⁶⁹

The official definition of an emergency:

*'(...) a major accident or other occurrence where the lives and health of many people, environment or large material interests have been damaged in a severe way or are seriously threatened. A coordinated input of services or organizations of various disciplines is required to take away the threat or to limit the damage.'*⁷⁰

Emergency management is defined as 'the totality of measures and provisions, including the preparation thereof, taken by the Municipality or the Board of a Safety Region regarding disaster response, disaster prevention and limitation of the consequences of a disaster.'⁷¹ Contrary to a crisis, an emergency is normally caused by a single event, while a crisis is triggered by a combination of factors.

The Manual on Preparation for Emergency Management 2008, successor of the Manual on Preparation for Emergency Management 1990, outlines seven different types of emergencies: a) emergencies with relation to traffic and transport, b) emergencies relating to dangerous substances, c) public health emergencies, d) emergencies regarding infrastructure, e) emergencies regarding the population, f) natural emergencies and g) emergencies at a distance.⁷²

The official definition of a crisis:

*'(...) a serious disturbance of the basic structures or the damaging the fundamental values and norms of the social system.'*⁷³

By crisis control we mean 'the totality of measures and provisions that the government takes in collaboration with other organizations regarding (acute) crisis situations to secure safety in the broadest sense.'⁷⁴ When it comes to crisis control, protection of the national and international legal system as well as the public and economic safety (the so called 'vital interests') takes centre stage. As soon as national safety in the broadest sense is at stake, we call this a crisis.⁷⁵ When that is the case,

⁶⁹ Ministry of Interior Affairs, *Manual Preparation emergency management, Structuring documentation emergency management*, Ministry of Interior Affairs, 3rd July 2008, p. 19 and 52.

⁷⁰ See Ministry of Interior Affairs, *The safety region. Bill of the Act Safety regions, how, what and why?*, The Hague, November 2007. The definition currently used has been legally rooted in Article 1 of the Act Disasters and major accidents and there a disaster or major accident is called a situation where

a) serious disturbance of the public safety has been caused by it, where the lives and health of many people, the environment or large material interests are threatened severely or have been damaged, and
b) a coordinated input of services and organizations of various disciplines is required to take away the threat or to limit the damage.

⁷¹ Draft Act Safety Regions, Parliamentary documents / 2008/09, 31 117, A, 23 April 2009, p.1.

⁷² Ministry of Interior Affairs 2008, p. 18.

⁷³ National Coordination Centre, *Nationaal Handboek Crisisbesluitvorming*, The Hague, July 1998, annex 3 of the Progress Report Crisis control at national level 1999-2001, p. 5. In the Draft Safety Regions Act, crisis is described as a situation in which a vital interest of society has been damaged or is about to be damaged, see Draft Act Safety regions, Parliamentary documents /2008/09, 31 117, A, 23rd April 2009, p. 1.

⁷⁴ Ibid. p.7.

⁷⁵ NCC 1998, p. 7.

the responsibility for disaster response will shift from the Mayor or Manager of the Safety Region to the Minister of Interior Affairs. The Dutch authorities take an active approach to crisis control maintenance. An example of this is the national crisis exercise *Waterproef*, which took place in 2008 and the more recent international exercise *Floodex (2009)*.⁷⁶

In the paragraphs below we will outline the organisation of disaster management for emergencies and crises separately.

4.2. Disaster management during emergencies

According to current legislation, the Municipality is responsible for the preparation of response to emergencies and major accidents and is to present a Disaster Response Plan at minimum every 4 years.⁷⁷ As soon as disaster strikes, the disaster plan enters into force and the Mayor will have supreme command, as laid down in Article 11 of the Wrzo.⁷⁸ The Mayor is also responsible for provision of information on the disaster to the population, the Head Public Prosecutor, the Royal Commissioner and the Minister of Interior Affairs.⁷⁹

It is likely that the impact of an emergency affects areas across the municipal border. For this reason, there are so-called Safety Regions that encompass several Municipalities. Based on the Fire Department Act of 1985, Municipalities have been clustered in Regions and regional fire departments have been established which make preparations for the emergency management by means of a Regional Control Plan. In addition to managing the planning of disaster response, they focus on the response operation itself.⁸⁰ As the current legislation does not provide for a regional supreme commander, a coordinating mayor is appointed from the Council of Mayors. The responsibility shifts to Provincial level when a disaster affects two or more Municipalities. When the draft Safety Regions Act enters into force, this will change. The Safety Region will coordinate any emergency that affects more than one Municipality.

The province supervises preparations of emergency management of Municipalities and Regional Water Authorities. The Council of Deputy States (the supreme organ of the Province) has the authority to test municipal disaster plans, calamity plans of Regional Water Authorities and Regional Control Plans.⁸¹ The emergency management of the regional fire departments however, is reviewed by the Royal Commissioner.⁸² Once every four years, the Royal Commissioner lays down a Provincial Coordination Plan, which includes a chain of command over and the coordinated operation of services and organizations responding to a disaster or major accident at provincial level. In addition, the Commissioner's Provincial Coordination Plan contains details on the request and rendering of

⁷⁶ Ministries of Interior Affairs and Traffic and Public Works, *Evaluation crisis exercise Waterproef (summary)*, Amersfoort, 20th March 2009.

⁷⁷ Based on Article 2 and 3 of the Wrzo in a disaster plan an inventory of the risks is made, and the organization, responsibilities, tasks and authorities within the scope of emergency management are described therein. The policy with regard to the determination of emergency management plans is also laid down in the disaster plan.

⁷⁸ Based on *Handboek Voorbereiding Rampenbestrijding, Structurering Documentatie Rampenbestrijding*, p. 21 the Mayor does not have to declare a state of emergency before he acquires supreme command.

⁷⁹ The District Water Board has their own authority with regard to public works and determines their own disaster plan, the so called calamity plan, see Act of 10th November 1900, holding general rules regarding the Public Works board, review 16th May 2002, Article 69, sub 1. When a calamity occurs simultaneously with a disaster, e.g. a flood, then the District Water Board policy, which is supervised by the person responsible for maintenance of the embankments, needs to be attuned to the Mayor who holds supreme command, see Ministry of Interior Affairs 2008, p.23.

⁸⁰ Act of 30th January 1985, holding new rules regarding Fire Departments (Bw), Article 3 into Article 4 and 4a Bw.

⁸¹ Article 7 and 9 of the Wrzo and Article 69 of the Public Works Act 1900.

⁸² Article 8 of the Wrzo into Article 10 of the Act Quality promotion emergency management 2004 (Wkr).

assistance.⁸³ When the draft Safety Regions Act enters into force, the role of the Royal Commissioner will decrease. During a disaster, the Municipality has several relief services at her disposal like the fire department, police and medical organizations.

Fire department

During operations, the fire department plays a central role in emergency response. Under the draft Act Safety Regions, the starting point is that a regional fire department is under command of one commander.⁸⁴ Municipalities may determine individually to have their municipal fire department merge in regional connection or to continue independently. It is important to note that, in spite of the central role in operations of the (regional) fire department, the draft Act does not provide for a distinct role in the coordination of disaster response, as coordination of operations lies with the Board of the Safety Region.

Medical relief

The first priority of medical organizations during disasters and major accidents is rescue of and providing medical care to victims.⁸⁵ Based on Article 3 of the Medical Assistance during Accidents and Disasters Act (Act GHOR), GHOR regions have been instituted as inter-municipal collaboration. These regions are aimed at cohesive functioning of the health institutes within the medical relief chain. A GHOR region is supervised by the regional medical officer⁸⁶ and it coordinates all medical relief activities during a major accident or disaster. The GHOR will be integrated in the Safety Region under the Act Safety Regions.

Police

The tasks of the police during a disaster are, amongst others, maintenance of public order, traffic management, arrangement of cordons, carrying out of criminal investigation to find the cause of the disaster, identification of the victims and effectuation of administrative measures.⁸⁷

The Netherlands Red Cross

The Netherlands Red Cross (NRK) is not a governmental body, but a neutral, impartial and independent humanitarian organisation, and a society by Dutch law. In the operational field the Netherlands Red Cross is auxiliary in emergency management and crisis control in The Netherlands. Regarding this role, a general legal basis can be found in the Red Cross Act of 1988, in which the NRK is granted an auxiliary role to the government to offer humanitarian assistance to, amongst others, victims of disasters.⁸⁸ The concrete execution of that role has been laid down in the agreements between Municipalities or Safety Regions and the NRK. The emergency management responsibilities of the NRK consist of emergency medical assistance (see below), providing shelter and care to victims and wounded and restoring family links. With regard to offering emergency medical assistance, every Safety Region is equipped with an Instant Operation Unit for Medical Assistance

⁸³ Article 6 of the Wkr.

⁸⁴ Ministry of Interior Affairs 2007, p.10.

⁸⁵ The Act Quality promotion emergency management defines medical assistance as: organizing relief activities in the field of somatic and psycho-social care and the preventative and public healthcare, after a major accident or disaster, except for taking care of wounded by soldiers. Article III, under Article 1 sub b of the Wkr, p. 13. The bill Safety Regions Act defines medical care in Article 1: 'medical care within the scope of emergency management and crisis control by staff appointed for that task, as part of a coordinated input of services and organizations of various disciplines, through an emergency centre.'

⁸⁶ Act of 14th November 1991, holding rules regarding the organization and execution of medical relief during disasters as well as the preparation to that, see Article 4 of the GHOR and Article 5 of the Wkr.

⁸⁷ Ministry of BKZ 2008, p. 27.

⁸⁸ Decree of 22nd December 1988, holding determination of a general measure from the national committee to arrange the voluntary relief to wounded, sick, prisoners of war, internees and those in need of something else, by recognized and admitted societies.

(Snel Inzetbare Groep ter Medische Assistentie, or SIGMA). Every unit is formed by 8 highly trained volunteers of the NRK who have the capacity to be in operation within 30 minutes after an emergency request. The SIGMA team works under the responsibility of the GHOR (see above) Medical Officer, who in his/her turn falls under the supreme command of the Mayor or (under the draft Act Safety Regions) Manager of the Safety Region concerned. Concerning the Restoring Family Links activities the Municipality can only make an appeal on this NRK task on the basis of a prior agreement with NRK.⁸⁹ Shelter and care of victims takes place on the basis of agreements between Municipalities and local departments of the NRK. At the moment, NRK plays a limited role when it comes to policy development on crisis control and emergency management.

The International Red Cross and Red Crescent Movement

The Netherlands Red Cross is part of the International Red Cross and Red Crescent Movement. The International Red Cross and Red Crescent Movement is the world's largest humanitarian network. The Movement is neutral and impartial, and provides protection and assistance to people affected by disasters and conflicts. It Movement consists of three components:

1. The International Committee of the Red Cross (ICRC)
2. The International Federation of Red Cross and Red Crescent Societies (IFRC)
3. The National Societies in the different countries (186 in total)

Of these three components the IFRC and the National Societies are involved in disaster response. National Societies support the public authorities in their own countries as independent auxiliaries to the government in the humanitarian field, this is referred to as the auxiliary role of National Red Cross or Red Crescent Societies. In view of the solidarity binding them together, National Societies shall help one another when faced with a situation exceeding the resources of any one Society. In the case of international assistance in such a disaster, the IFRC coordinates and directs international assistance following natural and man-made disasters in non-conflict situations.⁹⁰ Hence, it is the lead agency in the disaster response of the Movement. As lead agency, the IFRC carries out the general direction and coordination of the international operational activities. To enable the Federation to act as the disaster information centre, National Societies shall immediately inform it of any major disaster occurring within their country, including data on the extent of the damage and on the relief measures taken at the national level to assist victims.

Even if the National Society does not envisage appealing for external assistance, the Federation may, in the spirit of Federation solidarity, send a representative/s to the disaster-affected area to gather information and assist the National Society in dealing with the international dimensions of the disaster. Any request from a National Society of a stricken country for international assistance shall be addressed to the Federation. Such a request must contain an overview of the situation in the disaster area, the number of persons to be helped and the nature, quantities and priorities of relief supplies needed by the National Society. On receipt of such a request, the Federation will, when conditions call for it, launch an appeal to all National Societies or, depending on the circumstances, to a certain number of them.⁹¹

⁸⁹ In the meantime about 300 municipalities entered into an agreement on information on next of kin with the NRK.

⁹⁰ *Statutes of the International Red Cross and Red Crescent Movement* (adopted by the 25th International Conference of the Red Cross at Geneva in 1986, amended in 19951 and 20062)

⁹¹ *Principles and Rules for Red Cross and Red Crescent Disaster Relief*, Adopted by the XXIst International Conference of the Red Cross (Istanbul, 1969) - revised by the XXIIInd, XXIIIrd, XXIVth, XXVth and XXVIth International Conferences - Tehran (1973), Bucharest (1977), Manila (1981), Geneva (1986) and Geneva (1995).

All components of the Movement adhere to a set of standards when it comes to disaster response, such as the Principles and Rules for Red Cross and Red Crescent Disaster Relief, which were approved by a Resolution at the International Conference of the Red Cross and Red Crescent in 1993, which was attended by States, and the Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief.

4.3 Upgrading

'Upgrading' to a more centralised level of disaster management takes place when an emergency develops into a national crisis, or when a disaster is of such a scale that it is considered to be a national crisis in the first place. The process of upgrading has been consolidated for most regions in a 'Coordinated Regional Incident Response Procedure' (gecoördineerde regionale incidentenbestrijdingsprocedure, or: GRIP).⁹² This procedure sets out emergency phases, where higher levels of emergency prompt more centralised disaster management and disaster response.

- During phase I of emergency of the GRIP, i.e. when the incident is local and no specific operational commander has been appointed, the response units work independently and under their own command structures. However, a general overview is necessary and a team at the scene of the incident, The Coordination Team on Location (Coördinatie Team Plaats Incident, or CTPI), consisting of the commanders of the separate response units, has the general overview over the executing units.
- Upgrading to phase II of the state of emergency of the GRIP takes place when the affected area exceeds the area of the original incident. In this phase an Operational Team (OT) is constituted, in which the Commander of one of the response units is assigned with Supreme command. Normally this will be the Commander of the Fire Department or of the Police Department.
- If the lives and health of large groups of people are seriously threatened or have been damaged, there will be an upgrade to phase III of the GRIP. These types of effects indicate a disaster in the sense of the Disasters and Major Accidents Act. In addition to the COPI and the OT, a Municipal Policy Team (Gemeentelijk Beleidsteam or GBT) will be instituted to coordinate response.
- Upgrading to phase IV of the GRIP takes place when the border of municipalities or regions is crossed. The Regional Policy Team (Regionaal Beleidsteam, or RBT) takes over from the GBT. The Royal Commissioner has a coordinating role. The Royal Commissioner is informed and he or she will set up a Provincial Coordination Centre (Provinciaal Coördinatiecentrum, or PCC).

4.4 Disaster management during crisis

An emergency may grow into a serious disturbance of the basic structures of society or cause damage to the fundamental norms of the social system. At that point the emergency is considered to be a crisis under the Dutch disaster management rules and regulations. Crisis control is subject to a different management system than emergencies. A crisis is coordinated at the national level by means of a top-down crisis control system. The Minister of Interior Affairs is responsible as coordinating Minister for national crisis control and public safety.⁹³ In July 2009 the Minister of Interior Affairs announced that a ministerial commission will be institutionalised in times of crisis. This commission ensures adequate and efficient decision-making on the national level. This Commission replaces the current Ministerial Policy Team (Ministerieel Beleidsteam, or MBT). The representatives in the new commission will be dependent on the type and nature of the crisis. It decides by majority of votes, and is Presided by the Minister of Interior Affairs, unless the Prime Minister should decide that he will preside. Another exception is triggered if the crisis is caused by an act of terror; in that case, the Minister of Justice or the Prime Minister will preside. Finally, the Prime Minister will have the final decision capacity should a crisis supersede the responsibility of the several Ministries involved. The

⁹² Ministry of Interior Affairs 2008, p.67.

⁹³ Ministry of Interior Affairs 2004, p.5.

government has opted not to anchor this capacity in a legal instrument, but does recognise the need to increase adequacy and unity in disaster management on the national level.⁹⁴

Departmental Coordination Centre

Individual Ministries and their respective Ministers are responsible for the preparation and management of crises in the field of their policy area.⁹⁵ By way of example, the Minister of Housing, Spatial Planning and the Environment is responsible for the coordination of nuclear accidents, while the Minister of Transport, Public Works and Water Management is responsible for the management of floods. Every department therefore has the disposal over their own Departmental Coordination Centre (DCC) which is activated by the specific minister in case he or she deems it necessary, while notifying the Prime Minister and the Minister of Interior Affairs.⁹⁶

National Crisis Centre

Central point during a crisis is the National Crisis Centre (NCC).⁹⁷ This governmental body provides administrative advice to the Minister of Interior Affairs and provides administrative coordination at departmental level.⁹⁸ Furthermore, the NCC distributes information concerning disasters with foreign partners. The NCC is also responsible for requests for assistance to the EU Mechanism. In case the Minister of Interior Affairs deems it desirable or necessary, he will ask for assistance via the NCC from the European Commission.⁹⁹

National Information centre

The National Information Centre (Nationaal Voorlichtingscentrum, or NVC) provides advice on the information strategy to the public and it develops, coordinates and streamlines information from the national government to the public.¹⁰⁰ Finally, the preparation and provision of information to national and international press and other media falls under its responsibility.

National Operational Coordination Centre

Since 2005 the National Operational Coordination Centre (Landelijk Operationeel Coördinatie Centrum, or LOCC) coordinates national operations (i.e. region-exceeding activities), in the preparation- as well as the response phase. During a crisis it provides strategic operational advice and it manages response units (on the operational level).¹⁰¹ The LOCC also manages the coordination of response services (i.e. fire department and police, ambulance and military police) and the Municipality. In addition, the LOCC coordinates international assistance at the operational level.¹⁰² In principle, the LOCC operates only upon request, but it has the capacity to initiate operations as well.

Armed Forces

The role of the Dutch Armed Forces has developed from a forming 'safety net' for limited civil capacities to a structural being safety partner of the traditional disaster response services.¹⁰³ The Ministries of Defense and Interior Affairs compiled a catalogue in which guaranteed capacities of the

⁹⁴ See <http://www.minbzk.nl/onderwerpen/veiligheid/nieuws_veiligheid/nieuws--en?ActItdt=120996>.

⁹⁵ NCC 1998, p.8.

⁹⁶ In the reference book 'Crisis en Recht' from 2008 a summary has been put together with 27 policy areas and the ministers responsible for them, see: Ministry of Interior Affairs, *Crisis en Recht, Schema's bevoegdheden en verplichtingen tijdens crises*, The Hague 2008. The minister of VROM e.g. is responsible for the coordination of nuclear accidents and the Minister of V&W for floods.

⁹⁷ See NCC 1998, p. 8 and Letter of Minister of Interior Affairs to the Lower House on final report Policy Plan Crisis control 2004-2007 dated July 11 2008, p 7.

⁹⁸ *Manual on Disaster Relief 2009*, part 1, National, p. 13, version: July 2009.

⁹⁹ Explanatory Memorandum Act Safety Regions, Parliamentary documents II 2006/7, 31 117, nr. 3, p. 42.

¹⁰⁰ NCC 1998, p. 14.

¹⁰¹ See NCC 1998, p. 8 and letter of Minister of Interior Affairs to Lower House on final report Policy Plan Crisis Control 2004-2007 dated 11th July 2008, p. 7.

¹⁰² See E.M. Stuger, *Visiedocument Landelijk Operationeel Coördinatiecentrum (LOCC)*, Ministry of Interior Affairs, 7th October 2003.

¹⁰³ Parliamentary documents II 2007/08, 26 956, nr. 52 Staatscourant 2nd August 2007, nr. 147, p. 27, Article 2 of the Administrative agreements regarding intensifying civil military collaboration, 13th July 2007.

Armed Forces and the procedures to be followed during crisis control and emergency management have been outlined.¹⁰⁴ Civil-military cooperation is intensified in the field of command structures, deployment of personnel and of means, ICT support, joint training and scientific research.¹⁰⁵ In addition to this, an Officer from the Armed Forces has been added to the Board of every Safety Region. Based on administrative agreements in 2007, the Armed Forces guarantee the availability of 4,600 soldiers, of which 3,000 soldiers for general support and 1,600 soldiers for specific kinds of support and relief with specific means.

Non- and semi-public corporations

Based on the report *Bescherming vitale infrastructuur* (Protection of vital infrastructure), the Government concluded that cooperation needs to take place not only between public authorities and services (police, fire department etc.), but also non- and semi-public corporations are a partner in matters of crisis control. Non- and semi-public corporations control or own 70 to 80 percent of the vital infrastructure: products, services and underlying processes which may cause serious social disruptions should they fail to function.¹⁰⁶ This vital infrastructure consists amongst others of the energy sector, telecommunication, healthcare, transport and the chemical and nuclear industry.¹⁰⁷ Disruptions of the vital infrastructure during disasters can also have serious consequences regarding disaster response. To the extent it owns or controls the vital infrastructure, the Government considers corporations to hold the primary responsibility for minimizing the threat of a disaster, preparation for disasters, disaster response and the aftercare of disaster affected areas.¹⁰⁸

4.5 Disaster management on the Netherlands Antilles and Aruba

The authorities on the Netherlands Antilles and Aruba are responsible for their emergency management. On the Netherlands Antilles the emergency management falls under the responsibility of the Minister of General Affairs, head of the Disaster Bureau. The National Bureau of the Disaster Coordinator (Nationaal Bureau Rampencoördinator) is responsible for coordination at practical and political-administrative level. On the basis of the Royal Decree of July 3 1987,¹⁰⁹ the Governors of the Netherlands Antilles and Aruba may employ the Armed Forces for assistance in matters of national security and public order. In practice, Dutch Armed Forces play an important role in emergency management at the islands. When a disaster occurs, the Governor of the Netherlands Antilles normally requests the Commander of the Netherlands Navy for assistance.¹¹⁰ The Coastal Guard for the Netherlands Antilles and Aruba may also be employed during disaster response.¹¹¹

The Netherlands apply the Manual on Decision Making Procedures during Crises for Disaster Assistance to the Netherlands Antilles and Aruba.¹¹² The NCC formally coordinates assistance coming from The Netherlands. The Kingdom's Relations department at the Ministry of Interior Affairs coordinates the political and civil information streams from the Netherlands Antilles and Aruba.

At the moment political and legal changes are being developed concerning the status of the various islands. Because of this, Part 4 of the Assistance Manual, which deals with assistance to overseas territories, is being revised. Aruba, Curacao and St Maarten will remain part of the Kingdom, but as independent States. Bonaire, St Eustatius and Saba will become a part of The Netherlands as 'Special

¹⁰⁴ Ministry of Interior Affairs and Ministry of Defence, *Catalogus Civiel Militaire Samenwerking*, July 2007.

¹⁰⁵ Article 7 of the Administrative agreements regarding intensifying civil military collaboration, Staatscourant 2007, 147.

¹⁰⁶ Policy letter 'Bescherming vitale infrastructuur' dated 16th September 2005, addressed to the Lower House, Ministry of Interior Affairs.

¹⁰⁷ Ministry of Interior Affairs, 'report protection vital infrastructure', 1st September 2005, p. 58.

¹⁰⁸ Ministry of Interior Affairs, 2004 p. 40.

¹⁰⁹ Stb. 1987, 97.

¹¹⁰ On Curacao there is a Dutch marine base.

¹¹¹ Rijkswet van 25 februari 2008, houdende regeling van de taken en bevoegdheden, alsmede het beheer en beleid van de Kustwacht voor de Nederlandse Antillen en Aruba (*Rijkswet Kustwacht voor de Nederlandse Antillen en Aruba*), p. 3.

¹¹² Letter of the State Secretary of Interior Affairs dated 21st June 2000 to the Chairman of the Lower House, Note relief after hurricane and progress emergency management and rebuilding program in connection with hurricane Lenny, char. KR00/U68855.

Municipalities'. With relation to the new Municipalities, The Netherlands will become directly responsible for crisis control and emergency management. These Municipalities will not constitute a regular Safety Region, but instead the current system of crisis control and emergency management will be upheld. Furthermore, the realization of a common regional police department as well as a common fire department for Bonaire, St Eustatius and St Maarten is envisaged. The Antillean fire department is supported by the Fire Department Corps Haaglanden (The Netherlands), while the Antillean police corps is supported by the Police Department of Rotterdam-Rijnmond (The Netherlands). At this moment, disaster management planning on the islands does not include civil society.

The Netherlands Antilles are a member of the Association of Caribbean States (ACS).¹¹³ In that capacity they are party to the Treaty regarding regional collaboration in natural disasters on 15th December 2004 between member states and associated members of the Association of Caribbean States.¹¹⁴ This treaty creates a legal framework for cooperation in the Caribbean region in the field of emergency management. The treaty governs, amongst others, the development of joint programs, and technical and scientific collaboration. Point of address is the Regional Disaster Information Centre in Costa Rica. The National Disaster Coordinator of the Netherlands Antilles is in contact with the ACS. Aruba is member state of the ACS but did not wish to sign the treaty for practical reasons.¹¹⁵ Before the Netherlands Antilles appeal to the Parties to this treaty, they must first appeal to The Netherlands.

¹¹³ See <<http://www.acs-aec.org/disasters.htm>>.

¹¹⁴ Parliamentary documents I and II 2005/06 , 30 333 (R 1803), A and nr. 1. Treaty between member states of the Caribbean States regarding regional collaboration with natural disasters, Santa Domingo de Guzman, 17th April 1999) Trb. 2005, 15.

¹¹⁵ Ibid. p. 4.

5 Analysis of legislation based on the IDRL Guidelines.

Introduction

This chapter analyses national disaster management legislation and policy, which analysis is based on the IDRL-Guidelines. We will assess per guideline to what extent national rules and legislation meet the recommendations. As the guidelines 1 and 2 are introductory, our analysis will start with guideline 3.

Responsibilities of affected States¹¹⁶

Guideline 3

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

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

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

Content: If a State is affected by a disaster or crisis and the Government determines that international relief is required, this guideline stipulates that the affected State should ask for international relief. The affected State always has the sovereign right to coordinate and regulate (international) disaster relief.

Findings: Coordination of incoming assistance always lies with the Dutch authorities. The creation of a legal framework for incoming assistance is the responsibility of the central Government. The coordination of border-crossing relief in The Netherlands has been laid down in legislation only in a general sense, by appointing the Minister of Interior Affairs as focal point. However, there is extensive operational policy; the LOCC developed the draft Manual for Incoming Foreign Assistance, which outlines in detail the operational procedures in case of incoming assistance in The Netherlands.¹¹⁷ Dutch Municipalities and/or Safety Regions have no decentralised regulations on cross-border relief, but may have formal agreements with neighbouring Municipalities across the border on assistance in disaster response. Coordination of international assistance is regarded as the responsibility of the central government. This coordination is outlined in the draft Manual for Incoming Foreign Assistance, developed by the LOCC, which, although it is written in Dutch, employs English terminology when it comes to coordination of external relief actors.¹¹⁸

When it comes to incoming assistance, two scenarios are possible, regional (EU) incoming assistance and (extra-EU) international incoming assistance. At the regional level the On Site Operations Coordination Centre (OSOCC) coordinates international relief on behalf of the Regional Policy Team (RBT) and the Regional Operational Team (ROT). The RBT and the ROT in conjunction are referred to as the LEMA (Local Emergency and Management Authority). The coordination at national level is also in the hands of OSOCC which consists of a national authority and is supported by the LOCC. At the disaster site, international assistance is coordinated by the Commander at the Scene of the Accident (COPI) or by the Officer of Service (Officier van Dienst, of OvD), translated in English as the On-Site-Commander (OSC).

¹¹⁶ IFRC 2007, guideline 3.

¹¹⁷ LOCC 2009-09.

¹¹⁸ LOCC 2009, p. 3.

Responsibilities of assisting actors¹¹⁹

Guideline 4

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

2. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular:

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

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

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

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

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

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

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

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

(d) Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions; (e) Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;

(f) Provided by competent and adequately trained personnel;

(g) Commensurate with their organisational capacities;

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

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

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

Contents: Assisting actors, be it States, NGOs or other actors, should abide the national regulations and legislation and keep to the prerequisites for humanitarian relief like qualified personnel, transparency and respect for cultural differences. Furthermore international assistance should be provided based on neutrality and impartiality. In addition, this guideline advocates some particular qualitative requirements for relief.

Findings: In The Netherlands there is no legislation with relation to specific quality requirements for the conduct of incoming assistance. In principle, when assistance was requested, Dutch authorities e.g. consider it the responsibility of the assisting State to guarantee that their personnel have recognized qualifications and certifications. However, specific rules apply to medical personnel (see

¹¹⁹ IFRC 2007, guideline 4.

under Guideline 16). This is different for disaster response by international NGOs or the Red Cross, who assist without intervention of a government. They are subject to the same legislation which applies to national relief staff, for instance when it comes to recognition of qualifications and liability.

Responsibility for relief workers in The Netherlands has been arranged as follows:¹²⁰

- The person charged with supreme command, the Mayor or the Manager of the Safety Region, carries the liability of behaviour of Dutch relief workers if relief was rendered on request or was accepted tacitly.¹²¹
- International relief falls under the responsibility of the Dutch supreme commander. Therefore he also carries the responsibility for actions of international relief workers. This also goes for quality control. Personal liability arises only when no request from the supreme commander underlies the assistance.

There are no special regulations to render privileges and immunities to relief workers (see below).

*Liability*¹²²

Liability of Dutch relief workers can arise on grounds of criminal law as well as under civil law. In criminal law 4 articles are of importance. Firstly, Article 450 of the Criminal Code criminalises the failure to help a person who is in danger of losing his life. Furthermore, Article 25 of the Criminal Code, stipulates that a relief worker is not allowed to leave a victim who has been put in his/her trust. On the basis of Article 30 of the Criminal Code, a relief worker can be prosecuted for ill-treatment. In case of major negligence or ignorance causing the victims death, and in addition the relief worker may be prosecuted for involuntary manslaughter, based on Article 307 of the Criminal Code. Regarding civil liability, Article 6:198 of the Civil Code may be invoked. A claim for damages may result from the accusation that the relief worker looked after the victims interests insufficiently. Furthermore treatment by non-registered relief workers is not allowed, based on Article 35 of the Act Professions in the Individual Healthcare (Act BIG). However, in the case a professional practitioner renders unauthorized assistance in an acute emergency situation, no prosecution will take place.¹²³

In case no request underlies the international relief, international private law dictates that results from illegal actions are controlled by the law of the State where the action takes place.¹²⁴ Stipulations regarding deputizing have been established in Article 11 of the Treaty of Rome II. Consequences are that the judgment of liability takes place according to Dutch law and the assisting organization will be responsible for the actions of her personnel.

Privileges and immunities

The Netherlands is a party to the Vienna Treaty regarding Diplomatic Relations (1961) and Consular Relations (1963). In addition, The Netherlands have specific laws and treaties that govern the privileges and immunities of personnel working for the international courts in The Hague.¹²⁵ Dutch rules and legislation does not regulate any privileges and immunities for international relief workers.

¹²⁰ Based on the Manual for Incoming Foreign Assistance, LOCC 2009, and interviews with relevant authorities.

¹²¹ E.g. working times, insurance of units put into action, use of materials, housing/encampment, food and health of the relief workers, see LOCC 2009.

¹²² With relation to Belgium: Article 10 of the Agreement between the Kingdom of the Netherlands and the Kingdom of Belgium regarding mutual relief in disasters and accidents 1984; From the bilateral agreement between Belgium and the Netherlands it appears at first that the relief receiving state as well as the assisting state will not claim anything. However, in the present agreement has been stipulated that in case of damage to a capital element of the relief receiving state that has been caused by a member of the relief unit of the assisting state, a legal claim for damages can be submitted by the receiving state.

¹²³ see parliamentary documents II 19 522, nr. 7 p. 116.

¹²⁴ Article 4 of the Act of Conflict right illegal action; Law of 11th April 2001, holding regulations on conflict law with relation to agreements from illegal actions (Act Conflict law illegal actions).

¹²⁵ E.g. Treaty holding stipulations regarding privileges and immunities to be granted to connection officers who will be posted at Europol in The Hague by the Republic of Hungary; Budapest, 7/8 February 2002 (Trb. 2002, 77 and 2002, 201), see parliamentary documents I and II 2002/3, 28 766, nrs. 148 and 1; Act of 31st October 2002 holding stipulations regarding legal entity, privileges and immunities of the High Commissioner regarding National

Additional responsibilities for all states¹²⁶

Guideline 5

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

2. All States should actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.'

Contents: In this guideline States are urged to encourage disaster relief actors to act in accordance with the quality standards of Guideline 4, and to raise awareness amongst the public of the need to give direction to their charity by means of appropriate aid.

Findings:

We have not been able to locate any laws or policies regarding quality standards for assisting actors in The Netherlands. Disaster management laws focuses on allocation of authority and responsibility, and is not aimed at non-State actors. However, some of the standards of Guideline 4 are addressed in legislation about good governance. As far as we can establish, the Dutch Government does not actively raise awareness amongst the public on appropriate relief. However, external assistance occurs mainly in coordination with international partners like the UN, UN OCHA or the (Netherlands) Red Cross, all of whom practice amongst sets of Guidelines, in particular the Code of Conduct. In addition, the Dutch government donates to non-State actors or the Red Cross.¹²⁷ According to the Ministry of Foreign Affairs, the emphasis in emergency relief lies in the fields of shelter, health, water and sanitation, education, protection of vulnerable people, return and resettlement of refugees and/or IDPs.¹²⁸

Responsibilities¹²⁹

Guideline 6

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

2. Affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.'

Contents: States and humanitarian organizations are encouraged to collaborate in combating fraud with relief goods and financial donations. They are also urged to use relief goods for which they were explicitly meant.

Findings: Fraud by NGOs or the NRK on Dutch territory is illegal under Dutch criminal law. In The Netherlands there is no particular regulation on abuse or fraud with received relief goods or financial donations. Donations are subject to the responsibility of the Minister of Finance. When The Netherlands provides financial support via e.g. the NRK, responsibility will be arranged in a joint agreement.

Minorities (Act HCNM); and the Treaty concerning privileges and immunities of the International Criminal Court, New York, 9th September 2002.

¹²⁶ IFRC 2007, guideline 5.

¹²⁷ LOCC 2009.

¹²⁸ See <<http://www.minbuza.nl/nl/Onderwerpen/Noodhulp>>.

¹²⁹ IFRC 2007, guideline 6.

Early Warning¹³⁰

Guideline 7

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

Contents: This guideline focuses on the first phase of crisis control, namely disaster risk reduction. States should, as far as possible, initiate procedures to share information on potential disasters.

Findings: On the basis of the Manual on Incoming Foreign Assistance, the NCC is responsible for the information supply to neighbouring countries and international organizations on (upcoming) disasters.¹³¹ In case of an emergency situation with possible consequences for neighbouring countries or the EU as a whole, the NCC will immediately notify the European Commission and Member States.¹³² The NCC informs the Monitoring and Information Centre (MIC) in Brussels by means of the Common Emergency Communication and Information System (CECIS) on the nature and size of the crisis and the relief requested. Furthermore, stipulations regarding timely warning have been regulated in various treaties regarding nuclear and chemical crises.¹³³ From the evaluation of a national nuclear exercise in 2005 it was concluded that the relevant international institutes had been informed within approx. 2,5 hours after the disaster struck. The Ministry of Foreign Affairs informs the diplomatic and consular posts, as well as the relevant international organizations on the disaster. In particular, the WHO framework contains the obligation to exchange information concerning health threats in a timely manner. Finally, the bilateral agreements with Belgium and Germany, outlined in the previous chapter, contain provisions on early warning.

Guidelines 8 and 9 give an introduction to the encouragement for states to be adequately prepared for potential disasters by means of creating a legal, policy and institutional framework, if necessary in collaboration with decentralised authorities and relief organizations. This should include regulation of international assistance.

Findings: The Netherlands has an extensive legal framework for crisis control and emergency management, as was demonstrated in the previous chapters. This legal framework has been under review recently, so that the current legislation is soon to be replaced by the draft Act Safety Regions. This draft Act is the foundation for the Policy Plan Safety Regions and the Regional Operational Crisis Plan. This legal framework is complemented by the Manual on Decision making Procedures during Crises¹³⁴ and the Manual on Preparation for Emergency Management.¹³⁵ The Manual for Incoming Foreign Assistance comprehensively outlines the operational procedures for and incoming foreign assistance.¹³⁶

¹³⁰ IFRC 2007, guideline 7.

¹³¹ LOCC 2009, p. 12.

¹³² Article 6 of the regulation regarding a communal mechanism for civil protection.

¹³³ Decree 87/600/Euratom regarding communal regulations for fast exchange of information in case of radiation danger and two treaties of the international Atom Agency (IAEA) in Vienna on early notification (IAEA Convention of early Notification), providing information and relief (IAEA Convention on Mutual Assistance) in case of nuclear accidents. Furthermore the agreement of the Economic Commission for Europe and the United Nations (Unece) for warning and advising (Unece convention on the transboundary effects of industrial accidents) applies in case of disasters with chemicals.

¹³⁴ NCC 2008.

¹³⁵ Ministry of Interior Affairs 1998.

¹³⁶ LOCC 2009.

Request for international relief ¹³⁷

Guideline 10

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

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

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

Contents: International disaster relief should only take place on request or with the permission of the affected state. The request for relief and the nature of it as to quantity and kind, should be described as specifically as possible. International military relief preferably only takes place upon request and with consent of the affected state, after civil alternatives have been exhausted. In case the affected state wishes to end international relief, the relief organization needs to be informed after consultation.

Findings: The procedural aspects of making a request for international relief have been laid down in the Manual for Incoming Foreign Assistance. In principle, it is the Minister of Interior Affairs who has the capacity to request this, while the procedural route for this request is thought the NCC. The LOCC advises the Minister in this matter.

A decentralised procedure for requesting foreign assistance by the municipality or safety regions is not available, because this capacity is left solely with the national authorities. There is one exception to this, which is the above mentioned bilateral agreements for disaster response assistance between the border Municipalities/Safety Regions. However, the regional authorities can file a request international assistance to the national authorities. The Mayor or Manager of the Safety Region submits a request for international assistance to the LOCC. In case the LOCC has established that indeed international assistance is required, it will request international relief by means of a recommendation to the NCC. NCC requests approval via the General Crisis Deliberation, the Interdepartmental Policy Team and the Ministerial Policy Team.

After approval of these three teams, the NCC coordinates the application procedure to the EU or the UN, the latter in collaboration with the Ministry of Foreign Affairs.¹³⁸ Depending on the nature of the disaster, an appeal will be made for border-crossing assistance. Should border-crossing assistance not meet the requested capacity, a request for assistance will be filed to the European Commission.¹³⁹ A request for relief addressed to the UN (UN OCHA) or NATO (EADRCC) is regarded as an *ultimum remedium*.

Request for military assistance¹⁴⁰

Guideline 11

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

¹³⁷ IFRC 2007, guideline 10.

¹³⁸ LOCC 2009, p. 12.

¹³⁹ By means of a 'request list' member states can choose which help they are offering.

¹⁴⁰ IFRC 2007, guideline 11.

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

Contents: The guideline indicates that international military assistance should only be deployed on request of or with the consent of the affected state. Also, the duration of the operation and under which conditions the military assistance is rendered, needs to be agreed upon in writing.

Findings: Military relief comes up for discussion when civil relief is exhausted.¹⁴¹ Should (international) military assistance be deployed, it falls under the command of the civil authority. No specified regulations were identified regarding international military assistance in line with this guideline.

Regarding international military assistance, the legal framework on emergency management and crisis control appears to make no distinction between international military assistance on the one side, and international civil assistance on the other. Therefore no specific domestic legislation exist regarding a request for international military assistance. However, in case international military assistance is required in peacetime, The Netherlands will request this military assistance on the basis of the *Oslo-guidelines*.¹⁴² These state that foreign military assistance should only be requested when there is no similar civil alternative available in the affected State and only in case of a critical humanitarian emergency.¹⁴³

Termination of international relief¹⁴⁴

Guideline 12

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

Contents: When an affected state, an assisting state or NGO intends to terminate its operations, they should give reliable and appropriate notification of that. All parties involved should consult one another and consider the consequences that may result from termination of relief.

Findings: The termination procedure for international relief is not arranged for in national legislation. However, the procedural aspects of termination are recorded in the policy document Manual for Incoming Foreign Assistance, as developed by the LOCC. A final evaluation is part of the repatriation procedure.

Upon termination of international inter-State relief an operational debriefing with all team leaders of the various teams takes place at the OSOCC.¹⁴⁵ In addition to an evaluation of the course of the operation, the procedures of retreat, the dismantling of the Base of Operations (BoO) and the location of departure are regulated.¹⁴⁶ The NCC then informs the foreign authorities and foreign relief units on the locations of departure, while the LOCC informs the Dutch authorities (amongst others the relevant Ministries and Customs) on the departure of foreign relief. The Corps National Police Force (KLPD) takes care of coordination and escorting foreign relief to the Regional Departure Centre (RDC). At the RDC, an After Action Review takes place by way of an evaluation form to be filled out by the team

¹⁴¹ Ministry of Interior Affairs and Ministry of Defence 2007, p 14. If in the Netherlands military assistance is deemed necessary, the Royal Commissioner can send a request in writing for military relief to the Minister of Interior Affairs based on Article 18 of the Act disasters and major accidents. The armed forces are subject to the responsibility of civil authorities.

¹⁴² Guidelines on the use of foreign military and civil defence assets in disaster relief '*Oslo-guidelines*', updated November 2006 (Revision 1, November 2007).

¹⁴³ See Article 5 of Oslo-guidelines.

¹⁴⁴ IFRC 2007, guideline 2.

¹⁴⁵ LOCC 2009, p. 30.

¹⁴⁶ LOCC 2009 p. 30.

leader concerned. Furthermore, the Military Police coordinates the departure of the foreign relief workers and Customs coordinate the export of materials.¹⁴⁷

Guidelines 13, 14 and 15 indicate that an affected state already before the start of a crisis should create a legal framework for assisting states, humanitarian organizations and other assisting actors. An extensive legal framework is in place in The Netherlands, complemented by extensive policy on disaster management en response. The contents of this legislation and policy will be outlined in the following paragraphs.

Assistance by NGOs and private companies

An extensive legal framework has been developed for relief by EU member states in communal law. From the guidelines discussed below it will be concluded that The Netherlands did not create a legal facilities specifically for assisting NGOs or private companies and their disaster response staff, insurances or goods and materials. The same lack of specific legal facilities applies to international assistance from States outside of the EU.

Disaster relief personnel¹⁴⁸

Guideline 16

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

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

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

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

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

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

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

Contents: This guideline encourages authorities to create facilities for foreign relief personnel to facilitate speedy immigration and as well as rights and duties during operations.

Findings: Based on Dutch policy, international relief workers are admitted to The Netherlands by means of a clearance for personnel. The legal position of (international) relief personnel has formally been regulated by law. European qualifications are recognized automatically. However, there is no

¹⁴⁷ LOCC 2009, p. 31.

¹⁴⁸ IFRC 2007, guideline 16.

special regulation known on the recognition of qualifications for incoming international disaster relief personnel from outside the EU.

Immigration procedures and visa

Based on the Treaty of Schengen, any citizen of a Member State of the EU can enter The Netherlands without a visa.¹⁴⁹ The Immigration- and Naturalization Department and the Military Police admit international relief workers without hindrance based on the principle of 'clearance for personnel'.¹⁵⁰ Based on European legislation, The Netherlands can exempt relief personnel from a non-European country from visa requirements,¹⁵¹ however it is up to the Ministry of Foreign Affairs to provide this clearance on an *ad hoc* basis. As for foreign NGOs, they are dependent on a Dutch counterpart: by submitting a request for a visa provided with an invitation from a guest organization associated with the Dutch representation in an assisting country, an (emergency) visa may be supplied, normally for the entire Schengen zone. Renewal of a visa is the responsibility of Customs, who are directed in this matter by the Immigration- and Naturalization Department. Transit visa are still obligatory for a small number of countries. Transit visa will be provided *ad hoc*.

Insurance of relief personnel

The Legal Facilities for Disaster Personnel Act applies to international relief personnel, provided their duties were performed at the request or command of the person charged with supreme command.¹⁵² This Act contains arrangements regarding benefits in case of complete or part general disability and statutory sick pay in case the illness or disabilities arose during or within 6 months after termination of the disaster relief deployment.¹⁵³ Furthermore the Act lays down benefit arrangements in case of death or disappearance of the relief worker.¹⁵⁴ Damage to goods belonging to the relief worker brought about by the disaster relief deployment may be eligible for compensation, as well as permanent essential expenses of medical care resulting from diseases and disabilities caused by the relief deployment.¹⁵⁵

Recognition of foreign qualifications

The Netherlands has no special regulation with relation to recognizing diploma's and certificates of foreign relief workers during a crisis.¹⁵⁶ In general, the law requires foreign health workers to register in the 'BIG' register if they wish to work under their title in The Netherlands.¹⁵⁷ A European physician, pharmacist, dentist, nurse and obstetrician can submit a direct request to register in the BIG register.¹⁵⁸ In paragraph 10 of the Ministerial Decree it is stated that, based on Article 41, first and third

¹⁴⁹ Agreement for execution of a between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the 14th June 1985 at *Schengen agreement* concerning the gradual abolishment of checkpoints on the joint borders.

¹⁵⁰ LOCC 2009, p. 33.

¹⁵¹ See Article 4 of the Regulation of the European Council , 574/1999/EC.

¹⁵² Act of 9th September 1992 on Legal Facilities for Disaster Personnel Act , Article 2 of the Act legal positional provisions disaster fighters.

¹⁵³ See chapter II and III of the Act legal positional provisions disaster fighting.

¹⁵⁴ Chapter IV of the Act legal positional provisions disaster fighting.

¹⁵⁵ Article 30 and 31 of the Act legal positional provisions disaster fighting.

¹⁵⁶ Based on regular Dutch legislation, caretakers from outside EU can in principle only be registered in the BIG register if recognition of the diploma has taken place by means of a statement of skill from the minister of VWS. The fact that the minister handed out a statement of skill does not mean that the foreign caretaker can practise his profession in the Netherlands. The caretaker also needs to have received a residency status granted by the minister of Justice from which appears that he/she has obtained permission to work. Also the caretaker needs to have a work permit granted by the Minister of SZW, see Article 41, first sub, under b and Article 45, first sub of the Act BIG. See for assessment of a request '*guideline assessment Skills Foreign Certified Physicians*', Commission Foreign Certified Public Health, The Hague, 16th March 2006. In here a.o. has been determined that the foreign medical caretaker needs to participate in a Dutch knowledge –skills test, Also see: Ministry of VWS, '*Circular Statement Skilled foreign certified public health*' published in the Staatscourant 3rd May 2006, nr. 86/p.31

¹⁵⁷ Act of 11th November 1993, holding rules regarding professions in the field of individual healthcare (Act BIG), see Article 3 of the Act BIG.

¹⁵⁸ Regulation indication foreign diploma's healthcare, based on Article 41, first sub, under a of the Act BIG: Regulation of the Minister of VWS of 2nd October 2007, nr. MEVA/BO – 2798652 holding indication foreign diploma's public health (*Regulation indication foreign diploma's public health*).

sub of the Act Professions in the Individual Healthcare (the Minister of Health may have a foreign qualified person temporarily registered in the BIG register, but only when it is a matter of actual Dutch public health interest. This request must be made by a healthcare institute. The institute concerned is required to prove that it needs foreign personnel and that these are not available from EER countries. Medical staff who are member of a EU State may operate in The Netherlands without recognition or testing of their requirements, as long as they are registered in the BIG registration.

Medical personnel not from an EU-Member State therefore must apply for both recognition of qualifications as well as a registration in the BIG register. This process may take up to 8 weeks. It is however permitted for them to operate, but only under the full responsibility (and liability) of a medic who is registered in the BIG register.

Goods and materials¹⁵⁹

Guideline 17

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

(a) Exempt them from all customs duties, taxes, tariffs or governmental fees;

(b) Exempt them from all export, transit, and import restrictions;

(c) Simplify and minimize documentation requirements for export, transit and import;

(d) Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

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

(a) Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a "preclearance" process where feasible; and

(b) Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.

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

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

Contents: With relation to relief goods and relief appliances, this guideline recommends to receiving as well as transit States to make arrangements regarding exemptions or clearance of import duties, taxes and import restrictions. It is recommended to develop regulations to facilitate speedy procedures for custom inspection of relief goods (if possible at a separate location) to prevent delays at immigration.

¹⁵⁹ IFRC 2007, guideline 17.

Findings: Customs handles the import of relief goods based on 'clearance for materials'; however, this is a temporary construction: customs formalities do have to be met afterwards. As long as relief goods have an EU Member State as their final destination they are exempt from import duties and excise duties. The Food and Consumer Product Safety Authority governs possible exemptions for food from animal origin on an *ad hoc* basis. The same applies to rescue dogs. Relief goods that transit The Netherlands are treated the same as regular transit goods. European law is applicable here. No import duties or excise duties are required for these goods, but a transit document needs to be filled out at clearance. However, according to an Interior Affairs expert, The Netherlands usually are not appointed as transit location because of relatively high transit costs.

Exemption from import duties, VAT and excise duties

Relief goods from outside Europe are exempt from import duties if they are imported for the benefit of victims of an EU Member State.¹⁶⁰ Conditions for exemption are that the relief goods are distributed free of charge and that a permit needs to be provided if the exempted goods are brought into free market.¹⁶¹ This applies equally to donations, borrowed goods as well as goods that are used by the importing relief actors themselves. In addition, relief goods are exempt from VAT, excise duties and consumer tax for non-alcoholic drinks.¹⁶²

Customs formalities

Customs coordinate the transit of relief materials based on the principle 'clearance for materials'. Although relief goods and materials are required to meet customs formalities, the goods can be transported immediately to the RDC upon arrival, due to the urgency of the situation. The customs declaration can be filed at the RDC by way of drawing up a certified inventory list.¹⁶³ It is stipulated in these matters that these regulations apply only to disaster relief materials meant for government organizations (State, Province or Municipality) or organizations recognized by the competent authorities (like the Netherlands Red Cross and the Salvation Army), and that equipment is to be exported when assistance is no longer required.¹⁶⁴ When it comes to the import of food from animal origin, EU regulations apply directly and therefore there is no special domestic regulation regarding inspection of imported food. In case of a disaster, the Food and Consumer Product Safety Authority will decide *ad hoc* on matters of food import.

¹⁶⁰ Article 79 of Regulation 918/83/EEC has been implemented in the General Customs Act of 2008: Act of 3rd April 2008 to complete review of the customs legislation (General Customs Act), see Article 6:3 of the *General Customs Act*: 'By arrangement from our Minister of Finances conditions can be determined to work out exemption conditions established at other communal decrees that Regulation (EEC) nr 918/83 of the Council of EC of 28th March 1983 concerning the establishment of a communal regulation concerning customs exemptions'; Article 81 of the Regulation; Article 565 of the Application regulation Communal Customs Code (TVo CDW/Regulation (EEC) nr. 2913/92. Article 4 of the Agreement Belgium-the Netherlands mutual relief disaster response 1984 governs the exemption of import duties for relief goods between Belgium and The Netherlands.

¹⁶¹ Article 76, first sub of the Customs regulation.

¹⁶² Article 101 of the Customs Regulation and Article 18, sub 2, under c of the Law on VAT 1968.

¹⁶³ During a crisis Customs cooperates with the Customs Information Centre (DIC). The latter appoints a coordinator responsible for the right execution of customs procedures. The customs office in Rotterdam is competent if the relief goods arrive in the harbour, a while customs office Schiphol is competent when the relief goods come via plane. The NCC contacts before import takes place the coordinator of the DIC, after which the customs office concerned and the LOCC are informed.

¹⁶⁴ See *Customs Manual* under 18.00.00 temporarily import and annex 8. Based on Article 10 of the Act of 22nd December 1988, holding determination of a general regulation from national government to arrange voluntary relief to wounded, sick, prisoners of war, internees and people in need otherwise by recognized and admitted associations, also the Sovereign and Military Order of Malta sec. The Netherlands Red Cross and the Johanniter Orde in The Netherlands as earlier mentioned organization are recognized.

Rescue dogs

Based on the Customs Manual, animals used for rescue operations, their belongings and normal equipment are exempt from import duties.¹⁶⁵ Although rescue dogs are exempt from import duties, the veterinarian regulations leave no room for admitting dogs that do not meet the applicable standard for the import of animals.¹⁶⁶ During a crisis, the Food and Consumer Product Safety Authority will decide *ad hoc* on this.

Special goods and materials¹⁶⁷

Guideline 18

'In addition to the facilities described in paragraph 17:

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

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

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

(a) Any medications they import should be approved for use in the originating

and affected State;

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

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

(ii) guarded against misappropriation and abuse.

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

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

¹⁶⁵ Article 544, first para. into 567 and 553, first sub of the TVo.CDW, see *Customs Manual* under 18.00.00. Temporary Admission under 14 Living Animals and appendix 11 under annex D of the European Convention Relating to Temporary Admission. See <http://www.douane.nl/bibliotheek/handboeken/handboek_douane/>.

¹⁶⁶ With relation to transport, based on EU regulation 2003/998/EC, since 3rd July 2004 the following conditions are to be observed for transporting dogs, cats and ferrets: 1) passport according to European model 2) vaccination against rabies 3) have to be identified (chip or tattoo). For countries where rabies does not occur the same rules apply as for EU countries and where rabies does occur, 1) chip or tattoo 2) veterinarian certificate 3) vaccination 4) blood test 5) quarantine period of 6 months, as well as 6) check on Echinococci and ticks.

¹⁶⁷ IFRC 2007, guideline 18.

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

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

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

Contents: This guideline recommends that the affected State temporarily recognizes imported vehicles and number plates for vehicles imported for relief work. In addition, the affected State should be required to make arrangements regarding the import and export of telecommunication- and information technology materials, as well as admission to satellite connections and radio frequencies. Finally, legal and administrative procedures for medicines and medical equipment need to be simplified.

Findings: The Netherlands have made arrangements in Dutch legislation and policy regarding international relief when it comes to these issues. Transport vehicles, as well as medical, surgical and laboratory material are considered to be temporary imports and are fully exempt from import duties, VAT and excise duties. The Telecom Agency facilitates available radio frequencies.

Means of Transport

Vehicles imported for disaster response from inside the EU are subject to free transit. Vehicles imported from outside the EU are exempt from import duties and VAT, as they are subject to the Customs regulation Temporary Admission¹⁶⁸. These vehicles are provided with separate registration documents (BN or GN).¹⁶⁹

Radio frequencies

During disasters, The Netherlands facilitates radiofrequencies for foreign assistance. Radio frequencies are managed by the Telecom Agency of the Ministry of Economic Affairs.¹⁷⁰ The request for frequencies for foreign assistance should be directed to the NCC. The NCC then sends the request to the crisis coordinator of the Telecom Agency and the LOCC. During a disaster the communication system for relief services C 2000¹⁷¹ can be operationalised. As a backup, the Armed Forces have a limited capacity to provide for radio systems. Alternatively, Safety Regions may contractually engage the NGO Dares (Dutch Amateur Radio Emergency Service) to the Netherlands Red Cross to supply its means for communication.

Medicines

No particular legislation is available for admission or recognition/exemption of foreign medicines during disaster situations. Hence, regular legislation applies. According to the Pharmaceuticals Act (Geneesmiddelenwet, of Gmw), it is prohibited to import pharmaceuticals without a producers permit, unless they are intended for private use.¹⁷² Based on Article 18 ((6) under b) of the Pharmaceuticals Act, an exemption to this rule may be granted should there be a special circumstance that warrants this. A disaster could constitute such a circumstance. Article 3.17 lays down detailed rules for the delivery of pharmaceuticals which have not been registered in The Netherlands. Permission for

¹⁶⁸ http://www.douane.nl/zakelijk/invoer/invoer-26.html#P288_32808.

¹⁶⁹ Article 4:9 of the General Customs Regulation into 18.00.00 temporary admission *Customs Manual* under 31 VAT, excise duties and duties on cars and motor cycles as well as annex 2 and Article 22 of the Law on Value Added Tax 1968.

¹⁷⁰ LOCC 2009, p. 27.

¹⁷¹ From the final report of the Inspection Peace and Safety in connection with the polder crash in February 2009, it appears many problems occurred because of insufficient capacity of the communication system, see final report *Poldercrash 25th February 2009*. An investigation by the Inspection Peace and Safety, in collaboration with the Inspection of Public Healthcare, IOOV, The Hague, 17th June 2009, p. 49.

¹⁷² Article 18, first sub of the Pharmaceutical Act.

delivery of non-registered pharmaceuticals is to be granted by the Inspection of Healthcare. This procedure may be requested to be simplified, in which case the medication will not be tested extensively for safety. Additional rules apply for blood products, vaccines and medication of any of the categories of the Opium Act. Blood products and vaccines are to be examined beforehand by the National Institute for Public Health and Environment.¹⁷³ Exemptions based on Article 8 of the Opium Act are granted by the Central Information Point Professions Healthcare via de Department Farmatec or the Bureau for Medicinal Cannabis of the direct Medicines and Medical Technology.

Medical equipment

Medical, surgical and laboratory equipment are fully exempt from import duties when imported on a temporary basis.¹⁷⁴ This includes spare parts, accessories and regular gear.¹⁷⁵

Transport of relief goods¹⁷⁶

Guideline 19

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

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

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

Contents: The present guideline recommends to assisting and transit states as well as affected states to allow unimpeded transport to vehicles meant for relief work and the relief goods they carry. A procedure should be in place to facilitate the entry of staff operating these vehicles.

Findings: The NCC and LOCC are administratively and operationally responsible for transport and distribution.¹⁷⁷ Although transport will preferably be facilitated by the Dutch government, but if capacity to do so lacks, incoming relief actors (i.e. the assisting State) may be relied upon to transport relief goods. Should this be the case, the request for international relief will include an indication that an assisting state is requested to arrange for transport of the relief goods. In case The Netherlands organises the transport itself, the Ministry of Defence will make its means of transport available under coordination of the LEMA.¹⁷⁸ In addition, the requisition of civilian vehicles will be considered. Based on Article 3a of the Requisition Law 1962 the Minister of Interior Affairs is authorized to claim means of transport from bodies or persons, in case a shortage in relief goods occurs.¹⁷⁹

¹⁷³ See <<http://www.rivm.nl/preventie/geneesmiddelen/vrijgifte-geneesmiddelen/EPV.jsp>>.

¹⁷⁴ Based on Article 554, first para. iuncto Article 566 TVo. CDW. See Customs book 18.00.00. Temporary Admission under 13 Medical, surgical and laboratory material. By 'material' is meant according to section. 13.1.2 'material lent on request of a hospital or other healthcare institute which in the customs area in the EU has been established and who because of insufficiency for diagnostic or therapeutic purposes have an urgent need of those materials.' Also see annex B.9 of the European Convention Relating to Temporary Admission, Istanbul, 26th June 1990.

¹⁷⁵ Based on Article 566 TVo. CDW. See also para. 13.1.3 of 18.00.00 temporary admission of the Customs Manual.

¹⁷⁶ IFRC 2007, guideline 19.

¹⁷⁷ LOCC 2009, p. 26.

¹⁷⁸ LOCC 2009, p. 27.

¹⁷⁹ Law of 12th December 1962.

Temporary domestic legal status¹⁸⁰

Guideline 20

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

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

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

Contents: As soon as international relief actors arrive in the affected State, temporary legal authorizations should be created so that these actors may act as a legal person, and can therefore e.g. open a bank account, enter into contracts, claim free import and exchange of currency, as well as hire local staff.

Findings: Dutch rules and legislation contain no particular legal facilities for incoming relief actors. However, international humanitarian organizations (associations and foundations) are subject to the Conflict Law for Corporations Act.¹⁸¹ During international assistance, the statutory seat of a relief actor will most likely not be moved to the affected State. This concerns renting rights, rights relating to leasing immovables as well as rights with regard to validity, invalidity or dissolution of contracts are concerned.¹⁸² However, should the NGO keep office in The Netherlands, it then resides in The Netherlands in the sense of the EEC-Execution Treaty and hence the Dutch judge is competent in all civil and commercial cases.¹⁸³ Specific rules on entering into contracts, opening bank accounts or with regard to foreign money for international NGOs who provide disaster relief in The Netherlands, do not exist.

Taxes¹⁸⁴

Guideline 21

'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.'

Contents: The guideline recommends to exempt humanitarian organisations and relief workers from taxes for activities and services directly related to relief.

Findings: There are no specific stipulations to exempt incoming relief from taxes and excise duties. Even though relief goods and materials are exempt from import duties, as is the import of rescue dogs, international relief actors, individual personnel as well as the organization as a whole, owe VAT and taxes on consumer goods.

¹⁸⁰ IFRC 2007, guideline 20.

¹⁸¹ Act of 17th December 1997, Stb. 1997, 699, holding rules of international private law with relation to corporations.

¹⁸² Article 3 of the EEC Execution treaty 1996; Treaty regarding the judiciary and execution of decisions in civil and commercial cases, with Protocol, Brussels 27th September 1968, version 1996.

¹⁸³ Kortmann & Asser, Asser 2-1, *De vertegenwoordiging en rechtspersoon; de rechtspersoon*, Den Haag, Kluwer 2004 p. 54.

¹⁸⁴ IFRC 2007 guideline 21.

As was already outlined under guideline 17, relief goods from outside the EU, as well as vehicles and materials, are exempt from import duties and VAT. As long as the statutory seat of a foreign NGO has not been established in The Netherlands it does not owe any taxes for its activities.¹⁸⁵ There is no legislation exempting relief workers from taxes on consumer goods.

Safety¹⁸⁶

Guideline 22

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

Contents: An affected state should make arrangements to guarantee the safety of international relief workers during international assistance.

Findings: As we have seen in the previous chapters, the police is responsible for public safety during disaster. From Dutch rules and legislation it does not appear that special arrangements have been made which can guarantee the safety of international relief workers. However, Dutch Parliament tacitly approved the Convention on the Safety of United Nations and Associated Personnel.¹⁸⁷

In policy as well as in legislation nothing is mentioned on the guarantee of the safety of relief workers. The authorities take the view that as affected State it is responsible for the general safety of international relief workers.

Extended opening hours¹⁸⁸

Guideline 23

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

Contents: Government institutes directly involved in coordination, organization or distribution of relief should extend their opening hours so as to facilitate international disaster relief.

Findings: In The Netherlands there is no legislation with relation to extended business hours for government institutes for international relief. However, policy regarding opening hours is in line with this guideline. Disaster management institutions are available 24 hours a day. Hence, government institutes mandated with crisis control and emergency response can be reached 24 hours a day, 7 days a week. This applies amongst others to NCC, LOCC, AT and DCC. In addition, KLPD, the DIC, the Defence Operation centre and the Defence Traffic and Transport organization (regarding transport) can be reached 24 hours a day to secure the functioning of foreign relief.

¹⁸⁵ A Dutch NGO does not pay any tax on profits as it falls under the foundation or a non-profit association. However, charitable institutes are not exempt from VAT or wage tax for co-workers in paid employment. If the NGO has been considered by the tax department an institute with general interest in mind (ANBI) the institute concerned does not have to pay gift tax on inheritances and gifts which are received within the scope of general interest. Furthermore special arrangements have been made regarding income tax and corporation tax. Additionally, expenses within the scope of general interest are not taxed. See <http://www.anbi.nl/index.php?id=461>.

¹⁸⁶ IFRC 2007, guideline 22.

¹⁸⁷ Convention on the Safety of United Nations and Associated Personnel, New York, 9th December 1994, see Parliamentary documents I and II 2000/01, 27 454 (R 1668) nrs. 41 and 1.

¹⁸⁸ IFRC 2007, Guideline 23.

Costs¹⁸⁹

Guideline 24

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

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

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

Contents: Ideally, costs resulting from international relief should be carried by the assisting State or organisation, unless mutually agreed upon otherwise. The affected State could consider rendering certain services against reduced fees or free of charge. One could think of in-country transport, use of buildings or logistic support.

Findings: In The Netherlands expenses for the provision of disaster relief have been arranged in legislation as well as under customary law. The Dutch central government compensates the expenses for disaster response to the decentralised government, i.e. to Provinces and Municipalities. Inter-State relief is compensated by the Dutch Government unless this has been arranged otherwise by treaty. Other organisations are presumed to bear their own expenses.

Upon request, the central Government will award decentralised authorities a financial contribution to the costs resulting from the actual disaster response.¹⁹⁰ According to customary law, the costs of relief within the EU are paid for by the affected State.¹⁹¹ In case relief is rendered by NATO, the costs of this will be carried by the assisting state.¹⁹² In addition, The Netherlands arranged compensation for costs from border-crossing relief in bilateral treaties with Germany and Belgium.¹⁹³

The Netherlands did not make any arrangements with relation to compensation of costs regarding relief by humanitarian organizations. Hence, humanitarian organization must be considered responsible for their own costs made during disaster relief operations in this country.

¹⁸⁹ IFRC 2007, Guideline 24.

¹⁹⁰ Article 25, first para. of the Wrzo. The application for a financial contribution to the cost a.o. of personnel, replacement of consumer goods, repairs and maintenance, as well as cost of housing of relief workers and insurance, can be submitted to the Minister of Interior Affairs via the Royal Commissioner by management of the de-central governments, the assisting services, The Netherlands Red Cross, private ambulance transporters or hospitals which have made a mobile medical team available, see Act of 24th January 2002 regarding government contributions in the cost of relief and fighting disasters or major accidents in the Netherlands as well as Belgium and Germany (*Act Government Contributions relief- and fighting cost*). The central government can also contribute financially to concerned provinces, municipalities, organizations and services which directly participated in the border-crossing relief based on Article 25, second para. of the Wrzo.

¹⁹¹ LOCC 2009, p. 41.

¹⁹² LOCC 2009, p. 41.

¹⁹³ Ramakers a.o. 2007, p. 28.

6 The Netherlands and the IDRL Guidelines

In the previous chapter, relevant Dutch legislation and policies were compared to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (the IDRL Guidelines). In this chapter a summary of the conclusions will be given per category of a) bilateral and EU assistance by States, b) extra-EU assistance by States, and c) incoming assistance by non-State actors. The conclusions will be followed by a set of recommendations.

6.1 General remarks

This report aims to outline current legislation and policy regarding disaster management, to investigate to what extent The Netherlands is prepared - legally and policy-wise - for incoming foreign assistance during disasters. The IDRL Guidelines serve as a starting point to further develop an efficient and high-quality legal framework for incoming disaster assistance.

Generally speaking, Dutch national crisis control and emergency management are to a very large extent embedded in a legal framework. The central and de-centralised structure of administrative authorities and their respective tasks and responsibilities is clearly outlined. The draft Safety Regions Act aims to further streamline this legal framework, by establishing an efficient and supra-local administrative body (the Safety Region), which unifies coordination of the fire department, the police and medical services during emergency management and crisis control. In this draft Act, the policy regarding information- and communication with external parties as well as the public is also arranged.¹⁹⁴ However, the possibility of incoming assistance has, with the exception of the regional EU Mechanism and the UN and NATO agreements, not been prepared in legal terms, but has been left mainly to policy and operational instruments. In other words, there is currently no legal framework for incoming foreign assistance rendered by States from outside the EU. Issues like granting visa, recognition of (medical) qualifications, opening bank accounts, entering lease contracts or employment contracts with local personnel or the legal status of property have not been arranged. Special regulations aimed at incoming assistance from non-State actors, like NGOs or the Red Cross and Red Crescent Movement during a national crisis does not exist at all. The Dutch government takes the view that incoming assistance will most likely be rendered by neighbouring States or the EU. Within that scope, incoming assistance is based in law upon bilateral treaties and European regulations. Incoming assistance by non-EU States in that sense is left to policy and operational documents. Assistance by foreign non-State Actors is not addressed in policy or in law.

Policy-wise, several administrative and operational instruments have been developed, like the Manual on Decision making Procedures during Crises and the Manual on Preparation for Emergency Management. With regard to incoming disaster relief in particular, the LOCC has recently developed the Assistance Manual (Handboek Bijstand), which outlines in detail the operational procedures during (international) assistance. While part 1 and part 2 describe the national and border-crossing assistance respectively, part 3 describes the most important procedures of incoming foreign assistance. Furthermore, the Manual outlines the tasks and responsibilities of the relevant Dutch institutions. Two remarks on this Manual can be made. First, this Manual has not been legally embedded. A disadvantage of this is that the policy cannot be enforced by law. For example, what happens if a Ministry or another institution does not take its responsibility? Secondly, the Manual only applies to incoming foreign inter-State relief, both from EU Members and non-EU Members, but it does not apply to incoming relief rendered by non-State actors like NGOs or the Red Cross and Red Crescent Movement.

¹⁹⁴ MvT, Act Safety Regions, p. 4, available at: <http://www.minbzak.nl/onderwerpen/veiligheid/veiligheidsregio's/kamerstukken/@107886/wetsvoorstel>.

6.2 Recommendations on incoming assistance in The Netherlands

For our purposes, incoming assistance may be categorised as follows:

- a) Assistance based on a bilateral agreement with neighbouring States or assistance rendered by EU Member States through the European Commission, or
- b) Assistance rendered by States not a member of the EU, or
- c) Assistance rendered by non-State actors, NGOs and the Red Cross and Red Crescent Movement.

In the next section, the research question will be analysed based on these categories.

a) Bilateral and EU member State assistance in The Netherlands

The Dutch legal framework, complemented by European rules and legislation, can be claimed to be largely in line with the IDRL Guidelines. The communal mechanism for civil protection forms the base for disaster response in Europe.¹⁹⁵ The operational aspects of incoming assistance mostly benefit from the classic freedoms of European law: freedom of goods, services, persons and establishment of capital.

What has been arranged legally?

- There are elaborate bilateral treaties between The Netherlands and Belgium and The Netherlands and Germany on mutual assistance, at central as well as de-central government level;
- A communal mechanism for civil protection forms the base of coordination for EU assistance;
- International assistance benefits from the free traffic of goods, services, persons and capital based on the European classic freedoms;¹⁹⁶
- Based on the Communal Customs Code, European relief goods are exempt from VAT and import duties (after approval of the European Commission);
- Recognition of European (medical) qualifications and driving licences;
- Liability: supreme command is responsible for European relief workers if they render assistance on request of the government;
- European relief workers are subject to Dutch law when it concerns aspects of legal status like sick pay or death.

What has been arranged in policy?

- The operational framework for foreign assistance has been outlined in detail in the Manual for Incoming Foreign Assistance.¹⁹⁷ This Manual contains the most important procedures for foreign units. Furthermore, operational direction of the tasks and responsibilities of the Dutch authorities have been outlined.

¹⁹⁵ European Council Decision 2007/779/EC. The European Commission has through the Stockholm program indicated that this mechanism has to be strengthened to support and complete the management of the member states. In addition collaboration will take place in the field of risk analysis where also will be looked at the common regional aspects, see European Commission, *Note from the Commission to the European parliament and the Council, A space of freedom, safety and rights at the service of the civilian*, Brussels, 10th June 2009, COM (2009) 262 definite, p. 10.

¹⁹⁶ One can think of free admission to The Netherlands without having to have a visa and rendering services (e.g. recognizing diploma's) of relief workers with a nationality of a member state.

¹⁹⁷ This manual has been tested in September 2009 according to a flooding scenario under the title of 'EU Floodex 2009' where national and regional relief workers as well as European relief workers participated as well as The Netherlands Red Cross, see <<http://www.floodex.eu>>.

Recommendations:

It is recommended that the Dutch authorities consider the need to legally embed the Manual for Incoming Foreign Assistance (Handboek Bijstand, LOCC 2009).

One of the questions that came up during the workshop on this report with stakeholders in The Netherlands, is whether legislation should always be preferred over policy. On the one hand lack of legal embedding of certain responsibilities may make it hard to enforce them, while on the other hand policy is a more flexible instrument and is therefore more suited for the exceptional situation of a disaster.

The Manual for Incoming Foreign Assistance, a great addition to the Dutch policy on incoming assistance and applicable to assistance from EU countries, is an operational document and as such not legally binding. Hence, adherence to the Manual cannot be enforced. We believe it is worth considering whether a legal anchoring of this Manual would improve the effectiveness of it.

It is recommended for the authorities to consider what the policy should be in the case of unsolicited assistance.

Although this is in part the responsibility of those who render assistance without a particular request, it would be practical to have a plan in place should this situation occur.

It is recommended that the Dutch authorities have a clear policy which entity is authorised to take central decisions for the scenario where the national government is no longer able to coordinate disaster response.

As a receiving State, The Netherlands always retains supreme command over incoming assistance, as is recommended by the Guidelines. However, the very extreme circumstance that the Dutch government is no longer able to coordinate the crisis, is not taken into account in any policy planning. However, it is recommended that such a 'Haiti-like' situation is be considered, particularly when taking into account the threat of terror attacks which may be specifically aimed at the national authorities. Hence, Dutch national disaster management plans should include a clear indication of who is authorised to take central government decisions should such a situation occur.

It is recommended that the Dutch authorities take into account that although the procedure to recognise EU qualifications may be adequate, their competencies (what they are legally permitted to treat) may vary per member State.

For example, German ambulance staff is not allowed to administer certain anaesthetics, which Dutch ambulance staff is allowed to use on patients. This fact cannot not and should not limit the effect of the European Directive on recognition of EU qualifications, however, it should be taken into account when deploying staff from other EU Member States. This variation of competencies affects their preferred functions in operational deployment, but may also affect their liability in case of mistakes.

It is recommended that national authorities consider granting certain foreign aid workers a security clearance.

This security clearance may be crucial to perform essential duties. One should think of clearance to enter certain restricted areas (e.g. the emergency room) and to access certain information, such as patient registration files et cetera.

b) Assistance rendered by States not a member of the EU

From the previous chapter it appears that facilitation of assistance by States, which are not a member of the EU, is minimal. The reason for this is the assumption of the Dutch government that incoming assistance will most likely be requested within the EU or in the UN/NATO framework. From the interviews with stakeholders in the policy department of the Ministry of Interior Affairs, we got the impression that the Dutch government considers the option of assistance from non-EU Member States unlikely. This is not only based on the availability of the EU mechanism, but also on the simple fact that non-EU States lack the necessary proximity to make their assistance economically and logistically feasible. In the first instance, although this may depend on the nature and scope of the disaster or emergency, a request for assistance will be directed at the neighbouring States Belgium and Germany or, if assistance from those States is not available, the EU.¹⁹⁸ Should the need arise, The Netherlands may apply to the NATO for assistance, based on the applicable mechanisms facilitated by the Euro-Atlantic Partnership Council (EAPC).¹⁹⁹

However, the LOCC has pointed at the possible need for assistance of individual non-EU States. For example, should a flood hit the whole of Northern Europe, the Netherlands may want to request assistance by the Russian Federation. The entry and operations of such an individual non-EU State team is not specifically facilitated by Dutch legislation.

General domestic disaster response legislation is applicable, as well as some European regulations. These instruments offer a number of important legal facilities, which include for example the exemption of import duties, excise duties and consumer tax, but also the VAT on relief goods, animals, medical equipment and vehicles from outside the EU, which are meant for victims on EU territory. Additionally, it can be derived from Dutch law that non-European relief workers are subject to Dutch law, which means that they are insured and under certain circumstances they can apply for a government contribution. As for liability, they are subject to the responsibility of the administrative organ charged with supreme command, but only if the administrative organ requested relief or tacitly agreed to the presence and actions of the assisting foreign team. Operationally speaking, there is attention for incoming assistance from outside the EU: the Manual for Incoming Foreign Assistance is also applicable to incoming (interstate) assistance from outside the EU, including the UN USAR units. The Manual for Incoming Foreign Assistance uses universal (English) terminology as much as possible. At the workshop conducted in light of this report, it was established that the LOCC is reliant on the Ministry of Foreign Affairs for the provision of emergency visa, but that the step of contacting the relevant officers for this procedure was not yet included in the operational Manual for Incoming Foreign Assistance.

Although legislation does apply to taxes, and the Manual on Disaster Relief holds extensive operational guidelines for international assistance, it must be established that the Dutch rules and legislation at the moment does not yet fully facilitate assistance from outside the EU. This lack of facilitation may lead to a delay assistance should non-EU Member State assistance be requested, or in case this assistance is rendered uninvited. From research and interviews with stakeholders it appears for now that each individual responsible Ministry or institute addresses these issues *ad hoc*, should the need arise. As for the type of problems this may cause, one should for example think of product conditions for food or pharmaceuticals, recognition of (medical) qualifications or driving licences and work permits.

¹⁹⁸ See LOCC 2009, part 2 *Border-crossing Relief* and Part 3 *Incoming Foreign Relief*. On the basis of practical considerations bilateral relief prevails over EU relief due to specific specialized relief from a neighbouring country or border municipality.

¹⁹⁹ LOCC 2009, p. 10.

What has been arranged legally?

- There is no specific domestic legislation on incoming foreign assistance by individual non-European State actors, however some issues this type of assistance may give rise to are dealt with in general disaster response legislation;
- Dutch law applies to non-European relief workers in aspects regarding legal status, like sick pay or injury;
- Non-European relief goods are subject to the Communal Customs Code under the regulation temporary import, which makes them exempt from VAT and import duties in The Netherlands (after approval by the European Commission);
- Dutch supreme command carries the responsibility for non-European relief workers when they render assistance at the request of the Government;

What has been arranged in policy?

- An operational framework has been laid down in the Manual for Incoming Foreign Assistance. The Manual for Incoming Foreign Assistance outlines the procedures to be followed by foreign units. Furthermore, the tasks and responsibilities of the relevant Dutch institutions have been outlined.

Recommendations:

It is recommended that the Dutch authorities consider whether there is a need to develop specific regulations for non-European State actors. Amongst others, the following topics may be considered in this respect:

- No specific regulation is available concerning privileges or immunities for foreign relief workers from outside the EU.
- No specific regulation is available for the speedy recognition of qualifications from non-EU relief workers.
- No specific regulation is available for communicating existing restrictions on import of food and medication for disaster relief.
- It may be helpful to ensure that Customs has a clear indication of what type of assistance is needed (on the basis of the needs assessment performed by the National Operation Centre).

c) Assistance rendered by non-State actors, like NGOs and the International Red Cross and Red Crescent Movement

Disasters very often trigger the (sometimes unsolicited) arrival of a large number of NGOs, church groups, diaspora communities and even individuals and private companies. However, this research has established that the Dutch government has not created a legal framework for non-State actors. In fact, the definition of Incoming Foreign Assistance in the operational Manual on this topic explicitly indicates that NGOs fall outside the scope of part III of Incoming Foreign Assistance, although it does not exclude the possibility that they may benefit from the existing structures for their work.²⁰⁰ However, it is not at all inconceivable that, should a major disaster occur, some, or even many, non-State actors will arrive at customs, as was the case in Indonesia after the Tsunami, but also the US received the unsolicited assistance of several foreign NGOs.

A was outlined in chapter 4, The Netherlands Red Cross is part of the International Red Cross and Red Crescent Movement. The components of the Movement are not NGOs, but they are non-State

²⁰⁰ LOCC 2009, p. 8.

actors. The Netherlands Red Cross is auxiliary to the Government of The Netherlands in matters of emergency management and crisis control. No specific agreements have been made concerning the involvement of the rest of the Movement should a disaster exceed the capacities of The Netherlands Red Cross. All components of the Movement adhere to a set of standards when it comes to disaster response, such as the Principles and Rules for Red Cross and Red Crescent Disaster Relief, which were approved by a Resolution at the International Conference of the Red Cross and Red Crescent in 1993, which was attended by States, and the Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief.

Consequences:

- No specific legislation on incoming assistance rendered by non-State actors, like NGOs or the Red Cross is available, regular domestic legislation and/or international private law applies;
- No special regulations for personnel of non-state actors is available regarding privileges and immunities;
- No automatic clearance for materials and personnel from non-State actors. This may lead to long delays at customs which will in its turn delay other assistance.
- Once personnel of a non-State actor has entered the territory of The Netherlands to render (uninvited) assistance, it is unclear if and if so from whom the non-State actor will receive instructions. This situation may lead to the development of unsolicited aid projects, which in turn may lead to dispersion of relief – or even counterproductive relief efforts.
- The legal status and liability of NGO relief workers is subject to regular Dutch legislation if they render assistance upon request (which includes tacitly accepting assistance) of the administrative body charged with supreme command.
- Regular legislation is applicable in relation to import of goods and relief workers. The Dutch government indicates that in case incoming assistance does not comply with national regulations, a choice may need to be made to decline assistance and to choose other available assistance that does comply with the Dutch rules and legislation.
- It may be helpful to ensure that Customs has a clear indication of what type of assistance is needed (on the basis of the needs assessment performed by the National Operation Centre).

Recommendations:

It is recommended that the Dutch authorities consider including legal and/or operational facilities for non-State actors like NGOs, private institutions and the Red Cross and Red Crescent Movement in disaster response regulation, in particular in the Manual of Incoming Foreign Assistance (Handboek Bijstand). This arrangement should include on the condition that these non-State actors meet certain quality standards developed by the Dutch authorities.

On EU level, Dutch policy focuses only at incoming assistance rendered by States, not on assistance rendered by non-State actors, like NGOs or the (International) Red Cross. In practice, the (uninvited) arrival of European non-State actors is not inconceivable, and may even be of essential need. By way of example, the NGO DARES is responsible for (part of) the radio communication during disasters and disaster exercises.

The guidelines suggest that it is of essential need to provide NGOs like these with the necessary legal facilities to operate during a disaster, such as an emergency visa procedure and legal personality and create clarity on legal liability. In the same line of thinking, the Manual for Incoming Assistance should ideally include operational procedures, including clarification of command structures and instructions for non-State disaster responders, like NGOs.

On the other hand, the Guidelines suggest that States should only grant these legal facilities to non-State actors who meet certain quality standards. These standards are for the State to draw up, but

should at minimum include the requirement that the aid provided for by a non-State actor should be based on the principles of humanity, neutrality and impartiality.

6.3 Conclusion

The present report demonstrates that in The Netherlands many aspects of incoming assistance during disaster response have been arranged in law and in policy. The framework mainly consists of EU and Dutch legislation, as well as administrative and operational policy which has been laid down in three manuals. However, this research has also identified some blind spots in disaster management legislation and regulations.

The IDRL Guidelines may be of use for the Dutch authorities as a guidance for issues that may improve Dutch rules and legislation on crisis control and emergency management. Is it unthinkable that in the future States from outside the EU render assistance in The Netherlands? From this report it may be concluded that there is under-regulation of incoming assistance rendered by non-European countries. No regulation or policy is known at all with regard to NGOs and the International Red Cross. The NRK gladly offers the IDRL Guidelines as a means to continue discussions with the Dutch government about the question of how the challenges established in this report may be met.

Annex 1 Legislation

Benelux Overeenkomst inzake grensoverschrijdende samenwerking tussen territoriale samenwerkingsverbanden of autoriteiten (1991).

Benelux Agreement on border crossing collaboration between territorial collaborations or authorities. (1991)

Overeenkomst Nederland, Duitsland, Nedersaksen en Noordrijn-Westfalen inzake grensoverschrijdende samenwerking (1991).

Agreement the Netherlands, Germany, Nedersaksen and Noordrijn- Westfalen regarding border crossing collaboration (1991)

Gemeenschappelijke verklaring Nederland-Nordrhein-Westfalen inzake grensoverschrijdende samenwerking (2000).

Joint declaration the Netherlands-Nordrhein-Westfalen regarding border crossing collaboration (2000)

Verdrag tussen het Koninkrijk der Nederlanden en de Bondsrepubliek Duitsland inzake de grensoverschrijdende politieke samenwerking en de samenwerking in strafrechtelijke aangelegenheden; Enschede, 2 maart 2005.

Treaty between the Kingdom of the Netherlands and the Federal Republic of Germany regarding border crossing police collaboration and collaboration in criminal law issues. Enschede, 2nd March 2005.

Verdrag tussen het Koninkrijk België, de Bondsrepubliek Duitsland, het Koninkrijk Spanje, de Republiek Frankrijk, het Groothertogdom Luxemburg, het Koninkrijk der Nederlanden en de Republiek Oostenrijk inzake de intensivering van de grensoverschrijdende samenwerking, in het bijzonder ter bestrijding van het terrorisme, de grensoverschrijdende criminaliteit en de illegale migratie; Prüm, 27 mei 2005.

Treaty between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, The French Republic, the Grand Duchy Luxembourg, the Kingdom of the Netherlands and the Austrian Republic regarding intensifying of border crossing collaboration in particular to fight terrorism, border crossing criminality and illegal migration; Prüm, 27th May 2005.

Verdrag tussen lidstaten van de Caraïbische Staten inzake regionale samenwerking bij natuurrampen, Santo Domingo de Guzmán, 17 april 1999, Trb. 2005, 15.

Treaty between member states of Caribbean States regarding regional collaboration during natural disasters, Santo Domingo de Guzman, 17th April 1999, Trb, 2005, 15

Memorandum van Senningen - Verdrag tussen het Koninkrijk der Nederlanden, het Koninkrijk België en het Groothertogdom Luxemburg inzake grensoverschrijdend politieel optreden (2004) en Verdrag tussen het Koninkrijk der Nederlanden, het Koninkrijk België en het Groothertogdom Luxemburg inzake grensoverschrijdend politieel optreden (2006).

Memorandum of Senningen – Treaty between the Kingdom of the Netherlands, the Kingdom of Belgium, and the Grand Duchy Luxembourg regarding border crossing police performance (2004) and the Treaty between the Kingdom of the Netherlands, the Kingdom of Belgium, and the Grand Duchy Luxembourg regarding border crossing police performance (2006)

Memorandum van overeenstemming inzake de samenwerking op het terrein van de beheersing van crisissen met mogelijke grensoverschrijdende gevolgen tussen het Koninkrijk België, het Koninkrijk der Nederlanden en het Groothertogdom Luxemburg – Intentieverklaring (2006), gebaseerd op de Gemeenschappelijke verklaring voor grensoverschrijdende samenwerking Nederland, België, Vlaanderen en Wallonië inzake de politiesamenwerking en samenwerking in de rampenbestrijding (2002).

Memorandum of agreement regarding collaboration in the field of crisis control with possible border crossing consequences between the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy Luxembourg – Declaration of Intent (2006), based on the Communal declaration for border crossing collaboration The Netherlands, Belgium, Flandres and Walloon regarding police collaboration and collaboration during emergency management. (2002)

National

Rijkswet van 25 februari 2008, houdende regeling van de taken en bevoegdheden, alsmede het beheer en beleid van de Kustwacht voor de Nederlandse Antillen en Aruba (*Rijkswet Kustwacht voor de Nederlandse Antillen en Aruba*)

National Law of 25th February 2008, holding regulation of responsibilities and authorities as well as control and policy of the Coastguard for the Dutch Antilles and Aruba (National Law Coastguard for Dutch Antilles and Aruba)

Wet van 10 november 1900, houdende algemeene regels omtrent het waterstaatsbestuur, herziening 16 mei 2002; zie artikel 68, eerste lid, van de Waterstaatswet 1900; herziening 16 mei 2002.

Law of 10th November 1900, holding general rules regarding management of Public Works Department, revised 16th May 2002, see Article 68, first sub, of the Law on Public Works Department 1900, revision 16th May 2002

Wet van 12 mei 1928, tot vaststelling van bepalingen betreffende het opium en andere verdoovende middelen.

Law of 12th May 1928 to determine stipulations regarding opium and other drugs

Wet van 12 december 1962, houdende een regeling betreffende het vorderen van zaken door de landsoverheid.

Law of 12th December 1962, holding a rule concerning claiming goods by the government.

Wet van 28 juni 1968, houdende vervanging van de bestaande omzetbelasting door een omzetbelasting volgens het stelsel van heffing over de toegevoegde waarde.

Law of 28th June 1968 holding replacement of existing turnover tax by a turnover tax according het system of a levy over the added value.

Wet van 30 januari 1985, houdende nieuwe regels met betrekking tot het brandweerwezen.

Act of 30th January 1985, holding new rules with relation to the firefighting organizations

Wet van 14 november 1991, houdende regels inzake de organisatie en uitvoering van de geneeskundige hulpverlening bij rampen alsmede de voorbereiding daarop.

Act of 14th November 1991, holding rules regarding the organization and execution of medical relief during disasters, as well as the preparation thereof.

Wet van 9 september 1992, houdende enkele rechtspositionele voorzieningen voor rampbestrijders in buitengewone omstandigheden.

Act of 9th September 1992 on Legal Facilities for Disaster Personnel Act

Wet van 11 november 1993, houdende regelen inzake beroepen op het gebied van de individuele gezondheidszorg.

Act of 11th November 1993 on Professions in the Individual Healthcare

Wet van 3 april 1996, stb 1996 365, houdende regeling met betrekking tot uitzonderingstoestanden (*Coördinatiewet uitzonderingstoestanden*).

Act of 3rd April 1996, stb 1996 365 holding regulations regarding exceptional situations. (Coordination Act exceptional situations)

Wet van 25 mei 1998, houdende regels over tegemoetkoming in de schade en de kosten in geval van overstromingen door zoet water, aardbevingen of andere rampen en zware ongevallen (Wet tegemoetkoming schade bij rampen en zware ongevallen).

Act of 25th May 1998, holding rules on compensation of damages and the cost in case of freshwater floods, earthquakes or other disasters or major accidents. (Act compensation with disasters and major accidents).

Wet van 11 april 2001, houdende regeling van het conflictenrecht met betrekking tot verbintenissen uit onrechtmatige daad (*Wet conflictenrecht onrechtmatige daad*).

Act of 11th April 2001 holding regulations on Conflict law with regard to agreements from criminal acts. (Act Conflict Law criminal act)

Wet van 31 oktober 2002, houdende bepalingen inzake rechtspersoonlijkheid, privileges en immuniteiten van de Hoge Commissaris inzake Nationale Minderheden (Wet HCNM).

Act of 31st October 2002 holding stipulations on legal body, privileges and immunities of the High Commissioner regarding National minorities (Act HCNM)

Wet van 13 april 2004, stb. 2004 184, tot wijziging van de Brandweerwet 1985, de Wet rampen en zware ongevallen en de Wet geneeskundige hulpverlening bij rampen in verband met de bevordering van de kwaliteit van de rampenbestrijding door middel van een planmatige aanpak en de aanscherping van het provinciale toezicht en tot wijziging van de Wet ambulancevervoer (Wet kwaliteitsbevordering rampenbestrijding, Wkr).

Act of 13th April 2004, Stb. 2004 184, to modification of the Fire Department Act 1985, the Act Disasters and Major Accidents and the Act medical relief during disasters with the promotion of the quality of the emergency management by means of a planned approach and the sharpening of provincial supervision and to modification of the Act Ambulance transport (Act Quality promotion emergency management, Wkr).

Wet van 8 februari 2007 tot vaststelling van een nieuwe Geneesmiddelenwet.

Act of 8th February 2007, Pharmaceuticals Act

Besluit van 22 december 1988, houdende vaststelling van een algemene maatregel van rijksbestuur tot regeling van de vrijwillige hulpverlening aan gewonden, zieken, krijgsgevangenen, geïnterneerden en anderszins hulpbehoevenden door erkende en toegelaten verenigingen.

Decree of 22nd December 1988, containing determination from a general measure from government committee to arranging voluntary relief for wounded and sick people, prisoners of war, internees and people in need for other reasons, by recognized and admitted associations.

Besluit van 20 juni 1994, houdende nadere regels met betrekking tot de informatieverschaffing en de te verstrekken informatie inzake rampen (Besluit informatie inzake rampen en zware ongevallen).

Decree on 20th June 1994 holding closer rules with relation to providing information and information supplied regarding disasters (Decree information regarding disasters and major accidents)

Besluit van 10 november 1998, houdende regels ter uitvoering van de Wet tegemoetkoming schade bij rampen en zware ongevallen.

Decree of 10th November 1998, holding rules to execute the Act compensation damages in disasters and major accidents.

Besluit van 27 mei 1999 tot vaststelling van het Besluit risico's zware ongevallen 1999 en tot herziening van enkele andere besluiten in verband met de uitvoering van Richtlijn nr. 96/82/EG van de Raad van de Europese Unie van 9 december 1996 betreffende de beheersing van de gevaren van zware ongevallen waarbij gevaarlijke stoffen zijn betrokken;

Decree of 27th May 1999 to determine the Decree risks major accidents 1999 and to review several other decrees in connection with of Guideline nr 96/82/EG of the Board of the European Union of 9th December 1996 concerning the control of the dangers of major accidents with dangerous goods involved.

Besluit van 7 juni 1999, houdende regels met betrekking tot rampbestrijdingsplannen voor bepaalde categorieën inrichtingen die vallen onder de reikwijdte van richtlijn nr. 96/82/EG van de Raad van de Europese Unie van 9 december 1996 betreffende de beheersing van de gevaren van zware ongevallen waarbij gevaarlijke stoffen zijn betrokken.

Decree of 7th June 1999 holding rules with relation to emergency management plans for certain categories of institutions falling under the range of guideline 96/82/EG of the Board of the EU of 9th December 1996 concerning the control of the dangers of major accidents with dangerous goods involved

Besluit van 24 januari 2002 inzake de rijksbijdragen in de kosten van het verlenen van bijstand en van de bestrijding van een ramp of zwaar ongeval in Nederland, als ook in België en Duitsland (Besluit rijksbijdragen bijstands- en bestrijdingskosten).

Decree of 24th January 2002 regarding government contributions to to cost of rendering relief and fighting a disaster or major accident in the Netherlands as well as in Belgium and Germany (Decree government contributions relief and emergency management cost)

Besluit van 18 mei 2004 tot vaststelling van criteria voor de toetsing van de kwaliteit van het rampenplan, het rampbestrijdingsplan en het beheersplan en tot vaststelling van eisen omtrent de inhoud van het organisatieplan (Besluit kwaliteitscriteria planvorming rampenbestrijding, Bkpr).

Decree of 18th May 2004 to determine criteria for testing the quality of the disaster plan, the emergency management plan and the control plan and to determine criteria regarding the contents on the organization plan (Decree quality criteria planning emergency management , Bkr)

Regeling van de Minister van Volksgezondheid, Welzijn en Sport van 2 oktober 2007, nr. MEVA/BO-2798652, houdende aanwijzing buitenlandse diploma's volksgezondheid (Regeling aanwijzing buitenlandse diploma's volksgezondheid).

Regulation on the Ministry of Public Health, Welfare and sports of 2nd October 2007, nr. MEVA/BO2798652 holding indicating foreign diploma's public health (Regulation indicating foreign diploma's public health

Regeling van de Minister van Binnenlandse zaken en Koninkrijksrelaties van 30 juni 2008, nr. STAF/CZW/WVOB 2008-000002982, houdende regels betreffende de beroepserkenning van brandweerpersoneel (Regeling erkenning EG-beroepskwalificaties brandweerpersoneel).

Regulation of the Minister of Interior Affairs of 30th June 2008, nr. STAF/CZW/WVOB 2008-000002982 holding rules concerning recognition EC professional qualifications firefighting personnel)

Regeling van de Minister van Binnenlandse Zaken en Koninkrijksrelaties van 14 augustus 2008, nr. STAF/CZW/WVOB 2008-00000287353, houdende regels betreffende de beroepserkenning van executief politiepersoneel (Regeling erkenning EG-beroepskwalificaties politiepersoneel).

Regulation of the Minister of Interior Affairs of 14th August 2008 nr. STAF/CZW/WVOB 2008-00000287353 holding rules on recognition of profession of executive police staff (Regulation recognition EC professional qualifications police staff.

Annex 2 Bibliography

Bannon & Fisher 2006

V. Bannon and D. Fisher, 'Legal Lessons in Disaster Relief from the Tsunami, the Pakistan Earthquake and Hurricane Katrina', *ASIL Insights*, vol. 10, issue 6, March 15, 2006.

BIICL 2009

British Institute of International and Comparative Law, *Preliminary Review of European Law*, London, June 2009.

Ettinger e.a. 2008

M. van Ettinger e.a., *Onderzoek grensoverschrijdende samenwerking bij crisisbeheersing In opdracht van het ministerie van Binnenlandse Zaken en Koninkrijksrelaties*, Utrecht: Capgemini Nederland B.V. 2008.

Order by Minister of Interior Affairs

Research bordercrossing collaboration during crisis control. Ordered by the Min. of Interior Affairs

Government of Indonesia and UN 2005

Government of Indonesia and UN, *Post-Tsunami Lessons Learned and Best Practices Workshop. Report and Working Groups Output*, Jakarta, Indonesia, 16-17 May 2005.

HKV LIJN IN WATER & Save 2007

B. Kolen e.a., *Rollen van het Rijk bij grootschalige evacuaties in Nederland. Uitwerking van een kader voor evacueren, een draaiboek voor het Rijk en een beschrijving van de rollen voor coördinatie en besluitvorming*, HKV LIJN IN WATER & Save, 2007.

ICRC 1969

ICRC, *Principles and Rules for Red Cross and Red Crescent Disaster Relief*, Istanbul 1969 (revised Geneva 1995).

IFRC 2007

IFRC, 'Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance', Geneva 2007.

IFRC 2007

IFRC, 'Law and legal issues in international disaster response: a desk study', Geneva 2007

IFRC 2008

IFRC, 'Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance', Geneva 2008.

IFRC 2009

IFRC 2009, 'World Disaster Report 2009, Focus on early warning, early action', Geneva 2009.

IOVV januari 2009

Inspectie Openbare Orde en Veiligheid, 'Rampenbestrijding op Orde. Tussenrapportage', Den Haag, januari 2009

Inspection Peace and Safety

Inspection Peace and Safety, Emergency Management taken care of?, interim report, The Hague

IOOV februari 2009

Inspectie Openbare Orde en Veiligheid, 'De organisatie van de geneeskundige hulpverlening bij ongevallen en rampen (GHOR)', Den Haag, februari 2009.

Inspection Peace and Safety

Inspection Peace and Safety, The organization of medical help during accidents and disasters

Kolen en Geerts 2006

B. Kolen en R. Geerts, *Als het tóch misgaat: Overstromingsscenario's voor rampenplannen*, november 2006.

Kortmann & Asser 2004

Kortmann & Asser, Asser 2-1, *De vertegenwoordiging en rechtspersoon; de rechtspersoon*, Den Haag: Kluwer 2004.

LOCC 2009

LOCC, *Handboek Bijstand, definitie concept, deel 1 'Nationaal', deel 2 'Grensoverschrijdende bijstandverlening, Versie 1.1, en deel 3 'Inkomende buitenlandse bijstand, versie 2*, februari 2009.

Ministerie van Interior Affairs 2004

Ministerie van Interior Affairs, *Beleidsplan crisisbeheersing 2004-2007*, juni 2004.

Ministerie van Interior Affairs 2005

Ministerie van Interior Affairs, *Systeemevaluatie Nationale Staf Oefening Nucleair 2005*, Den Haag, 2005.

Ministerie van Interior Affairs 2007

Ministerie van Interior Affairs, *De veiligheidsregio. Wetsvoorstel van de Wet Veiligheidsregio's: hoe, wat en waarom?*, Den Haag, november 2007

Ministerie van Interior Affairs juni 2008

Ministerie van Interior Affairs, *Nationale Veiligheid. Nationale Risicobeoordeling. Leidraad Methode 2008*, juni 2008 en Nationale Risicobeoordeling Bevindingenrapportage 2008.

Ministerie van Interior Affairs 2008

Ministerie van Interior Affairs, *Handboek Voorbereiding Rampenbestrijding. Structurering Documentatie Rampenbestrijding*, Den Haag 3 juli 2008.

Ministerie van Interior Affairs en ministerie van Defensie 2007

Ministerie van Interior Affairs en ministerie van Defensie 2007, *Catalogus Civiel Militaire Bestuursafspraken*, Den Haag, juli 2007.

NCC 1998

Nationaal Coördinatiecentrum, *Nationaal Handboek Crisisbesluitvorming*, Den Haag, juli 1998.

Ramakers 2007

M. Ramakers e.a., *Grensoverschrijdende hulpverlening in de Euregio Maas-Rijn, Wet- en regelgeving, overeenkomsten en afspraken met betrekking tot de grensoverschrijdende ambulance- en brandweezorg in de Euregio Maas-Rijn*, EMRIC-GGD Zuid-Limburg, augustus 2007.

Rapport ministerie van Interior Affairs 2005

Ministerie van Interior Affairs, 'Rapport bescherming vitale infrastructuur', 1 september 2005.

Rapport ministerie van Interior Affairs 2008

Rapport 'Crisisbeheersing in Bulgarije: Lessen voor Nederland', ministerie van Interior Affairs, april 2008.

Rapport ministerie Interior Affairs en V&W 2009

Rapport, 'Evaluatie Crisisoefening Waterproef (samenvatting)', ministeries van Interior Affairs en Verkeer & Waterstaat, Amersfoort, 20 maart 2009.

Report Washington 2006

Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative, Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina*, Washington, 15 February 2006.

SAVE & Van Dijke 2000

Ingenieursadviesbureau SAVE & Adviesbureau Van Dijke, 'Leidraad Maatrap', versie 1.3, 2000.

Stuger 2003

E.M. Stuger, *Visiedocument Landelijk Operationeel Coördinatiecentrum (LOCC)*, ministerie van Interior Affairs,

7 oktober 2003.

Annex 3 List of interviewed persons

Ministerie van Binnenlandse Zaken en Koninkrijksrelaties:

- mr.dr.s. E. de Hamer, senior beleidsmedewerker Politie en Veiligheidsregio's
- dr. G. Haverkamp, senior beleidsmedewerker DCB Bestuursondersteuning, internationale zaken
- P.W.J.C. Goudsmits, senior coördinator advies, Nationale Veiligheid, LOCC
- H. Mensen, beleidscoördinator Koninkrijksrelaties

- drs. C.L.P.M. Goemans BEd MSc, coördinator sr. beleidsmedewerker Nationale Veiligheid, programma Dreigingen & Capaciteiten
- drs. R.M.J. Voorthuis, coördinerend senior beleidsmedewerker, Directie Politie en Veiligheidsregio's, Directoraat Generaal Veiligheid

Ministerie van Buitenlandse Zaken

- drs. J. Jurriëns, senior beleidsmedewerker, afdeling Humanitaire Hulp, Directie Mensenrechten, Goed Bestuur en Humanitaire Hulp
- S. Wijnands, Hoofd Visumsectie, afdeling Vreemdelingen- en Visumzaken

Voedsel en Waren Autoriteit Regio Zuidwest

- mevr. dr. A. van Gheel, senior stafmedewerker afdeling import

Inspectie voor de Gezondheidszorg (IGZ)

- mevr. P. Hillemans, IGZ-loket

Gemeente Den Haag

- M. van der Burgt, coördinator Crisisbeheersing en Terrorisme, afdeling Openbare Orde en Veiligheid

Gemeente Rotterdam

- drs. S. Scholten, adviseur afdeling Gebieden, Crisis en Orde; Directie Veiligheid

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