



Legal Preparedness for International Disaster Response in Kazakhstan

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About this Report

A draft of this report was originally prepared in the Russian language in February 2010. This English language version published in 2012 also remains current as at February 2010. This was prior to the passage of the new law on Civil Defence in 2010, although the draft version of that law was considered as part of this report.

About the Disaster Law programme

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About the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (the “IDRL Guidelines”)

The IDRL Guidelines are a set of recommendations to governments on how to prepare their disaster laws and plans for the common regulatory problems in international disaster relief operations. They advise governments as to the minimal quality standards they should insist upon in humanitarian assistance, as well as the kinds of legal facilities aid providers need to do their work effectively. The Guidelines were adopted by the state parties to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent in 2011. The ‘Introduction to the IDRL Guidelines’, a document containing background information to the Guidelines as well as the Guidelines themselves, was thoroughly analyzed and utilized by the Consultant for the purpose of researching this report.

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Acronyms

IDRL	International Disaster Response Laws, Rules and Principles
KazHydroMet	The Kazakhstan agency dealing with hydrometeorology issues
KazSeleZaschita	The Kazakhstan agency ensuring protection of the population from mudflows
KRCS	Kazakhstan Red Crescent Society
MES	Ministry of Emergency Situations
OSCE	Organization on Security and Cooperation in Europe (which includes Kazakhstan)
SCO	The Shanghai Cooperation Organization: an intergovernmental mutual-security organization (which includes Kazakhstan)
VAT	Value-added tax

Executive Summary

This report analyzes the laws of Kazakhstan (current as of February 2010) relevant to international disaster preparedness and response in light of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance ('the IDRL Guidelines').

Legal preparedness for emergency situations requiring international assistance is an important factor in establishing a well-grounded and comprehensive disaster management and response system, in order to save lives, protect property and successfully carry out initial recovery operations. Kazakhstan is a relatively young state, and its laws governing response to natural or man-made disasters are not yet well developed. With this in mind, the provisions outlined in the IDRL Guidelines may prove useful in developing a comprehensive national legal framework for the regulation and facilitation of international disaster assistance in Kazakhstan.

The IDRL Guidelines were negotiated in 2006-07, drawing on six years of consultations and field research carried out by the International Federation of Red Cross and Red Crescent Societies and its members. They consist of recommendations to governments as to how best to prepare their legal and institutional systems so as to avoid the most common problems in the regulation and facilitation of external disaster assistance. They were unanimously adopted by the state parties to the Geneva Conventions (including Kazakhstan) at the 30th International Conference of the Red Cross and Red Crescent in 2007.

This survey of Kazakhstan laws has found a number of gaps in the legal framework for the facilitation of international disaster assistance, in particular the lack of a mechanism for regulating and facilitating aid from non-state actors. Although there are positive working relationships, such as that between the Kazakhstan Red Crescent Society and the government, these arrangements are not formally recognised in legislation.

Should Kazakhstan require international assistance due to a major disaster in the future, the provision of such assistance would be greatly facilitated by making certain changes to the present laws, including tax exemptions for humanitarian relief, expedited customs procedures, and other regulations that would facilitate the entry of international assistance. Special emergency procedures for recognizing drivers' licences and professional qualifications, such as in the field of medicine, would also make it easier for humanitarian organizations and other states to provide assistance. Even the legal status of foreign assisting organizations could be clarified, so that during emergencies they can operate effectively within Kazakhstan, allowing them to open bank accounts and perform other tasks that are essential for working in Kazakhstan following a disaster.

The majority of this report was completed prior to the passage of the consolidated Law on Civil Defence in 2010. Nevertheless, most of the report's recommendations for changes to the laws of Kazakhstan still

stand. Unfortunately, few of the recommendations that had been hoped for were incorporated into the new Law on Civil Defence.

It is hoped that this report will help clarify the state of the law in Kazakhstan (as at February 2010, including consideration of the Draft Law on Civil Defence 2010) and will also raise awareness of areas where the law could still be improved following the passage of the new law on Civil Defence.

**Legal Preparedness for International
Disaster Response in Kazakhstan**

Chapter 1

Background

Physical, administrative and territorial systems

The Republic of Kazakhstan (hereafter ‘Kazakhstan’) became an independent sovereign state in 1991, following the dissolution of the Union of Soviet Socialist Republics (USSR). In the north, the country borders the Russian Federation, in the east, it neighbours China, and in the south, it adjoins the Kyrgyz Republic, Uzbekistan, and Turkmenistan. The west coast of Kazakhstan meets the Caspian Sea. Having the ninth-largest territory globally, it features a range of different landforms, including high mountains, lowlands, plains and steppes, deserts, oases, forests and the large inland Aral Sea. The predominant climate in the country is continental.

There are approximately 85,000 rivers and temporary waterways flowing through Kazakhstan, which total approximately 223,000 km in length. There is an extensive network of rivers in the regions of the Altai, Djunghar and Trans-Ili Alatau located in the east and south-east of the Republic. The largest river in Kazakhstan is the Irtysh River. Its source is located in China, while its lower stream flows into Russia. Other major rivers flowing through Kazakhstan include the Sur-Dariya, Ili, Ishym, Tobol, Shou, and Ural rivers. The rivers which belong solely to Kazakhstan are the Turghai, Yil, Sarysou, Emba, Saghiz, Nura, Bukhtarma, Ulba, and Karatal rivers. There are 57,000 lakes located in the territory of Kazakhstan, totalling approximately 45,000 square kilometres.

The population of Kazakhstan is more than 16 million people, with the average population density at 5.5 persons per square kilometre. About 55 percent of the population lives in cities, and representatives of 130 nationalities practise 45 faiths in the country.

In accordance with its administrative and territorial division, Kazakhstan is divided into 14 ‘oblasts’ (Almaty, Eastern-Kazakhstani, Pavlodar, North-Kazakhstani, Akmola, Karaganda, Kostanai, Aktyubinks, Western-Kazakhstani, Atyrau, Mangystau, Kzyl-Orda, South-Kazakhstani, and Zhambul), two major cities (Astana and Almaty), 220 regions, and 2,402 ‘aul’ (village) districts. The Republic counts 84 cities, 241 villages, and more than 8,000 rural inhabited areas. The largest cities are the administrative centres of the oblasts, where 34 percent of the entire population of the country resides.

Disaster risk profile

Kazakhstan is prone to a variety of natural disasters, including earthquakes and floods, mudflows, avalanches, landslides and landfalls, and flooding of the coastal areas where Kazakhstan meets the Caspian Sea. Much of the country is also prone to wildfires, forest fires and outbreaks of animal diseases. Approximately 75% of the country’s terrain is exposed to a high risk of different types of natural disasters.

Every year, Kazakhstan registers approximately 3,000-4,000 natural disasters, resulting in approximately 3,000-5,000 injuries and several dozen fatalities. The total damage caused by these disasters is estimated at more than 50 million USD.

About 40% of industry is concentrated in areas prone to earthquakes. Particularly high seismic risk areas include Eastern-Kazakhstan, Almaty, Zhambul and South Kazakhstan. There are also thousands

of schools, kindergartens, residential structures and medical institutions located in areas at high risk of seismic movements, which should be either reinforced or demolished and rebuilt elsewhere on more stable land. For example, expert assessments have predicted that if an earthquake with a magnitude ranging up to 9 on the Richter scale hits the city of Almaty, about 24,225 buildings would be destroyed, 31,183 residences damaged, and a further 109 industrial facilities, 150 schools, 209 kindergartens and 194 municipal buildings destroyed.

Floods caused by melting snow occur in almost every region of Kazakhstan. This type of flooding is likely to occur in Southern Kazakhstan from February to June each year. From March to July, it may occur in Eastern Kazakhstan. Flatland rivers may overflow from March to June. The heaviest damage caused by flooding usually occurs in the areas of the Irtysh, the Ural, the Tobol, the Ishym, the Nura, the Emba, the Turghai, and the Sary-Su rivers.

Legislative system

The Constitution of Kazakhstan, dated August 30, 1995, envisages a 'democratic, secular, legal and social state.' In Article 3 of the Constitution, it is declared that 'the only source of State power is the people.'

In accordance with the Law on Statutory Acts, dated March 24, 1998 the hierarchy of legal instruments in the country starts with the Constitution, followed by Codes, Laws, then Decrees issued by the President and, finally, Ordinances generated by the Government of Kazakhstan (hereafter 'the Government').

Governmental structure

The structural organization of the Government is outlined in the Constitution. This also specifies the role of the national and local authorities, as well as the authorities responsible for relief and recovery operations in response to both natural and man-made disasters.

The President of Kazakhstan (hereafter 'the President'), is head of state and, as such, is granted under Article 40 of the Constitution the power to: determine the state's principal domestic and external policies; ensure the coordinated activity of all branches of state power; sign the laws submitted by the Mazhilis and Senate of the Parliament; and issue legislative acts. Article 44(20) of the Constitution also empowers the President to establish a Security Council, define its objectives and powers, ratify the national security policy of Kazakhstan, and approve state programmes for emergency situations, including environmental disasters, outbreaks of epidemics, animal diseases, major accidents and calamities that require urgent and immediate rescue activity with the purpose of protecting lives, public health, and national property. For example, under Article 5 of the Law On Emergency Situations, dated February 8, 2003, the President is empowered to declare an emergency situation nationwide or in certain regions with an urgent notification to the Parliament. He may also make decisions regarding the involvement of national and foreign military forces; and is empowered to carry out other required actions related to emergency situations in compliance with the law of Kazakhstan.

As set out in Article 44 of the Constitution, the Security Council is defined as an advisory organ to the President. In the realm of national security, an integral part of which is addressing emergency situations, the Council may: develop proposals regarding security issues and submit them to the head of state; coordinate the actions of law-enforcement agencies and other central and local executive bodies; analyze the current situation and predict its progress; review the relevant bills and provide guidelines; and monitor and enforce laws, Presidential decrees, and resolutions of the Security Council, including those pertaining to the management of emergency situations.

The **Parliament** may adopt laws on overcoming emergency situations, as well as civil defence and national security issues. The Parliament may also amend existing laws, and carry out parliamentary hearings and exercise its authority regarding the provision of national security, the management of emergency situations, and civil defence arrangements. In general, such issues are regulated in compliance with Articles 49, 54 and 63 of the Constitution and Articles 15-20 of the Constitutional Law on the Parliament of the Republic of Kazakhstan and Status of its Deputies, dated October 16, 1995.

The **Government**, as set out in Articles 64-70 of the Constitution and Article 9 of the Constitutional Law of December 18, 1995, has defined functions in respect of various national activities, including situations of natural and man-made disaster relief and recovery functions. According to these provisions, the Government shall: manage the activities of central and local executive bodies; ensure the enforcement of national laws, as well as decrees issued by the President and Government; establish an inter-departmental state commission for emergency situations and ratify the relevant provisions regarding emergencies; notify regional or global authorities of emergency situations; identify the scale and location of national emergencies; and organize monitoring and preparedness functions, as well as the delivery of urgent medical aid, rescue works, and information management systems. The Government defines the procedures for informing, knowledge-sharing and training of specialists. It may also define relevant procedures and corresponding state responsibilities in the case of emergency situations; it allocates funding from the state budget and monitors the use of government resources, and may allocate reserve funds from the Government for emergency recovery situations.

The Government may also define the order in which emergency protection, rescue and reconstruction activities are conducted, to include issues such as means of transportation, the role of the Armed Forces, restoration or reconstruction of the surrounding environment and restoration of economic activities of organizations and individuals affected by the emergency situation and/or disaster. It may define the social support provided to citizens and workers affected by the emergency situation, as well as the system for reimbursement of damage caused to the health and property of citizens, and the surrounding environment and business entities. Finally, it is responsible for international cooperation with regard to preventing and overcoming emergency situations in the territory of Kazakhstan.

The Prime Minister, guided by Article 67 of the Constitution (concerning laws pertaining natural and man-made disasters), organizes the Government's actions, signs ordinances issued by the Government, reports to the President on major policy activities of the Government, and on its main resolutions including the monitoring of emergency situations. The Prime Minister is in charge of the comprehensive management of Civil Defence, in his role as Head of Civil Defence.

The National Courts, in compliance with Articles 75-76 of the Constitution, administer justice in relation to crimes, as stipulated in the Criminal Code, dated July 16, 1997. These include wrongdoings associated with breaching legislation in emergency situations. In the case of an emergency situation or disaster, any misconduct by individuals is reviewed by law-enforcement bodies or courts in accordance with the Criminal Code such as: Article 175 ('Theft'); Article 176 ('Acquisition or Embezzlement of Entrusted Property'); Article 178 ('Robbery'), Article 179 ('Banditry') and Article 180 ('Theft of Special Value Items').

The Ministry of Emergency Situations (MES) is the central executive organ responsible for the management of natural and man-made disaster relief and recovery operations. The MES is involved in inter-ministerial coordination and may also liaise with Civil Defence, as well as fire safety and other sectors (e.g. industrial and mining sectors) which have facilities at disaster sites.

The MES may: coordinate the response of central and local executive government bodies in the event of a natural or man-made disaster; ratify and approve statutory deeds (except for technical regulations); ensure that the state is accountable in the sphere of emergency situations; and elaborate and submit state reports pertaining to the protection of persons, of the surrounding environment and of businesses from natural disasters, for consideration by the Government. It may also: manage the involvement of Civil Defence forces in preventing and responding to disasters; manage the state fire fighting services; coordinate action for preventing and extinguishing fires; administer State expertise in the context of emergency situations and, if necessary, arrange for independent assessment by a relevant international organization.

The MES may: ensure an open and transparent method of communicating information during and following emergency situations; activate funding for events aimed at preventing and responding to emergency situations; and submit proposals to the Government regarding the amount of state resources available for the mobilization of food, and medical and other resources, and the use of these resources from the Government's reserve funds for preventing and responding to emergency situations and disasters. Furthermore, the MES may arrange for funding for research, knowledge and information-sharing, and training of specialists and the civilian population concerning emergency situations. It may: activate national oversight of prevention and response in the aftermath of emergency situations; issue orders to State bodies, organizations and citizens, which have legal power in relation to preventing and responding to the consequences of natural or man-made disasters; launch formal investigations into accidents, calamities and disasters which created emergency situations; submit relevant documentation as required by the relevant procedure in respect of any trials of public functionaries, citizens and organizations; and may inform citizens and organizations of relevant safety requirements, as well as measures aimed at preventing and responding to emergency situations.

Furthermore, in accordance with the resolutions of the Government, the MES may exercise immediate administrative control over the regional or national emergency response and mobilize organizations' material and technical resources in accordance with law. It may initiate international cooperation, and ensure the operation of foreign organizations and citizens preventing and responding to emergency situations. It may: launch humanitarian campaigns; elaborate programs aimed at the prevention of natural or man-made emergencies; ensure the provision of search and rescue services (including air-

mobile teams); deliver urgent medical aid for injured individuals, including rescue services workers in the disaster-affected areas; and develop technical regulations in the areas where natural or man-made disasters have occurred.

All these actions are stipulated in: Article 68 of the Constitution; Article 22 of the Constitutional Law on Government of the Republic of Kazakhstan, dated December 18, 1995; Law on Natural and Man-made Emergency Response, dated July 5, 1996; Law on Fire Safety, dated November 22, 1996 Law on Rescue Services and Rescuers' Status, dated March 27, 1997; and the Law on Industrial Safety at Hazardous Production Facilities, dated April 3, 2002. The last six of the laws listed above laid the foundation for 2010-2011 revisions of the Law on Civil Defence.

The Minister of Emergency Situations is the Deputy Head of Civil Defence of Kazakhstan and may exercise immediate management of Civil Defence in emergency or disaster situations.

The executive government bodies (ministries and agencies) are authorised by Article 68 of the Constitution to perform specific functions. In addition to these specified responsibilities, each ministry or agency can establish local or national branches or authorities for the management of emergency situations.

Within the framework of their responsibilities these executive government bodies may launch campaigns aimed at preventing and responding to emergency situations. They can: may make proposals for the allocation of additional resources from government reserves for natural and man-made emergencies; approve and coordinate regulations, standards and requirements; carry out state accounting services and submit relevant data to the MES; set up branch commissions and manage oversight and monitoring services; activate branch office expertise; and organize research and information/knowledge sharing and development, as well as the training of specialists.

The executive government bodies may also: organize control and monitoring of emergency situations through their local branches; issue orders/regulations addressed to their local branches, to organizations and to citizens; participate in investigating accidents, calamities and disasters and even refer citizens and functionaries for trial arising from these situations. They may also participate in international cooperation for disaster response. The head of each executive government body is also the head of Civil Defence in that government sector.

The mandates of local representative and executive bodies relate to issues of local significance, including preventing and responding to emergency situations in their area of geographical responsibility, as defined in Articles 85-89 of the Constitution. In accordance with these and other specific legal provisions on emergency situations, local government agencies may: receive reports prepared by the heads of local executive bodies and organizations on preventing and responding to emergency situations; adopt resolutions for the establishment of financial and material reserves for preventing and responding to emergency situations; and introduce compulsory regulations for the provision of social order and safety in case of disaster, threat or an occurrence of emergency situations, and accept administrative responsibility.

**Legal Preparedness for International
Disaster Response in Kazakhstan**

Chapter 2

Legal Framework for Disaster

Relevant international and regional agreements

Kazakhstan is party to a variety of international and regional agreements on early warning and disaster response, although there is no overarching international or regional agreement for the delivery of assistance in the event of emergency situations. The key regional and bilateral agreements are listed in the table below.

No.	Document Title (by date order)	Kazakhstan Signature	Kazakhstan Accession
1.	Agreement between the CIS states on Interaction in the Sphere of Early Warning and Response to Natural or Man-made Disasters, (Minsk, January 22, 1993).	January 22, 1993	Entered into force for Kazakhstan on January 22, 1993
2.	Agreement between the CIS states on the Simplification and Unification of Customs Clearance Procedures dated July 8, 1994.		
3.	Agreement between Kazakhstan, Kyrgyz Republic, Tajikistan and Uzbekistan on Cooperation in Emergency Prevention and Response (Cholpon-Ata, July 17, 1998) (hereinafter, “the Cholpon-Ata Agreement”).	July 17, 1998	Ratified by Kazakhstan December 30, 1999 , No. 7-П
4.	Agreement on Use and Development of Transportation Network and Transportation Communications for Economy needs, Military and Humanitarian Transportation between the CIS Member States (May 31, 2001).	May 31, 2001	Ratified December 10, 2003 (entered into force on 9 January, 2004), No 507
5.	CIS Decision on Procedures for the Organization of Cooperation of CIS Member States in Response to Natural and Man-Made Emergencies dated November 29, 2001’, (hereinafter “the CIS decision of 2001”).	November 29, 2001	
6.	Agreement on Mutual Assistance at Power-Generating Facilities for Emergency Prevention and Response between the CIS Member States (Moscow, May 30, 2002).	May 30, 2002,	Ratified July 7, 2004 No 579 (entered into force July 22, 2004)
7.	Agreement of the CIS Member States on Information Exchange and Coordination in Aid Delivery for Affected Nations (Yalta, Sept. 18, 2003).	Sept. 18, 2003	Signed November 26, 2004 (entered into force on signature).
8.	Resolution on Creation of Reserve Fund the CIS Member States for Aid Delivery to Affected States in Response to Natural and Man-Made Emergencies (Cholpon-Ata, April 16, 2004)	April 16, 2004	
9.	Agreement between Governments of Member States of the Shanghai Cooperation Organization on Cooperation in Delivery of Assistance for Emergency Response, 2005 (hereinafter “the Shanghai Agreement”).	October 26, 2005	Ratified May 29, 2007 No 257
10.	Agreement on Unitary Customs Tariffs (Moscow, January 25, 2008) (hereinafter the “Customs Union Agreement”)		
11.	The Agreement between the Government of Kazakhstan and the Council of Ministers of Ukraine on Cooperation in the Sphere of Early Warning of Emergency Situations.		Ratified on the basis of the Law dated February 10, 2009
12.	Agreement on Measures for External Commerce of Goods for the single customs territory with regard to third-party countries, dated June 9, 2009.		

Article 4 of the National Constitution provides that international agreements ratified by Kazakhstan take precedence over other laws and are to be applied directly, unless the agreement specifies that an adopting law is required. This means that, in principle, those international agreements on emergency response ratified by Kazakhstan have precedence over domestic legislation. It is also worth noting that, rather unusually, the provisions of some of these international agreements have entered into force in Kazakhstan upon signature without the need for ratification or accession.

Despite these constitutional provisions, domestic law practice in the implementation of international law into domestic laws in Kazakhstan indicates that the preferred method is incorporation of international agreements by a specific national law (an 'implementing law'). This method may be applied through what is referred to as reception or transformation, according to which the implementing domestic law is applied and reproduces the contents of the international agreement without any changes or clarifications. This has become common practice in Kazakhstan, whereby the implementing law is accompanied by a copy of the agreement itself. In this case, the international document is incorporated into a national law and implements the state's international obligations through the domestic law. More detailed information on these methods can be found in Articles 11, 16 and 17 of the Law on International Agreements dated May 30, 2005. However, although certain provisions stipulated in the regional agreements for emergencies outlined above have been incorporated into Kazakhstan's national law, there are many other applicable standards which have not yet been adopted into the national legal system.

As noted above, some provisions contained in international agreements still remain to be incorporated into Kazakhstan's legislation on disaster relief and recovery operations in order to have legal effect. For example, Chapter 8 of Annex 9 to the Convention on International Civil Aviation 1944 (also known as the 'Chicago Convention'), to which Kazakhstan is a state party, makes provision for the facilitated entry and exit of international relief flights following natural and man-made disaster which seriously endanger human health or the environment, and similar emergency situations. As a party to the Chicago Convention, Kazakhstan has to incorporate this standard into its bilateral agreements with other states and into its domestic legislation regarding the aviation rules and procedures.

Furthermore, as a member of the United Nations, Kazakhstan has assumed a responsibility to see that the resolutions of the General Assembly, including Resolution No 46/182 on 'Strengthening of the coordination of humanitarian emergency assistance of the United Nations' (1991), are upheld. Paragraph 13 of the annex to that Resolution outlines that 'adequate assistance in exchanging available and new technical information concerns concerning their capacity in evaluation, disaster prevention and mitigation' which could be used accordingly in the Law on Civil Defence. The managerial and legal mechanism for prompt rapid disaster response, as required in paragraph 39 of the annex to Resolution 46/182, was included in Chapter 18(1) of the Draft Law on Civil Defence 2010, concerning cooperation between Kazakhstan and the UN Resident Coordinator for delivery of relief assistance in emergency cases.

Some key aspects of international disaster assistance arrangements in Kazakhstan are highlighted below, with reference to existing international and regional instruments to which Kazakhstan is a party.

Request for assistance

Article 5 of the Cholpon-Alta Agreement 1998 stipulates that affected countries may appeal for assistance in emergency situations. This agreement also stipulates that a requesting country should indicate in its appeal the type and scope of assistance required.

Article 2(2) of the Shanghai Agreement 2005 envisages that, in case of an emergency, a party may approach one or more other parties for help.

Type of assistance

The CIS Decision of 2001 contains provisions stipulating that a requesting state shall provide the assisting country the information required to select the 'appropriate type of assistance'.

In the Agreement on Mutual Assistance at Power-Generating Facilities for Emergency Prevention and Response between the CIS Member States (Moscow, May 30, 2002), it is stipulated that rescue and recovery work shall be performed after the affected party has issued a request for assistance, which shall 'specify the assistance sought'. Article 2(4) of the Shanghai Agreement 2005 requires that an affected country is obliged to inform the assisting country of the intended use of requested goods.

Exchange of information

Article 6 of the Shanghai Agreement 2005 foresees the need for information exchange between parties. As stated in the Agreement, the information exchange will be more efficient through the application and utilization of 'state-of-the-art information technologies.'

Entry of personnel

Article 8 of the Cholpon-Alta Agreement 1998 addresses control over the arrival of disaster relief personnel into the affected country. In that agreement, it is stipulated that humanitarian workers may cross the 'State border of the requesting country or transit states via checkpoints accessible for international communication by showing their passports or identity cards.' The leader of each delegation is obliged to have a list of the assisting personnel, and a document confirming his/her authority and the authority of the group members, certified by a competent body of the state of origin. The agreement also recommends that the requirements for expediting procedures for arrivals into the affected country be specified, as well as the cost of visas and work permits and travel arrangements into the disaster zone.

Entry of goods and medicines

Article 6 of the Cholpon-Alta Agreement 1998 also stipulates that each transit state shall ensure to other parties, 'unhampered access via its country's territory', including transportation of equipment and goods. Article 9 stipulates that goods and freight for relief operations shall be **exempt from the customs**

duties, taxes and fees which are traditionally imposed on imported or exported goods.

The agreement also requires the streamlining of customs clearance of goods in emergency situations as between the state parties. A similar provision is stipulated in the Agreement on Mutual Assistance at Power-Generating Facilities for Emergency Prevention and Response between the CIS Member States (Moscow, May 30, 2002), which exempts goods imported into the country for relief in emergency situations from customs duties, taxes and fees.

Re-exportation of equipment

The Cholpon-Alta Agreement 1998 also stipulates that equipment imported into the country for relief and recovery operations by state parties shall be exported out of the country upon completion of the emergency operation, if possible.

Special goods – medications

Articles 9(4) and 9(5) of the Shanghai Agreement 2005 contain provisions specifying that medications containing narcotic or psychotropic substances may be imported into the affected country by other state parties if necessary, and the assisting country shall provide these medications in compliance with the requirements of domestic legislation. Any assisting groups who will be carrying these medications are obliged to specify the stock list and quantity of the imported substances.

The legal framework in Kazakhstan pertaining to disaster relief operations

Laws & regulations

Despite the fact that Kazakhstan is a relatively young state, it has a comprehensive set of national laws and administrative ordinances concerning early warning about, and response to, natural and man-made disasters.

The state's institutional regulation in the sphere of emergency situations includes ensuring efficient preparedness for, and response to, natural disasters on the basis of the Constitution. The types of laws and decrees issued by the President which have the power of a constitutional law include:

- Five special laws;
- More than ten other laws which regulate certain issues in emergency situations;
- Decrees issued by the President of Kazakhstan which regulate the order and form of state management of national and local executive government bodies;
- More than 70 special administrative ordinances (decrees issued by the Government, ordinances issued by the Prime Minister of Kazakhstan, Resolutions of the MES and other central executive agencies adopted in the established order with registration at the Ministry

- of Justice);
- Resolutions issued by the local representative and executive bodies; and
- More than 130 special administrative cross-departmental ordinances.

The key Kazakhstani legislation relevant to disasters is:

Codes

- The Code on Administrative Violations dated January 30, 2001
- The Code on Public Health and Public Health Service dated January 1, 2009

Laws

- Law dated April 17, 1995 on State Registration of Legal Entities and Accounting of Subsidiaries and Representations
- Law dated July 5, 1996 on Natural and Man-made Emergencies
- Law dated November 22, 1996 on Fire Safety
- Law dated March 27, 1997 on Rescue Services and Rescuers' Status
- Law dated December 13, 1997 on Migration of Populations
- Law dated January 16, 2001 on Non-Commercial Organizations
- Law dated April 3, 2002 on Industrial Safety at Hazardous Industrial Facilities
- Law dated March 7, 2002 on Diplomatic Service of the Republic of Kazakhstan
- Law dated April 25, 2003 on Obligatory Social Insurance
- Law dated July 4, 2003 on Automobile Transportation
- Law dated June 13, 2005 on Currency Regulation and Currency Control
- Law dated January 12, 2007 on Procedure of Review of Applications Issued by Physical persons and Legal entities

Decrees

- Decree issued by the President of Kazakhstan dated April 17, 1992 on Activities of the Kazakh National Red Cross and Red Crescent Societies
- Decree of the President dated September 27, 1999 on Ratification of Consular Regulations of the Republic of Kazakhstan

Ordinances

- Ordinance issued by the Council of Ministers of dated September 27, 1994 on Creation of Medical Aid Service of the Republic of Kazakhstan in Emergency Situations
- Ordinance of the Government dated August 28, 1997 on State System of Early warning and Elimination of Emergencies Aftermath
- Ordinance issued by the government of Kazakhstan dated February 9, 1998 on Arrangements for Eradication of Emergency Situations of Social and Criminal Nature

- Ordinance issued by the government Kazakhstan dated January 28, 2000 'Certain Issues of Legal Regulation concerning the staying of the foreigners in the Republic of Kazakhstan
- Ordinance issued by the government of Kazakhstan dated December 31, 2003 on Development Program of State System for Early Warning and Eradication of Emergency Situations for the years 2004-2010
- Ordinance of the Government dated November 23, 2005 on Concept of Early warning and Elimination of Natural and Man-made Disasters and Upgrading of the State System in this Sphere
- Ordinance of the Government dated January 13, 2005 on Ratification of Regulations for Involving of Automobile Transporters for Elimination of Disasters

Clarity in civil defence roles

Based on the consideration of the national legislation noted above, it would assist in the facilitation and coordination of international assistance if the Law on Civil Defence incorporated provisions to clarify the following:

1. specify the authorities of the President and the Parliament with regard to the civil defence issues, and incorporate the provisions on 'the general management of civil defence which shall be carried out by the Prime Minister of Kazakhstan who in accordance with his title will perform the duties of the Head of Civil Defence of Kazakhstan';
2. incorporate a provision on the need for an emergency alert system, and stipulate the agencies which will assume responsibilities in a disaster situation;
3. complement the 'principal objectives' of the law with the following provisions: minimizing damage and losses after disasters; clarifying roles as between State authorities and other executive bodies of Kazakhstan in post-disaster situations.

Early warning and prevention of disasters

With regard to early warning and prevention of disasters, it would also be preferable to consider amending the Law on Civil Defence to include the following issues:

1. integrating clauses and provisions of valid international agreements and expand the legal foundation;
2. strengthening clauses on information exchange concerning the situations of cooperating states;
3. conducting monitoring and prediction of emergency situations on a permanent basis and in partnership with international entities;
4. arranging an intergovernmental and interstate system of notification on emergency situations;
5. providing for the creation of stocks and reserves of financial, medical and material resources, providing

- for the organization and activation of humanitarian and search and rescue work abroad;
6. allowing for participation in international mechanisms for the mobilization of assistance in emergency situations (for example, the proposed Central-Asian Coordination Centre for Disaster Response and Risk Reduction);
 7. providing for the participation of rescue teams from Kazakhstan in disaster work abroad;
 8. facilitating the involvement of foreign rescue teams in Kazakhstan in emergencies;
 9. providing for the creation of national teams of trained and qualified specialists for evacuation of Kazakhstan citizens and foreigners out of the disaster zones;
 10. setting out expedited procedures for the delivery of humanitarian assistance to foreign states affected by disasters and emergencies and for the acceptance of humanitarian assistance in major disasters in Kazakhstan;
 11. establishing transit warehouses for storage of international humanitarian assistance for Central Asian states in partnership with international organizations by taking advantage of the convenient geopolitical and geographic location of Kazakhstan (this may also include international assistance delivered by the UN); and
 12. providing for the training of specialists from Kazakhstan to deliver assistance abroad.

Role of civil society organizations

Role of the Kazakhstan Red Crescent Society

The Kazakhstan Red Crescent Society (KRCS) commenced its operations in March 1937 as a member of the Red Cross and Red Crescent Societies of the USSR. In 1992 after Kazakhstan gained its independence, the KRCS also became independent. Since then, its activities have been based on Decree No 720, issued by the President of Kazakhstan on April 17, 1992, on Activity of the Red Crescent Society, as well as existing legislation of Kazakhstan, the Charter of the Kazakhstan Red Crescent Society, and the Geneva Conventions, dated August 12, 1949, and additional protocols issued in 1977. These latter were ratified by Kazakhstan in 1993.

The KRCS participates in delivering aid and assisting with international disaster response operations. It abides by the fundamental principles of the Red Cross and Red Crescent Movement, and respects the ideals of peace, mutual respect, and understanding between nations, as well as the restoration of family links.

In accordance with its Charter, the KRCS actively cooperates with the central executive bodies authorized to respond to disasters and coordinates its work with regional subsidiaries. It is the largest civil society organization involved in the promotion and implementation of disaster response and preparedness programs. It also acts as an auxiliary to the government in relation to the prevention of emergency situations.

The MES and the KRCS, while addressing different types of challenges and problems, nevertheless make efforts to achieve shared goals, namely to ensure the prevention, mitigation and adequate response to disaster situations. Their shared interest also includes a focus on achieving community involvement in disaster preparedness.

Also, the Criminal Code, specifically Article 332, covers the criminal liability for illegal use of the emblems and distinctive marks of the Red Cross and Red Crescent. This demonstrates a protection (and one could say approval) by the government of the National Society. In the process of the development of the Law of Kazakhstan on Civil Defence, it is strongly recommended to incorporate more detailed norms regarding cooperation between the KRCS with relevant State bodies of Kazakhstan.

Role of other civil society organizations

The laws of Kazakhstan do not currently stipulate a particular role for representatives of other civil society organizations in disaster risk reduction or disaster response operations. Kazakhstan legislation, political ordinances, and institutional structure also do not provide any mechanisms for the development of civil society.

Observations

The guiding documents of the KRCS stipulate that it is entitled to launch (within the limits of the Republic and its territories) programs and services for the urgent delivery of assistance to victims of natural disasters and to become involved in the organization of similar international programs. Regrettably, the legislation of Kazakhstan contains no provisions describing the coordination of joint efforts of the Ministry and the National Society in these situations. Nor is anything mentioned in the statutory deeds concerning cooperation between State bodies and non-governmental organizations (NGOs). Although it is not specifically mentioned in the law, in practice, these bodies do seek to coordinate their efforts to meet the same goals. Legislators in Kazakhstan should therefore recognize the relations and cooperation between the relevant government ministry and the National Society in revisions to the law on civil defence.

**Legal Preparedness for International
Disaster Response in Kazakhstan**

Chapter 3

Legal Preparedness for
International Assistance

This chapter analyses the legal framework in Kazakhstan in light of the IDRL Guidelines, to assess its legal preparedness for the admission and coordination of international assistance in the event of a major national disaster.

Organizational issues, assistance delivery, coordination and information exchange

Organizing disaster relief activities

Paragraph 8 of the IDRL Guidelines recommends that states adopt comprehensive legal, policy, and institutional frameworks for the facilitation and regulation of international assistance. Kazakhstan's Law on Natural and Man-made Emergency Response 1995 is the main national law on disaster response, and states that '[t]he present law governs social relations in the territory of Kazakhstan for natural and man-made emergency prevention and response.'

Definition of disaster and key mechanisms for assistance

A natural disaster in the above-mentioned emergency response law is defined in Article 1 as 'a phenomenon as a consequence of which an emergency situation occurs.' Article 3 of this law outlines the fundamental mechanisms for the protection of affected persons, businesses and other surrounding environments, which include the 'timely notification of the population and organizations on anticipated or occurring emergency situations; measures for emergency prevention and response; anticipatory identification of degree and harm caused to organizations and citizens; education and information-sharing for the prevention of emergency situations; mandatory rescue, rehabilitation and other urgent activity aimed at emergency response; urgent delivery of medical aid; social protection of population and affected workers; and compensation for harm caused to health and people's property, surrounding environment and business entities as a consequence of these emergency situations'.

Coordination of assistance at the governmental level

The Inter-Departmental Commission for Emergency Situations coordinates disaster response activities at the governmental level in Kazakhstan. In accordance with Article 15 of the Law on Civil Defence, the Prime Minister is the Head of the National Civil Defence, and all ministries and agencies are accountable to him. The Prime Minister can thus regulate and coordinate the delivery of international assistance, performing all the required at the national and local levels. However, it would be preferable for the law to include additional authorities of the Government in terms of the involvement of civil defence, and for civil defence to be mentioned in the federal laws concerning emergency situations.

Outside of disaster situations, the Inter-Departmental Commission for Disaster Response Coordination and the emergency commissions of different oblasts, cities and regions act as the coordinating and regulating agencies.

Initiation of international disaster relief and initial recovery assistance

Paragraph 10.1 of the IDRL Guidelines refer to the desirability that international disaster relief or initial recovery assistance be initiated with the consent of the affected state and, in principle, on the basis of a specific and timely request or appeal from the state. The criteria for such requests for external assistance are not stipulated in national legislation in Kazakhstan, nor in national policy or strategic documents. The normative provisions concerning the acceptance of external assistance appear in a more generalized form in national legislation, as discussed below.

The legislation of Kazakhstan does not specify any requirements for official notification or declaration of a disaster. Consequently, there is no official procedure for notifying a disaster, nor are there any legal or political consequences for making such notifications. This does not, therefore, play a part in triggering a request for international assistance.

The international agreements signed between Kazakhstan with CIS states, SCO and Central Asian countries, described above, as well as other bilateral agreements, provide that an affected state may request assistance and receive aid by negotiating the required amount with the assisting state party. The procedure for the acceptance of international assistance is established in accordance with Decree No 271 issued by the Government on March 4, 2004, on Ratification of Humanitarian Aid Distribution Regulations in a Community under an Emergency Situation.

Entry of personnel

Visas

Paragraph 16 of the IDRL Guidelines encourages states to waive or significantly expedite the granting of visas to relief personnel from assisting states and trusted humanitarian organizations. National legislation in Kazakhstan does not at present include specific provisions along these lines. The Law on Migration of Population dated December 13, 1997 could be a potential vehicle for such provisions, as would the Law on Legal Status of Foreign Nationals dated June 19, 1995. Article 22 of this second law regulates the requirements for entry of foreign nationals in general. However, the Law on State Borders, in Article 24(2), also allows that the Ministry of Foreign Affairs: 'shall arrange the required documents granting the right to cross the State border' by citizens of Kazakhstan and foreign nationals, and shall 'notify the management of the border checkpoint of the National Security Service of Kazakhstan of changes in the border and visas policies of the adjoining states with respect to the Republic of Kazakhstan, on the order of admission through the State borders into other countries.' Institutional and legal responsibility for border control of personnel is thus spread over three laws and different agencies.

Another relevant instrument is the Regulations Regarding Visa Issue in Kazakhstan (December 2009). These regulations were authorised by Paragraph 10 of the Regulations on the Entry, Residence, and Departure of Foreign Nationals in Kazakhstan, approved in accordance with the Ordinance of the Government dated January 28, 2000 and entitled 'Particular Regulations on Legal Residence of Foreign

Nationals in the Republic of Kazakhstan'. These regulations specify the order of visas issued for foreign nationals entering, departing, residing and travelling through the Republic of Kazakhstan. They allow that personnel may obtain either a diplomatic, business, private, group, or transit visas. Although there is no expedited procedure, subparagraph 7 of Article 20 of the Regulations allows the granting of a business visa to allow an 'escort of humanitarian aid'.

Single-entry visas may be granted in accordance with paragraph 70 of the Regulations and may be issued on the basis of a written application with submission of an invitation and visa approval rendered by the Kazakhstan Ministry of Justice. In accordance with paragraph 80 of the Regulations, visa applications must be processed within 5 days. In paragraph 88, it is specified that a visa can be extended for an additional period upon receipt of a written application at least 5 days before the current visa expires. However, nothing is specifically mentioned in the regulations about visa procedures in the context of an emergency.

It worth noting that paragraph 106 of the above Regulations states that if an international agreement of which Kazakhstan is party, 'incorporates other terms and conditions different from these Regulations, then the requirements of the international agreement shall be applied'. This means that international agreements signed by Kazakhstan could contain overriding provisions to expedite issuance of visas during disasters. In practice, the admission of individuals into Kazakhstan is undertaken during disasters in the same way as in non-disaster situation.

Privileges and immunities

The Law on Diplomatic Service, dated April 7, 2002, and the Consular Regulations of April 27, 1999 stipulate specific procedures for the recognition and execution of international privileges and immunities for employees of diplomatic and consular corps. These privileges and immunities are available only for the employees of diplomatic and consular services in compliance with the Vienna Convention on Diplomatic Relations 1961, the Vienna Convention on Consular Relations 1963 and bilateral agreements concluded between Kazakhstan with foreign countries on mutual recognition and establishment of mutual diplomatic missions. The privileges and immunities as outlined in these agreements may not be applied to the staff of foreign civil defence services, since this is not stipulated by either the legislation of Kazakhstan or by the international conventions.

For international non-government organizations (NGOs) and their personnel, privileges and immunities are not granted under international law, nor does national legislation in Kazakhstan entitle international NGOs or their officials to exercise privileges and immunities of a diplomatic or consular character. It is worth noting that, at the European level, the international NGOs that execute their activities in the sphere of 'science, culture, charity, public health care services, philanthropy and education' will have their international status recognized in connection with the adoption by Kazakhstan of the European Convention on the Recognition of the Legal Status of International Non-Governmental Organizations dated 24 April 1986. However, this Convention does not confer on such European NGOs any special privileges or immunities, only recognition of legal personality in Kazakhstan.

Recognition of foreign medical qualifications

Paragraph 16.1(c) of the IDRL Guidelines recommends the establishment of expedited procedures for temporary recognition of professional qualifications of foreign medical personnel and others when responding to a disaster. Neither the Code on Public Health Care nor other laws of Kazakhstan include any such expedited procedures. Even in the case of an emergency leading to a need to recruit foreign medical personnel, their qualifications must be certified under the Regulations of the Committee for Medical and Pharmaceutical Activities under the Ministry of Healthcare of Kazakhstan dated October 23, 2009. This stipulates at paragraph 15 that ‘the Committee shall ‘carry out the attestation of personnel for professional competency in the healthcare area’.

Of course, even in an emergency, professional licences and certificates should be required for delivering medical aid. The question is whether the evaluation of foreign qualifications can be expedited without losing a modicum of oversight. In Kazakhstan, such a system could be included in the Code on Nation’s Healthcare Issues and Healthcare System or in future laws on Civil Defence. The Minister for Emergency Situations and the Minister for Health could be made responsible for these specific issues under the relevant legal provisions.

It would also be advisable that legislation or procedures in Kazakhstan ensure that there is a clear identification of the material, technical, and personnel resources and requirements for medical service when disasters occur, and that a centralised national dispatch service (with an improved medical database and information service in the event of disaster) is put in place.

Transport in cases of disaster

Ground vehicles

Paragraph 18(1) of the IDRL Guidelines recommends measures concerning recognition of foreign registration and import of vehicles used in disaster relief and initial recovery assistance. The Law on Automobile Transport dated July 4, 2003 should be the primary legislation for such provisions, but does not currently include them. Other legislation concerning the regulation of railroad, river, airways and other types of transportation are also silent on this question. However, provisions for the use of vehicles in disaster relief and initial recovery assistance operations are incorporated into administrative ordinances of Kazakhstan, in particular, the Ordinance issued by the Government on January 13, 2005 on Approval of Regulations for Attraction of Automobile Transporters for Disaster Relief Work.

Exemption of fees collected for transportation vehicles in emergencies

Paragraph 19(1) of the IDRL Guidelines recommends that permissions for that passage of humanitarian transport be expedited and any fees for obtaining such permission be waived. No such stipulation is incorporated in the legislation of Kazakhstan. However, a provision for cancellation of such fees could be incorporated into the customs legislation.

Air Transport

Paragraph 19 of the IDRL Guidelines concerns over-flight, landing, and departure permission and fees for aircraft required for the delivery of assistance. Current legislation in Kazakhstan contains no special conditions for the waiver of over-flight, landing, and departure fees for aircrafts carrying freight for disaster assistance.

The timely delivery of national (internal) disaster personnel, vehicles, and other equipment to the disaster-affected areas is regulated by the Ordinance dated February 9, 1998 on Arrangements for the Response to Emergencies of Social and Criminal Character, which requires the Ministry of Transport & Communications to provide to the Ministry of Internal Affairs an aircraft fleet. However, while this may assist in internal distribution, it does not regulate or facilitate the transport of incoming international assistance.

A Decree and cooperative Order issued by the Minister of Internal Affairs and the Commander-in-Chief and Minister of Transportation & Communications on April 23, 1998, could address this issue, however it regulates air-borne vehicles only within the limits of the Republic and only in the case of an emergency of social or criminal character, not in the case of natural or man-made disasters. Given these considerations, it is recommended that this Decree and cooperative Order be amended to include the event of a natural or man-made disaster and be incorporated into the Law on Natural or Man-made Disasters and the Law on Automobile Transportation.

Driving licences

Paragraph 16 (particularly subparagraph 'c') of the IDRL Guidelines calls on all states to establish procedures for the recognition of driving licences of foreign relief workers. The general rule in Kazakhstan, based on Clause 15 of the Law on Traffic Safety dated July 15, 1996, provides for recognition of 'national and international driving licences' in accordance with international agreements to which Kazakhstan is a party. It should be underlined here that the comprehensive UN Convention on Road Traffic dated November 8, 1968, to which Kazakhstan became a state party on December 31, 2009, contains a particular clause entitled: Validity of Driving Licences (Article 41). During both disaster and non-disaster situations, the management of the Ministry of Internal Affairs may disseminate to all border and customs posts, and to the relevant ministries and agencies of Kazakhstan, a notification that foreign and international driving licences of all 69 member states to this Convention shall be recognized as valid in the territory of Kazakhstan.

However, there should also be a streamlined procedure for the recognition of foreign driving licences required for persons from countries with whom Kazakhstan has not signed relevant international agreements and which have not joined the Convention on Road Traffic. It is therefore recommended that national legislation be developed to allow for temporary procedures for recognizing foreign driving licences.

Importation of relief goods and equipment

Paragraph 17 of the IDRL Guidelines makes a series of recommendations to states concerning the customs treatment of relief goods and equipment in disasters, including with regard to fees and charges, prioritization of clearance, and waivers of any restrictions among others. The various subsections in this part address how Kazakhstan's law currently addresses each of these recommendations.

Exemptions from fees, charges, and duties (including expenses for customs storage pending document review)

The Code on Customs Business in the Republic of Kazakhstan as of June 30, 2010, (hereinafter "the Customs Code") contains a clause (Article 122, paragraph 1) on the basis of which humanitarian aid goods could be exempted from customs fees and charges. Despite the existence of this clause, however, the concept of a complete waiver of fees connected to the transport, handling and delivery of international disaster assistance goods is yet to be (comprehensively) articulated in Kazakhstan's national legislation. In compliance with Article 12(3) of the Law on the State Border dated January 13, 1993, the 'admission of transportation means and freight...across the State border of the Republic of Kazakhstan shall be facilitated by customs and other State agencies in cooperation with border checkpoints.' With this in mind, one has to pay attention to paragraph 4 of the same article, which specifies that, '[i]n compliance with international agreements ratified by the Republic of Kazakhstan there might be an alternative way to issue the admission of individuals, transportation means, goods, and freight across the State border of the Republic of Kazakhstan'. However, there are currently only two bilateral agreements signed by Kazakhstan – those with Uzbekistan and Kyrgyzstan - which address the admission of transportation vehicles and equipment through State borders outside the existing checkpoints and they still require the established controls. They relate to cases such as natural disasters, wildfires, floods, outbreaks of diseases, man-made disasters, and accidents requiring urgent medical aid.

Kazakhstan is also a member of a customs union with the Russian Federation and Belarus pursuant to the Agreement on Unitary Customs Tariffs (Moscow, January 25, 2008) (hereinafter the "Customs Union Agreement"). The Customs Union Agreement specifies that, 'upon entry into the unitary customs territory of the state parties, goods imported for humanitarian assistance delivery purposes and (or) with the purpose of eradication of consequences of accidents and disasters, natural calamities shall be exempt from customs fees (see Articles 5 and 6(19)).'

Simplification and minimization of documentation requirements in disaster situations

In accordance with paragraph 4 of Article 242 of the Customs Code, when importing or exporting disaster relief goods into disaster-affected areas, the express use of freight, aid delivery, communications, and sharing of information shall be given top priority. It is worth noting that the mentioned goods have to be handled in accordance with streamlined procedures.

According to Article 276 of the Customs Code, the goods and services required to respond to disaster situations, such as express freight, humanitarian and technical aid delivery, transfer of messages and information for mass media, spare parts, engines, consumables, equipment and tools required for repairing of vehicles for international transportation, and similar commodities, shall pass customs clearance as top-priority items.

Reduction of restrictions on import, transit, or export of goods in emergencies

The Customs Code does not regulate import, transit, or export of goods in emergency situations except for the fee exemption measures noted above. Moreover, there are certain requirements established for medications that must be observed when they are either imported or exported.

Prioritized customs arrangements for humanitarian freight and equipment

Article 276 of the Customs Code stipulates the following: 'Goods required for the delivery of disaster relief, including military commodities required for conducting training for the maintenance of peace, any perishable products, live animals, radioactive materials, explosives, mass media materials, replacement parts, engines, consumable materials, equipment and work tools required for the repairing of international transportation vehicles, or any other similar goods have to be cleared rapidly through the customs service as a matter of priority.'

Facilitating the release of humanitarian relief goods and equipment and reducing/waiving related inspection requirements

In accordance with paragraph 1 of Article 298 of the Customs Code, when undertaking customs procedures (apart from the transit of goods into the customs territory of Kazakhstan as specified in Article 276 of the given Code and also in the application of the special streamlined procedures with regard to authorized economic operators in compliance with paragraph 2 of Article 65 of the given Code), the release of goods for the purpose of humanitarian assistance shall be undertaken 'prior to the submission of the customs declaration' on the condition that the declaring party (applicant) has submitted them in the following circumstances:

1. commercial and other documents are provided, containing information on the freight forwarder and recipient of the goods, the dispatching country and destination point, name of the goods, description of commodities, qualification codes of goods as per the commercial stock-list of external economic activities, and the gross weight and cost of the goods;
2. submission of the customs declaration and presentation of the required documents and information no later than the tenth day of the month following the month of dispatching the goods, containing information on the purpose of use of the goods;
3. documents and information confirming any constraints and limitations, except for cases where such documents may normally be submitted upon the presentation of the customs declaration.

Article 298 of the Customs Code also stipulates that ,‘regarding the goods specified in Article 276 of the given Code, except the goods required for disaster relief, military commodities for the maintenance of peace or training exercises for humanitarian and technical assistance, it will be required to pay the relevant customs fees and taxes.’

Release of humanitarian goods and equipment outside of established customs points

Paragraph 2 of Article 273 of the Customs Code stipulates the following with regard to this issue: ‘As per a reasoned request of a customs applicant or customs representative, the release of particular commodities may be allowed outside business hours and/or at a place other than a customs office.’

Re-exportation of any equipment or unused goods

Regarding the re-exportation of any unused goods or equipment, Article 401 of the Customs Code allows ‘[f]or customs clearance and re-exportation of unused humanitarian goods, foreign goods placed in the customs territory of the Customs Union including the goods imported in violation of non-tariff regulation measures, processed goods placed for customs clearance at the customs territory, goods placed for customs clearance within one year from the day following the day of release for the domestic consumption’,

Other disposition of unused humanitarian goods

No other options other than re-exportation (such as local donation for other uses) are specified in national legislation with regard to the disposition of unused humanitarian goods. Concerns regarding this issue could be overcome if Kazakhstan incorporated the provisions outlined in Article 17 of the IDRL guidelines.

Telecommunications Equipment

Paragraph 18(2) of the IDRL Guidelines recommends that affected states waive or expedite the granting of any applicable licences and reduce any other barriers to the use, import or export of telecommunications and information technology equipment.

In the national conceptual documents for improving the state management system for the prevention of natural and man-made emergencies, dated November 23, 2005, it is stipulated that all the systems of early warning and automated satellite surveying systems for mudflows will be upgraded and modernized. However, it is not specified that such equipment may be imported as international assistance free of restrictions or taxes.

However, paragraph 1 of the “List of Goods” that can be temporarily imported into the country with exemption from customs fees and charges, as ratified in accordance with the Decree issued by the

Government of the Kazakhstan on July 8, 2003, includes entities' and natural persons' publishing equipment, radio and television, cinematographic devices and other hardware, 'required for performing specific work using the imported (exported) equipment' in accordance with paragraph 6 of the List of Goods. Such items, 'granted for temporary use by State bodies and agencies for emergency response efforts and relief assistance in disasters, accidents and emergencies,' shall be exempt from taxes. Imported and exported animals used for rescue operations shall be exempt from any taxes (paragraph 17 of the List).

The IDRL Guidelines also provide for prioritized usage of frequencies and satellite transmitters for restoration of communication under emergency conditions. In this context, one could also refer to the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations of 1998, which requires state parties to facilitate the provision of telecommunication assistance to mitigate the impact of a disaster. It covers both the installation and operation of reliable, flexible telecommunication services and provides for privileges and immunities for the persons who deliver telecommunication assistance. It is recommended that Kazakhstan should ratify this Convention and incorporate its standards into its domestic legislation. In addition to this, it would be desirable for the bilateral and regional agreements of Kazakhstan to consolidate such issues in order to enhance cooperation between the contracting states for the mutual provision of telecommunication services in emergency situations.

Food

Article 18(4) of the IDRL Guidelines suggests that originating, transit and affected states consider when normal restrictions on food imports and exports might be temporarily reduced as an emergency measure. Kazakhstan could observe and implement this suggestion, which is not currently considered in its legal framework.

The Law of Kazakhstan dated July 21, 2007 on Safety of Foodstuffs does not include any specific procedures regarding the importation of foodstuffs during disasters. Likewise, whereas Articles 1-24 of the Law on National Security dated June 26, 1998 refer to food safety issues, there is also no specific provision regarding the quality of imported foodstuffs in the case of disasters.

It is recommended that the requirements for the importation of food products in disasters should be revised under the national laws related to the safety of food products. It would be advisable to integrate this requirement into Article 20 of the National Security Law, which states that 'safety requirements applied to food products which are imported into the territory of Kazakhstan must comply with requirements established by the legislation of Kazakhstan on safety of food products.' Paragraph 2 of this article states that 'it is prohibited to import food products into the territory of Kazakhstan which: 1) are not accompanied with documents certifying their compliance with statutory requirements on the safety of foodstuffs and 2) have not passed the State registration in accordance with terms specified in Article 9 of the given Law.' Article 9 is focused mainly on the fact that the importation 'of children's nourishment products, foodstuffs, dietary supplements, genetically modified objects, colouring agents, substances

and ingredients which contact with water, other foodstuffs and chemicals may negatively impact public health and shall be permitted only after State registration.'

Medications

Article 18 of the IDRL guidelines suggests expedited arrangements for the import and transit of medications and medical equipment during disasters. Similar provisions can be found in the statutory acts of Kazakhstan.

With regard to imported medical goods, there is a specific Decree No. 2298 adopted by the Government on December 30, 2009, entitled 'On Identification of Cases for Import into the Republic of Kazakhstan of Medications, Medical Items and Medical Equipment as Humanitarian Assistance which Have not Passed the State Registration in the Republic of Kazakhstan'.

Moreover, provisions regarding medications were recently incorporated into the Code on the Public Health and Healthcare, dated 18 September 2009. However, the relevant provisions do not sufficiently address or provide regulations for monitoring the import and export of medications in emergency situations. In accordance with the general rule stipulated in paragraph 2 of Article 80, it is prohibited to import into Kazakhstan pharmaceuticals, medications, and medical equipment which have not passed state registration rules. At the same time, paragraph 3 of Article 80 allows the importation into the territory of Kazakhstan of pharmaceuticals, medications, and medical equipment if there is a permit issued by the State body and if these items are imported into the country with the purpose of 'disaster prevention, mitigation and relief operations'.

In accordance with National Regulation on Monitoring the Medical and Pharmaceutical Industries under the Healthcare Ministry of Kazakhstan dated October 23, 2009, a committee is designated to oversee the 'coordination of the import into the territory of [...] Kazakhstan and export from the territory of Kazakhstan of pharmaceuticals, medical items and medical equipment' (subparagraph 13 of Article 15). On the basis of subparagraph 18 of Article 16 of the reviewed Regulation, the committee is entitled 'to prohibit the importation, production, manufacture, storage, application, and sale of pharmaceuticals, medical items, and medical equipment in the territory of Kazakhstan which are unacceptable, adulterated, with expired dates and which do not meet the standards of the health care legislation of Kazakhstan.' In this context, the committee is also directed to participate in 'international cooperation in the sphere of medical services rendering and in the area of application of pharmaceuticals, medical items and medical equipment' (subparagraph 30 of Article 16 of the Regulation).

While these provisions do not specifically mention disaster situations in which there may be a need to import and export pharmaceuticals, the contents of the Regulation imply that the above mentioned actions for the import and export of pharmaceuticals will be activated in emergency situations.

The provisions on the import of pharmaceuticals and medical substances into the Customs Union territory have been developed in compliance with the Agreement on Measures for External Commerce of Goods for the single customs territory with regard to third-party countries, dated June 9, 2009. In accordance

with these provisions,, the importation of non-registered pharmaceuticals as well as registered medical preparations for humanitarian assistance in emergency situations or for sports events shall be carried out on the basis of permits issued by the executive bodies of the member states of the Customs Union entitled to handle the issues of monitoring and surveillance of the preparation of medical items.

Animals

There is no existing legislation in Kazakhstan which stipulates any exceptional provisions concerning the use of dogs for search and rescue purposes, nor any other ad hoc procedures concerning the quarantine of animals. The General Law on Veterinary dated July 10, 2002 (Articles 14 and 27) deals only with quarantine restrictions to protect the territory of Kazakhstan from hazardous animal diseases. Paragraph three of the Regulation on State Veterinary Surveillance, ratified in accordance with the Decree issued by the Government on October 2, 1996 further provides for state veterinary surveillance during in-country transportation, transit, import and export of domestic animals.

Aside from quarantine issues, the Decree issued by the Government on July 8, 2003, concerning complete exemption from fees and taxes for humanitarian consignments also includes dogs used in search and rescue or for tracking purposes, which are allowed to enter Kazakhstan tax-free on a temporary basis, on the condition that they remain the property of a foreign legal entity or person.

Legal personality and registration

Paragraph 14 of the IDRL Guidelines concerning affected states' determination of which assisting humanitarian organizations will be eligible to receive legal facilities. Current legislation in Kazakhstan contains no provisions stipulating a specific system for the registration of foreign organizations involved in disaster relief (e.g., NGOs), nor any legal facilities for assisting international humanitarian organisations.

Domestic legal status of foreign organizations

Paragraph 20 of the IDRL Guidelines, encourages affected States to grant relevant entities of assisting states and eligible assisting humanitarian organizations, at least a temporary authorization to legally operate on their territory. This should enable them to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, while operating in the affected state for the purpose of providing disaster relief and initial recovery assistance.

Kazakhstan legislation does not include any special provisions for recognition of legal status in disaster situations. The procedure under the Law on State Registration of Legal Entities and Liability of Subsidiaries and Representations dated April 17, 1995 (hereinafter "Registration Law" 1995) means that foreigners entering Kazakhstan for the purpose of providing assistance could be required to wait for 10-14 days before being able to assist. The normal registration of non-commercial organizations includes special procedures for the registration of foreign legal entities. The national procedures dictate that they must either have legal personality by virtue of an international instrument to which Kazakhstan is a party, or they must provide evidence of their legal recognition in the foreign country of their registration. For

the individual representative, a passport copy or any other document certifying their foreign nationality is also required. Both require notarized copies translated into the state and Russian languages.

Alternative options for recognition of foreign humanitarian organizations.

In compliance with general requirements in Kazakhstan, a non-registered organization is not entitled: (1) to open bank accounts, (2) to sign contracts and lease facilities, (3) to recruit local staff, (4) to obtain visas for expatriate representatives, (5) to procure and dispose of property, or (6) to initiate legal proceedings. The Registration Law 1995 does not stipulate any special procedures for the registration of foreign individuals or organizations to undertake such activities during an emergency situation. The provisions governing these issues are included in Article 12 of the Registration Law 1995 and are as follows:

- Opening of a bank account is possible only upon submission of the state registration certificate of a foreign legal entity or submission of a certificate of accountability (for a subsidiary or a representative).
- Foreign humanitarian organizations may not be registered at different agencies (e.g. at local, regional, or national bodies, Public Health Services, Ministry of Labour, etc.) in accordance with Article 6 of the Law which states that the '[r]egistration of a legal entity with foreign participation shall be activated in the order established for registration of legal entities of the Republic of Kazakhstan'. In other words, there is only one universal set of procedures for registration of legal entities in Kazakhstan.

Despite there not being a national legal provision, Kazakhstan legislators have been flexible regarding the registration issue of legal entities of the regional financial centre in the city of Almaty: 'The State registration (re-registration) of legal entities-stakeholders of the regional financial centre in the city of Almaty has to be activated not later than one business day, following the day of submission of an application with all the required documents attached.' This requirement (registration within one business day) applies to all legal entities entering the country for the purpose of responding to natural disasters. The registration has to be activated at the MES. This could provide a model for national procedures.

It is recommended that the legislature amend the Registration Law 1995 to include the temporary legal recognition of international humanitarian organizations, as specified in part one of paragraph 20 of the IDRL Guidelines.

Registration procedures

Article 9 of the Registration Law 1995 provides that state registration (including re-registration) of non-commercial organizations (except political parties) and registration of their subsidiaries **and** representatives 'shall be activated no later than ten business days following the day of submission of the application with the other required documents attached.' In the same article, it is written that 'issuance of the certificate of State registration, registration of a tax-payer, and issuance of a certificate for an organization which is not acting as a private business entity or is a non-commercial organization other than a political party, registration of a subsidiary or representative, shall be activated not later than

fourteen business days from the day of submission of an application with all the required documents attached’.

Article 9 of the Registration Law provides that incomplete documentation means that the registration or re-registration will be discontinued. The expenses associated with registration procedures are defined in Article 10 of the Registration Law 1995 which provides that a fee will be charged in accordance with the Tax Code.

This procedure is quite rapid for normal purposes but would not be sufficient for emergency response, and there is no provision for fee waiver for disaster assistance.

International assistance delivered by the private sector and private individuals

The legislation of Kazakhstan contains no provisions for the facilitation and regulation of external assistance from the private sector and private individuals. National legislation in fact makes no distinction between the actions of the private or commercial sectors in the delivery of legal services.

It is recommended that the legislation in Kazakhstan be amended to add emergency conditions under which the government may provide facilities to private companies delivering humanitarian aid, in accordance with paragraph 15 of the IDRL Guidelines.

Taxes and currency exchange

Tax exemptions

Paragraph 21 of the IDRL Guidelines suggests that affected states should provide exemptions to assisting actors from value-added and other taxes or duties for activities directly associated with disaster relief and initial recovery assistance. The Tax Code of January 1, 2009 includes no such exemptions, although it does regulate extensively the question of international taxation. However, in Article 91, it does state that ‘within the cumulative annual income that can be excluded... is the cost of property received as humanitarian aid as a result of natural and man-made disasters.’ This is not directly applicable to international actors, but rather to those who receive the assistance in Kazakhstan.

Foreign currency exchange required for disaster assistance

The import and export of foreign currency is allowed within limits established by the Law on Currency Regulation and Currency Control dated June 13, 2005. However, there is no law ensuring the free import of foreign currencies into Kazakhstan by humanitarian organizations.

Kazakhstan’s law does not incorporate any provisions ensuring access to preferential currency exchange rates for humanitarian organizations.

Responsibilities of assisting actors

Specification of minimum standards in national legislation regarding emergencies and disaster relief situations

The Law of Kazakhstan on Natural and Man-Made Emergencies includes several provisions (see Chapter 9, Articles 33, 34, 35) which regulate liability issues related to the violation of laws during natural or man-made disasters. In Article 33 of the Law, it is stipulated that '[a]ccidents, turmoil and disorder which result in natural or man-made emergencies shall be investigated in the order established by the Government. Upon the identification of illegal actions or omissions of functionaries or citizens, the relevant materials shall be forwarded to the relevant organs for prosecution'.

Potential bases for liability are set out in Article 34 of the Law: 'Functionaries and citizens accused of non-performance or unscrupulous execution of the established regulations, functions, and rules; creation of conditions and prerequisites for the occurrence of accidents, turmoil and disorder; non-acceptance of measures for protection of the population, surrounding environment, and business entities from natural or man-made emergencies; or for illegal actions shall bear disciplinary, administrative, material, and criminal responsibility, while organizations shall bear material responsibility in accordance with the legislation of the Republic of Kazakhstan'.

Issues related to compensation for damage caused by natural or man-made emergencies are set out in Article 35 of the Law, which states that '[d]amage caused to the health of citizens as a consequence of man-made emergencies shall be fully compensated by the entity who caused the harm with consideration of degree of injury and loss of ability to work with expenses for medical treatment including rehabilitation and nursing, and government allowances shall be provided in accordance with the legislation of Kazakhstan. Organizations and citizens shall be entitled to claim reimbursement for damages from entities who injured the citizen and his property and also for the casualty entailed as a consequence of man-made emergencies caused by the activity of organizations and citizens as well as compensation for expenses incurred by organizations and private individuals who were involved in rescue work and response operations. Reimbursement for injury to the health and property of citizens, the surrounding environment, and business entities as a consequence of natural emergencies shall be made in accordance with the legislation of Kazakhstan. Organizations or citizens who contributed to the consequences of man-made emergencies shall be obliged to reimburse the damage caused to the land, water, flora, and fauna (of the affected territory), including the expenses for land reclamation and rehabilitation of natural land fertility'.

Conformity of national minimum standards with international standards

Kazakhstan's legislation appears generally to support the principles of humanity, neutrality, and impartiality, but it would be preferable to incorporate conformity with these principles into the text of the national laws on civil defence.

These humanitarian principles could be adopted in a separate clause within the national legislation, which would also oblige disaster responders from Kazakhstan operating in other countries to render assistance to disaster-affected persons without adverse distinction on the grounds of nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions.

Tools for the application of these standards

Part IV of the IDRL Guidelines concerns the prerogative of originating, transit and affected States to determine which international humanitarian organizations are eligible to receive any special legal facilities when providing disaster relief or initial recovery assistance. If Kazakhstan wishes to implement these procedures, national legislation should state the criteria under which humanitarian organizations would be eligible to receive legal facilities under emergency conditions. Chapter 9 of the Law on Natural and Man-Made Emergencies includes some specifications, but it would be preferable to incorporate all the relevant criteria into the Law on Civil Defence.

Kazakhstan's legislation could also be amended to incorporate the provisions of paragraph six of the IDRL Guidelines concerning transparency and anti-fraud measures for international assistance, by amending Articles 176 and 177 of the existing Criminal Code dated July 16, 1997, to specify that such illegal actions have to be prevented at the initial stages of rescue and recovery operations and in the delivery of disaster assistance.

Legislation in Kazakhstan contains no specific stipulation on official responsibilities in natural or man-made disasters. However, it does include penalties for non-citizens or any other individuals organizations who have failed to adhere to established requirements and regulations, who may be subject to disciplinary, administrative, civil or criminal liability. These requirements and regulations include observance of sanitary norms and hygiene rules; counter-epidemic requirements; failure to protect the population, environment, and business entities from destruction; non-performance of contractual obligations for the arrangement and activation of search & rescue work; intentional or careless harm to other people; damaging the surrounding environment, material, and cultural values; or performing other unlawful actions.

Penalties for failing to perform, or the unscrupulous performance of the legal requirements in disaster response, are defined by the heads of organizations in accordance with the national Labour Code, local executive authorities, law-enforcement bodies and the courts. These are also determined by the Code on Administrative Violations and the Civil Code (administrative violations in the sphere of labour and public healthcare; agriculture; veterinary surveillance and quarantine regulations; commerce and finance; observance of social order; architectural and construction activities; and property and contractual duties and obligations). The national Criminal Code is also applicable to this issue (regarding violations of legislation in the areas of labour, environmental requirements and veterinary regulations, failure to perform a duty, and negligence of officials).

Requirement of independence by assisting actors

Subparagraph 2 of paragraph 4 of the IDRL Guidelines proposes that affected states can require assisting actors to guarantee that they will not use the provision of emergency aid to gather ‘sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance’. If adopted into Law on National Security dated June 26, 1998, this would help to reinforce the national security of the country and protect it from the inflow of drugs, weapons and other prohibited items which could be illegally admitted into the country under the pretext of humanitarian aid. Implementation of this article could also help to protect State borders from individual criminals or terrorists seeking to enter Kazakhstan.

Access to affected communities in case of disaster

Freedom of movement and safety

Paragraph 16(1)(d) of the IDRL Guidelines calls on states to facilitate the freedom of access of relief personnel to disaster-affected areas. General rules for the freedom of movement of foreign personnel in compliance with Article 16 of the Law on the Legal Status of Foreign Nationals dated June 19, 1995 specify that: ‘[f]oreign nationals are entitled to travel freely in the territory of Kazakhstan, which is accessible for visits of foreigners, and are entitled to select their place of residence in accordance with the order established by the legislation of the Republic of Kazakhstan. Constraints for travelling and selection of residence for foreigners shall be specified by the statutory acts issued by the State bodies of the Republic of Kazakhstan, when it will be required to ensure the protection of State security, maintain public order, secure the health and morality of the population, and protect the rights and interests of the citizens of the Republic of Kazakhstan and other individuals’.

Current legislation in Kazakhstan contains no requirements to ensure free access to disaster-affected areas by individual foreign personnel. This is related to provisions of Article 4 of the Law on Emergency Situations dated February 8, 2003. After the scope and extent of the disaster has been evaluated and an estimate of national response capacities has been undertaken, it shall then be decided whether to request international assistance. Only upon the decision that foreign assistance is required will foreign personnel and international organizations be admitted into a disaster zone. In such a case, the applicable law is Article 24 of the law regarding international humanitarian aid delivery in a locality where an emergency situation has been announced and shall be distributed in accordance with the order defined by the Government of the Republic of Kazakhstan’. As an example, one may refer to the Regulations on International Humanitarian Aid in a Locality where an Emergency Situation has been announced, as ratified by the Decree issued by the Government on March 4, 2004.

Legislation in Kazakhstan contains no provisions that would impede humanitarian organizations from distributing their own humanitarian assistance in accordance with humanitarian principles. The Law on Emergency Situations contains a requirement that states that ‘freight arriving in Kazakhstan as humanitarian aid and addressed to specific recipients shall have a specific address in a locality where an emergency situation has been announced and shall be distributed accordingly by the recipients of

this freight'. This is also specified in paragraph 4 of the Regulation on International Humanitarian Aid Distribution in a Locality where an Emergency Situation has been announced.

Goods sent to Kazakhstan by assisting humanitarian organizations are the property of those organizations, and they are entitled to distribute them at their own discretion. This is in accordance with Article 26 of the Constitution dated August 30, 1995 which states that 'nobody can be deprived of his own property unless it is otherwise decided by the courts'. This will also be of benefit to the affected state in order to avoid corruption or inequity in the distribution of goods.

Accountability and transparency

In the collection of national laws reviewed for this report, no regulations related to the audit or accountability of international humanitarian assistance were identified. The Law on Audit Activities dated November 20, 1998 stipulates approximately eleven categories of legal entities for which audits are obligatory and organizations associated with international assistance delivery are not listed. However, national legislation may specify requirements for accountability if emergency aid arrives in the form of financial resources. The authorized organization may open a special bank account for strictly defined purposes and it must submit regular accounting reports and the final balance sheet for the accounting business period.

Issues relating to the receipt and distribution of international financial contributions are specified in the Decree of the Government dated August 28, 1997 on the State System on Disaster Prevention and Response, which incorporates a detailed description of the legal powers of the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Education, the Ministry of Finances, the Ministry of Healthcare, and other ministries. In the Regulations for International Aid Delivery in a Locality where an Emergency has been Announced, it is specified that the acceptance and distribution of international aid donations shall be the responsibility of the administrative and territorial units on whose territories the emergency situation has been announced and the authorized representatives of the MES.

The Criminal Code includes general provisions on fraud that are applicable. Article 176 prescribes criminal liability with three to ten years imprisonment for embezzlement, or illegal appropriation, which would also apply when such acts are committed with respect to international aid goods. Article 177 of the Criminal Code also specifies criminal liability for fraudulent actions with respect to international assistance, with penalties of three to ten years' imprisonment and confiscation of property.

Extended hours and additional measures to facilitate assistance

Extended hours

Paragraph 23 of the IDRL Guidelines recommend that affected states should endeavour to ensure that government offices and services operate outside normal hours where necessary to process international assistance in a timely manner. Article 82 of the Labour Code dated May 15, 2007, specifies a working

week with a maximum daily working shift of 8 hours and a normal working week of 40 hours. However, overtime without the employee's consent may be allowed for 'work required for the country's defence and prevention of emergencies, natural disasters or industrial accidents'. Therefore the labour legislation of Kazakhstan allows the extension of the working day in the case of disasters or national emergencies.

Preferential use of transport and services

Paragraph 24 of the IDRL Guidelines invites affected states to consider whether rights may be granted for free and preferential use of services for the delivery of assistance including in-country transportation (including national airlines), use of buildings, land for office and warehouse space, equipment, use of cargo handling equipment, and logistical support.

In a number of Kazakhstan's statutes, several issues related to this subject have been regulated. For example, in the Regulations for the Distribution of Humanitarian Aid in a Locality where the Emergency Situation has been Announced and as per the Decree issued by the Government on March 4, 2004 it is specified that: 'In the case of the arrival of international humanitarian aid in the Republic of Kazakhstan, the administrative territorial units shall be obliged to: 1) provide warehouses in accordance with the established sanitary norms for placement and storage of humanitarian aid and freight; 2) distribute the international humanitarian aid in cooperation with the Agencies' representatives (today referred to as Ministries) of the Republic of Kazakhstan for Emergencies'. It would be advisable to incorporate these requirements into the legislation of Kazakhstan rather than relying on decrees.

In accordance with the Decree issued by the government of Kazakhstan on February 9, 1998, on Response to Emergencies of Social and Criminal Character, it is stated that air transportation vehicles and military equipment of the Ministry of Internal Affairs of Kazakhstan can be used with top-priority in disaster-affected regions.

Kazakhstan as a transit country for international assistance

Transit of relief consignments in emergency situations

In addition to recommending facilities for in-coming international assistance, the IDRL Guidelines also call on states to provide for the reduction of limits for the transit of humanitarian relief goods, or the waiver/reduction of import/export restrictions, duties, and charges for humanitarian cargo and equipment (particularly: telecommunication, food, medications), and the inspection of goods and equipment.

Chapter 11 of the Law of Kazakhstan on Natural and Man-Made Emergencies incorporates specifications on reduced requirements in disaster situations. Article 37 of that law outlines that the 'Republic of Kazakhstan participates in international cooperation in the sphere of natural and man-made disaster relief and recovery operations. It is governed by the principles of ensuring overall and regional security; timely and complete notification of foreign states of emergency situations which may be significant for these states from the point of view of security; prevention of trans-border harm to the

population, surrounding environment, and business entities; mutual assistance delivery; and amicable settlement of disputes.’ Article 38 of the reviewed law contains no limitations for the transit of goods and people: ‘Activity of foreign organizations and citizens involved in the prevention of natural and man-made disasters and recovery operations is allowed in the territory of Kazakhstan if this activity does not contradict the legislation of the Republic of Kazakhstan or if it is guided by international agreements ratified by the Republic of Kazakhstan’.

It is worth noting that Article 8 of the Agreement between Kazakhstan, Kyrgyz Republic, Tajikistan, and Uzbekistan on Cooperation in Emergency Response, dated July 17, 1998, contains no limitations for the arrival of foreign personnel into the affected country to deliver assistance. In that Agreement it is stipulated that humanitarian workers may cross the ‘state border of the requesting country or transit states via check points accessible for international communication by showing their passports or identity cards’. For a more comprehensive approach, it is recommended that legislators in Kazakhstan take into account paragraph 17 of the IDRL Guidelines, which stipulates that: ‘[w]ith 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:

1. Exempt them from all customs duties, taxes, tariffs and governmental fees;
2. Exempt them from all export, transit, and import restrictions;
3. Simplify and minimize documentation requirements for export, transit and import.’

**Legal Preparedness for International
Disaster Response in Kazakhstan**

Chapter 4

Recommendations

Kazakhstan is striving to build a comprehensive legal and juridical base for disaster relief and initial recovery assistance within its own territory and has not yet focused specifically on the entry and facilitation of international assistance. While there are few specific laws relating to international assistance, some existing laws may be used or adapted to this purpose. However, much of the content of the IDRL Guidelines would require new laws or amendments to be given effect. The following recommendations relate to these gaps and in some cases suggest the relevant law in which such provisions could be located.

Current national legislation in Kazakhstan contains no specific provisions concerning the mechanics of international cooperation in emergency situations. This issue was considered in 2010-2011 revisions of the Law on Civil Defence, but gaps remain that may cause impediments in terms of receiving international assistance from other states in emergency situations. Accordingly, this report makes the following recommendations:

General legal framework for international assistance

1) To improve the general procedures for acceptance of international assistance, Kazakhstan could amend the Law on Natural and Man-Made Emergencies to:

A. include procedures and conditions for accepting international disaster assistance from foreign states and humanitarian organizations;

B. clarify domestic responsibilities in early warning of potential disasters, the prevention or mitigation of damage caused by disasters, and civil defence, to facilitate coordination of regional early warning and mitigation as well as international assistance for response and early recovery from disasters.

2) Based on the consideration of the national legislation discussed in this report, it is recommended that the Law on Civil Defence be amended to:

A. provide more details regarding the regulation of international cooperation to incorporate articles concerning: principles of international cooperation in the civil defence sphere; trends of international cooperation in the civil defence sphere; activities of foreign organizations and citizens for disasters relief and response, provision of civil defence to the population in the territory of the Republic of Kazakhstan; and cooperation of Kazakhstan with humanitarian organizations for civil defence provision;

B. specifically allow supplies arriving in Kazakhstan for the purposes of humanitarian assistance to be distributed by humanitarian organizations;

C. incorporate specifications humanitarian goods and equipment shall be exempt from any customs fees and taxes, and restrictions on import, with the exception of prohibited items.

3) As not all provisions of regional agreements ratified by Kazakhstan have been incorporated into

national legislation, it is recommended that legislators analyze these provisions thoroughly and define their place within Kazakhstan's law, including the Law on Civil Defence and other statutes.

4) It is recommended that Kazakhstan ratify the Tampere Convention and incorporate its standards into national legislation.

5) In its national legislation, Kazakhstan could stipulate the requirements on the basis of which humanitarian organizations could be granted legal facilities for delivering assistance in emergency cases. Legal facilities could also be granted to private companies delivering assistance in emergencies.

International personnel

6) For the purpose of the improvement and simplification of crossing state borders it would be practical to raise the issue of concluding bilateral or multilateral agreements between Kazakhstan and other states on the mobilization of foreign specialists for disaster relief at the border zones in accordance with which it would be possible to grant visa-free entry as per the consent of an inviting or hosting party. Entry into the country would become possible by submitting an identification card or lists of the organization's personnel with indication of their specialties. It would also be practical to specify in these lists particular ministries, agencies, and State and public organizations that have designated specialists and provided equipment and assistance for disaster relief and recovery functions.

7) In addition, to improve access and effectiveness of international humanitarian personnel, Kazakhstan could usefully include within its current Law on Civil Defence provisions regarding expedited visa arrangements for personnel from assisting states and approved organizations.

8) The Consular Services Charter and the Laws of Kazakhstan need to specify in detail all the procedures for expedited visas for the personnel of assisting international humanitarian organizations.

9) It is also recommended that the Law on Civil Defence be amended to incorporate provisions on the security of foreign personnel operating in emergency situations in Kazakhstan.

Foreign medical and other qualifications

10) Kazakhstan should establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers of assisting states and approved organizations, as well as driving licences and other types of licences and certificates that are necessary for the performance of disaster relief or initial recovery functions. These norms should be consolidated in the Law on Civil Defence and the Code on the Nation's Healthcare Issues and Healthcare System.

Transport

11) The current legislation concerning different types of transportation vehicles should be updated to incorporate new provisions to implement paragraph 18(1) of the IDRL Guidelines concerning recognition of foreign registration and import of vehicles used by assisting states and approved organizations in disaster relief and initial recovery assistance.

12) It would be desirable to clarify existing laws to ensure waivers for over-flight, landing, and departure fees for aircrafts transporting goods for relief purposes. It will be important to adopt relevant laws which will ensure the exemption of fees in cases where humanitarian responders are required to use air transportation and other modes of transport for disaster response purposes.

13) It also would be reasonable to create a policy listing the objectives and goals for the utilization of transportation vehicles. This could include the creation of conditions that ensure the efficient application of resources for disaster relief activity by providing the appropriate transportation. These objectives could also incorporate a preliminary estimate of the needs of transportation communication systems and transportation resources, in order to acquire an appropriate allocation of vehicles depending upon the scale and circumstance of the disaster.

14) It would be efficient to integrate into the legislation of Kazakhstan temporary measures for the acknowledgment of driving licences required especially for foreign personnel operating in disaster response operations. It would be advisable to consolidate in the traffic rules of Kazakhstan (which have to be converted into law) such a requirement on the introduction of temporary procedures for recognition of driving licences of foreign drivers and specialists.

15) The Law on Automobiles dated July 4, 2003 needs to incorporate provisions regarding the import and registration of foreign motor transport vehicles used for disaster relief and recovery functions. Similar provisions have to be incorporated into other statutory norms which regulate shipments via rail road, marine, air, etc.

16) The use of aircraft for the delivery of rescue personnel and humanitarian organizations into the disaster zone needs to be incorporated into the Law on Civil Defence and the Law on Automobile Transport.

17) Article 5 of the Law on Civil and Legal Liability Obligatory Insurance of Transport Owners dated July 1, 2003 should be revised to include a statement such as: 'including foreigners and persons without citizenship owning motor transport vehicles and residing in the territory of Kazakhstan on temporary or permanent basis.'

Importation of Relief Goods and Equipment

General Customs Procedures and Relief Consignments

18) The timely delivery and distribution of international relief consignments will be improved if the required customs arrangements can be performed in a simplified manner.

19) The ability to import goods for disaster relief purposes will be improved with the exemption of customs duties and taxes (with the exception of banned imports). A legal mechanism should be established to allow importation of relief consignments free of duties charges and taxes, including foodstuffs, clothing, blankets, shelters (such as tents and prefabricated houses), and other prime necessities. It is recommended that the Law on Civil Defence be amended to incorporate specifications that the entry of emergency consignments, the arrival of international humanitarian personnel mobilized for search and rescue operations, and other disaster response activities by assisting states and approved organizations shall be exempt from any customs fees and taxes, restrictions on import or export (except prohibited items).

Importation of special items

20) Kazakhstan could develop laws facilitating the use of telecommunication and information equipment to deliver aid by the assisting states or humanitarian organizations in emergencies.

21) The provisions of the Code on the National Health and Healthcare System dated September 18, 2009, should take into account special and detailed regulations for the facilitation and monitoring of the import and export of medications import in emergency cases. The standards of the two provisions analyzed above could be incorporated into the Code on National Healthcare. In emergency situations, it will also be advisable to exempt all the medications imported into the country from customs fees.

22) The Code on Public Health and the Healthcare System should be amended to incorporate the provisions of subparagraph 3, Article 18 of the IDRL Guidelines specifying (a) that medications for donation or use in their own operations by assisting States and eligible assisting humanitarian organizations should be appropriately transported and maintained to ensure their quality and guarded against misappropriation and abuse and (b) that medications for donation should be at least 12 months from their expiry date unless otherwise agreed by the Government.

23) The Law on Safety of Food Products dated July 21, 2007 should incorporate the relevant procedures in case of emergencies with regard to food products import. It will be reasonable to complement Article 20 of the Law which specifies the requirement for quality of imported products with the following provision: 'These procedures for expedited import of food products shall be used in emergency situations'.

24) The Code on Public Health and the Healthcare System dated September 18, 2009 in the sphere of import and export of medications and medical equipment in emergency cases needs to be itemized.

25) It would be useful to incorporate into domestic legislation a requirement for the streamlined admission of search and rescue dogs, incorporating appropriate safeguards, a veterinary certificate for the dogs, which indicates the vaccinations the dog has had.

Eligibility and recognition of foreign legal personality

26) Based on the idea in paragraph 14 of the IDRL Guidelines, the Kazakhstan legislature should establish criteria to determine which humanitarian organizations will be entitled to access legal facilities when providing relief in Kazakhstan or when using Kazakhstan as a transit state.

27) As recommended in subparagraph 2, Article 14 of the IDRL Guidelines, the Law on Civil Defence could be amended to specify criteria for assisting humanitarian organizations seeking eligibility for legal facilities. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with relevant responsibilities.

28) It is recommended that Kazakhstan add a provision to the Law on Civil Defence or establish a special law concerning the norms and status of the components of the International Red Cross and Red Crescent Movement operating in Kazakhstan.

29) The Law of April 17, 1995 on State Registration of Legal Entities and Accounting Registration of Branch Offices and Representations needs to be complemented with provisions that in emergency situations humanitarian organizations have to be registered within one day to ensure that they could open bank accounts, conclude agreements, sign leases, acquire or assign property, and get involved in legal proceedings concerning disaster relief and initial recovery functions.

Taxes and currency exchange

32) It is recommended that the Code on Taxes and Other Obligatory Payments into the Budget (Tax Code) dated December 10, 2008 incorporate requirements for exemptions from value-added taxes, income tax, corporate tax and other taxes for approved humanitarian organizations and personnel involved in disaster relief and initial recovery assistance.

33) The law on Currency Regulation and Currency Control dated June 13, 2005 should incorporate clauses permitting humanitarian organizations to freely import and export foreign currencies into Kazakhstan, with amounts exceeding the established limit subject to approval in order to avoid disturbing the national financial system. This should also include a requirement ensuring access to preferential currency exchange rates.

34) The Tax Code needs to include exemptions to value-added tax, income tax, corporate tax, and other remunerations with regard to humanitarian organizations and personnel mobilized for disaster relief operations.

Freedom of movement and access

35) As Kazakhstan currently has no provisions to facilitate freedom of access to and freedom of movement in and from the disaster affected area, lawmakers could enrich Kazakhstan's legislation by making specific provision for this.

Kazakhstan as a transit or donor country for international assistance

36) In order to enhance Kazakhstan's own operations as an assisting actor in other states, it could usefully incorporate in its domestic law, provisions requiring Kazakhstan's state agencies operating abroad to act in accordance with the other state's sovereignty, the needs of its national security in the maintenance of public order, healthcare, and the protection of the environment when providing assistance to other states, as outlined in Section V of the IDRL Guidelines.

37) The Code on National Health Care and the Law on Food Safety should include specific provisions on the status of Kazakhstan as a transit state which would remove the legal and administrative constraints for export, transit, import, and re-export of pharmaceuticals, medical preparations, and equipment and food products in favour of the assisting countries in emergencies. It could also address the need for expediting the issuance of transit visas for personnel managing transportation who need to cross the border to deliver emergency aid and assistance.

38) It is recommended that the Code on National Health Care and the Law on Food Safety also be amended to incorporate provisions on the status of Kazakhstan as a transit country removing all the legal and administrative barriers for the export, transit, import, and re-export of medications, medical equipment, and food for the benefit of the states assisting the countries affected by the disasters.

Annex A

International Instruments and Kazakhstan Legislation

International agreements and other international decisions

- Convention on International Civil Aviation dated 7 December 1944
- Vienna Convention on Consular Relations dated April 18, 1961
- Vienna Convention on Consular Relations dated April 24, 1963
- Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations dated June 18, 1998
- Agreement between the CIS states on interaction in the sphere of early warning and response to natural or man-made disasters dated January 22, 1993
- Agreement on Mutual Assistance for Natural and Man-made Emergency Prevention and Response dated January 22, 1993;
- Agreement between the CIS states on the simplification and unification of customs clearance procedures dated July 8, 1994
- Agreement between Kazakhstan, the Kyrgyz Republic, Tajikistan and Uzbekistan on Cooperation in Emergency Prevention and Response dated July 17, 1998
- Agreement on utilization and development of transportation communications for the economy needs, military and humanitarian freight forwarding purposes for the benefit of the CIS states dated May 31, 2001
- CIS Decision on Procedures for the Organization of Cooperation of CIS Member States in Response to Natural and Man-Made Emergencies dated November 29, 2001
- Agreement on mutual assistance delivery in the events of accidents and other disasters at nuclear facilities, dated May 30, 2002
- Agreement on Mutual Assistance at Power-Generating Facilities for Emergency Prevention and Response between the CIS Member States 2002
- Agreement on information exchange regarding natural and man-made disasters, on informational interaction upon relief and recovery of the affected population dated September 18, 2003
- Agreement between the member states of the Shanghai Cooperation Organization on mutual assistance in the event of natural disasters dated October 26, 2005
- Agreement between the Governments of the Member States of the Shanghai Cooperation Organization on Cooperation in Delivery of Assistance for Emergency Response dated October 28, 2005.
- Agreement between the government of Kazakhstan and the Council of Ministers of Ukraine on cooperation in the sphere of early warning of emergency situations
- Agreement on Measures for External Commerce of Goods for the single customs territory with regard to third-party countries dated June 9, 2009

National legislation

The Constitution of the Republic of Kazakhstan dated August 30, 1995

Codes

- Criminal Code of the Republic of Kazakhstan dated July 16, 1997
- Code dated January 30, 2001 on Administrative Violations
- Code dated September 18, 2009 on Public Health and the Healthcare System
- Tax Code as of January 1, 2009

Laws

- Law dated January 13, 1993 on the State Border of the Republic of Kazakhstan
- Law dated April 17, 1995 on State Registration of Legal Entities and Accounting of Subsidiaries and Representations
- Law dated June 19, 1995 on Legal Status of Foreign Nationals
- Constitutional Law dated October 16, 1995 on Parliament of the Republic of Kazakhstan and Status of its Deputies
- Constitutional Law dated December 18, 1995 on Government of the Republic of Kazakhstan
- Law dated July 5, 1996 on Natural and Man-made Emergencies
- Law dated July 15, 1996 on Traffic Safety
- Law dated November 22, 1996 on Fire Safety
- Law dated March 27, 1997 on Rescue Services and Rescuers' Status
- Law dated December 13, 1997 on Migration of Population
- Law dated March 24, 1998 on Statutory Acts
- Law dated June 26, 1998 on National Security
- Law dated November 20, 1998 on Audit Activities
- Law dated January 16, 2001 on Non-Commercial Organizations
- Law dated March 7, 2002 on Diplomatic Service of the Republic of Kazakhstan
- Law dated April 3, 2002 on Industrial Safety at Hazardous Production Facilities
- Law dated December 4, 2002 on the Sanitary and Epidemiological Well-being of the Population
- Law dated February 8, 2003 on Emergency Situations
- Law dated April 25, 2003 on Obligatory Social Insurance
- Law dated July 4, 2003 on Automobile Transportation
- Law on International Agreements of the Republic of Kazakhstan dated May 30, 2005
- Law dated June 13, 2005 on Currency Regulation and Currency Control
- Law dated January 12, 2007 on Procedure of Review of Applications Issued by Physical Persons and Legal Entities

Decrees

- Decree issued by the President dated April 17, 1992 on Activities of the Kazakh National Red Cross and Red Crescent Societies
- Decree of the Government dated August 28, 1997 on the State System on Disaster Prevention and Response
- Decree of the President dated September 27, 1999 on Ratification of Consular Regulations of the Republic of Kazakhstan
- Decree No 271 issued by the Government on March 4, 2004, on Ratification of Humanitarian Aid Distribution Regulations in a Community under an Emergency Situation
- Decree No 2298 adopted by the Government on December 30, 2009, entitled on Identification of Cases for Import into the Republic of Kazakhstan of Medications, Medical Items and Medical Equipment as Humanitarian Assistance which have not passed the State Registration in the Republic of Kazakhstan.

Ordinances

- Ordinance issued by the Council of Ministers dated September 27, 1994 on Creation of Medical First Aid Service in Emergency Situations
- Ordinance of the Government dated August 28, 1997 on State System of Early warning and Management of Emergencies Aftermath
- Ordinance issued by the Government dated February 9, 1998 on Arrangements for Management of Emergency Situations of Social and Criminal Nature
- Ordinance issued by the Government dated January 28, 2000 on Certain Issues of Legal Regulation concerning the staying of foreigners in the Republic of Kazakhstan
- Ordinance issued by the Government dated December 31, 2003 on Development Program of State System for Early Warning and Eradication of Emergency Situations for the years 2004-2010
- Ordinance of the Government dated January 13, 2005 on Ratification of Regulations for Involving Automobile Transporters in the Elimination of Disasters Ordinance of the Government dated November 23, 2005 on Concept of Early warning and Elimination of Natural and Man-made Disasters and Upgrading of the State System in this Sphere

Regulations

- Consular Regulations dated April 27, 1999.

Other procedures and decisions

- Provisions of the Committee for Medical and Pharmaceutical Activities under the Ministry of Healthcare dated October 23, 2009

Annex B

Contingency planning for national coordination in case of a disaster threat

A specific response has been developed for each type of natural disaster affecting Kazakhstan. There is also a common scenario developed for all emergencies, which incorporates prevention, response, preparedness and recovery. Detailed action plans for the prevention of and response to earthquakes, flooding and mudflows are set out below, since these disasters occur most frequently in Kazakhstan and have devastating and destructive consequences.

Contingency planning for a threat or occurrence of an earthquake

Information-sharing

Specialized organizations and services in Kazakhstan qualified to respond in the case of an earthquake are expected to carry out an uninterrupted processing of received data and transmission of that data to relevant centres for collection, processing and storage. The current seismic data processing is activated by the Inter-Departmental Commission for Earthquake Prediction. This Commission is required to transfer data weekly regarding the seismic situation, together with a prediction of different tremors from the Almaty forecasting centre to the MES and the Expert Council for the Assessment of Seismic Hazards and Earthquake Prediction.

Early warning and alerts

Responsibility for the quality of scientific research for earthquake prediction, notification, and organization of rescue and evacuation work is borne by heads of the ministries, mayors of oblasts and cities, and specialized organizations and services.

In the event of any indication of a potential earthquake, the national early warning service reports immediately to the MES, which must then convey these messages promptly to the mayors of the cities or oblasts in which an earthquake may occur. This information shall also be shared with the Chairman of the Inter-departmental Commission for Earthquake Prediction and the Chairman of the Expert Council for the Assessment of Seismic Hazards and Earthquake Prediction. These institutions must then issue advice as to the level of the earthquake threat, on the basis of which the MES makes decisions concerning the announcement of a potential or predicted earthquake.

The duty to announce an earthquake prediction rests with the deputies of the Minister of Emergency Situations and the Mayor of the city (oblast) in which an earthquake may occur. As per the guidelines provided by the MES, the mayors of the cities or oblasts, heads of ministries and national bodies must

have prepared a 'Contingency Plan in case of an Earthquake' which they must initiate when a warning is issued, to mobilize the appropriate internal resources for relief and recovery operations.

Earthquake response

In the event of a destructive earthquake, information regarding the number of victims and affected persons, and the overall consequences of the earthquake, must be forwarded to the heads of ministries and early warning services, who will immediately provide this information to the MES, the Mayors of the affected cities and oblasts, and the Almaty and Astana municipal boards for emergencies. The Mayors of cities, oblasts and heads of ministries shall commence execution of the 'Contingency Plan in Case of an Earthquake'. For the purpose of obtaining objective data on the disaster situation, air and ground exploration activities should be undertaken.

Surveys in the emergency zone shall determine the nature and extent of destruction and the extent of rescue work required. Surveying patrols provided by search and rescue services shall conduct helicopter fly-over operations above the affected areas, and specialized organizations and services shall organize within 24 hours a trip of relevant specialists to the earthquake epicentre zone, in order to activate an appropriate disaster response operation. The Expert Council for the Assessment of Seismic Hazards and Earthquake Prediction shall issue an assessment of the situation and shall forward this to the MES. The MES shall promptly notify the Prime Minister, the Government and the President. In case of serious, catastrophic consequences, a Governmental Commission may be set up immediately.

The Ministry of Foreign Affairs, in conjunction with the Ministry of Health, MES, the Ministry of Industry, the Agency for Customs Surveillance and the Kazakhstan Red Crescent Society, may contact relevant international humanitarian responders, including the International Federation of Red Cross and Red Crescent Societies and the CIS member states with whom Kazakhstan has legally binding agreements for assistance in the case of emergencies. The OSCE will also be contacted to seek urgent assistance from member states.

Urgent medical assistance shall be provided by civil defence medical services established by the Ministry of Health, at the Emergency Medical Aid centre. Medical assistance will include medical evacuation, treatment, and the establishment of camp hospitals and ambulance stations. If necessary, international medical specialist assistance will be sought, to work in partnership with domestic surgeons.

If established, a Governmental Commission endorsed by the relevant ministries and agencies to manage a major disaster relief operation will be authorised to ensure the delivery of the following material and technical assistance: 1) food distribution 2) provision of clothing 3) transportation 4) technical aid delivery 5) fuel distribution 6) power generation 7) medication distribution, and 8) water supply. The Governmental Commission responsible will be.

Contingency Plan for the threat or occurrence of floods and mudflows

During the season of mudflows, the 'Temporary Action Plan For The Operation Of Kazhydromet, Kazselezaschita, Mayors' Offices, Boards, Heads of Ministries and Other Services in the Case of a Threat Or Occurrence of Mudflows or Rock Falls' will be activated. This Temporary Action Plan provides guidelines for the management of emergency situations for KazHydroMet, KazSeleZaschita, mayors' offices, boards, heads of ministries, prediction agencies and other services for the notification and management of mudflows, and any evacuation of localities facing the threat of mudflows.

Prevention measures carried out by KazHydroMet and KazSeleZaschita include uninterrupted monitoring of the hydro-meteorological situation in the mountainous regions of Kazakhstan, as well as monitoring of existing mudflows and the condition of glacial lakes. Those agencies will also collect and analyse data obtained from these monitoring exercises, and provide consultancy services. All relevant documents will be forwarded to the MES.

The likelihood of mudflows will be evaluated by an Expert Commission for the Prediction of Mudflows, consisting of specialists employed by KazHydroMet and KazSeleZaschita. In the event of a threat of a mudflow, other relevant services shall immediately inform the Expert Commission, who will make a preliminary assessment and pass this information to the head of the MES. In turn, the MES shall prepare an urgent report for the Minister of Emergency Situations and his deputies, and will also inform the executive managers of the Oblast boards for emergency situations who will promptly notify the mayors of concerned oblasts. Under these circumstances, a special work mode for the services of KazHydroMet and KazSeleZaschita will ensure additional surveillance and necessary activities.

In the event of a mudflow, the heads of ministries and prediction services of KazSeleZaschita and KazHydroMet will immediately report this as above. The head of the MES, after receiving a report on the extent of the mudflow, will promptly report to the Minister of Emergency Situations and his deputies. In the event of particularly destructive mudflows, Minister of Emergency Situations may issue an ordinance to initiate the 'Contingency Plan for the Occurrence of Emergency Situations.' In the event of a mudflow in a local area, a decision on the activation of the 'Contingency Plan for the Occurrence of Emergency Situations' will be made by the Mayor of that particular oblast or region in which the mudflow occurred.

One of the peculiarities of flooding is the frequency of large scale emergency situations which, in the majority of cases, cover vast geographical areas exceeding hundreds of thousands of square kilometres. Therefore, in many cases it is more practical to use air transport for search operations of the affected areas. The local units of the MES and Mayors of oblasts, cities and regions are responsible for initiating disaster relief. Part of the key objectives of these search and rescue operations is to identify the number of injured individuals; to define the number of residential and business areas which have been flooded or are under threat of being flooded; and to explore the condition of protection dikes, hydro-engineering facilities, bridges, motor ways, pipelines, power transmission lines, farming lands etc. The rescue of small groups of individuals may also be performed by these units independently through the provision

of lifebuoys, rafts and other items. For larger rescue operations, motor-driven vessels and barges may be used.

Initial medical aid will be delivered by rescue teams in the zones affected by floods. After being taken to a point of safety, injured persons will be provided with medical aid and will then be evacuated to shelters or, where necessary, to medical treatment facilities.

Under severe circumstances in mudflow or flooding situations, special services providing for water rescue operations will be provided by the MES. The water rescue services provided by the MES, in conjunction with similar water rescue and water transportation agencies of other ministries (agencies such as KazSeleZaschita and KazHydroMet), must be authorised by an Order in the case of flooding or mudflows under the Law dated March 27, 1997 on Rescue Services and Status of Rescuers.

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

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

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

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

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

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

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

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



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