



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

Legal Issues from the International Response to Tropical Storm Stan in Guatemala



A case study commissioned by the International Federation of Red Cross and Red Crescent Societies' International Disaster Response Laws, Rules and Principles (IDRL) Programme (April 2007)

Acknowledgements

Primary research, interviews and report preparation

Mary Picard, consultant

With support from

David Fisher, Senior Legal Research Officer, International Federation of Red Cross and Red Crescent Societies IDRL Programme

Marissa Soberanis, consultant

María de los Angeles Díaz de Cherrett (interpretation)

Roy Venegas, Regional Coordinator for Stan Operations, International Federation of Red Cross and Red Crescent Societies

Judith Cruz, Administrative Assistant, International Federation of Red Cross and Red Crescent Societies

The Guatemalan Red Cross Society

Copyright

Copyright © 2007 by the International Federation of Red Cross and Red Crescent Societies

All rights reserved.

Cover Photo: Reuters/Daniel LeClair courtesy of www.alertnet.org.

Disclaimer

This work has been commissioned by the International Federation of Red Cross and Red Crescent Societies' International Disaster Response Laws, Rules and Principles Programme. The information contained herein has been compiled by outside consultants based on publicly available materials and interviews with primary stakeholders. The International Federation makes no guarantees as to the accuracy of the information provided. The opinions expressed herein do not necessarily represent the official policies or views of the International Federation or of any individual Red Cross or Red Crescent Societies.

IDRL contributors 2006-2007



Table of Contents

Introduction	5
I. Background	6
A. Economy, Population and Geography of Guatemala	6
B. Political and Governmental Structures	7
II. Governmental Coordination Mechanisms Related to Disasters	8
A. The CONRED Law: “We are all CONRED”	8
1. CONRED’s Legal Base	8
2. CONRED’s Structure	9
III. Tropical Storm Stan – The Impact and Response	14
A. The Impact of Tropical Storm Stan in Guatemala	14
B. The Response	17
C. Coordination Mechanisms Employed During Stan	19
1. CONRED’s COE	19
2. CCAH Teams	19
3. CONRED Coordination and Information	21
4. Institutional Links and Sectoral Clusters	22
5. SEGEPLAN and International Cooperation	22
6. UN System	23
7. Red Cross	23
8. NGOs	24
9. Summary	24
IV. Specific Legal Issues Affecting International Disaster Response	24
A. Legal Recognition of Relief Organizations	25
1. Normal Legal Recognition Processes	25
2. Legal Recognition during the Stan Emergency	27
B. Taxation of International Relief Actors	27
1. The Normal Tax Regime	28
2. The Tax Regime during the Stan Emergency	30
3. Summary	31
C. Entry of Relief Personnel	32
D. Storage of Relief Goods	33
E. Transport of Relief Goods	34
F. Security of Relief Personnel, Goods and Equipment	35
G. Quality and Accountability of Relief	35
1. Government Inventory and Audit of Donations	35
2. Quality and Accountability of International Relief	36
V. Future Directions for the Legal Framework concerning International Assistance	40
A. Best Practices	40
B. Good Frameworks that May Need Additional Resources	41
C. Areas that Would Benefit from Change or Regulation	42
D. Conclusions	42
Annex A: Acronyms	
Annex B: Consultations	
Annex C: The CONRED Laws and Regulations (in Spanish only)	
Annex D: References	

Introduction

The effects of Tropical Storm Stan (hereinafter “Stan”) in early October 2005 were felt profoundly in Guatemala. The storm brought days of heavy rain and floods throughout the country, as well as to Mexico, Costa Rica, El Salvador, Honduras and Nicaragua. For Guatemala, Stan was an even greater disaster than Hurricane Mitch of 1998, resulting in hundreds of deaths, hundreds of thousands of persons displaced and infrastructure damage across nearly 70% of the national territory.

Even before the Guatemalan government’s declaration of a State of National Disaster on 5 October and its international appeal for humanitarian aid on 8 October, many international actors, including the International Federation of Red Cross and Red Crescent Societies (IFRC), international non-governmental organizations (NGOs), United Nations (UN) system agencies and other inter-governmental organizations, had joined governmental bodies at national, regional, municipal and local levels, the Guatemalan Red Cross Society, and other domestic actors in providing emergency relief to affected communities.

The purpose of this report is to examine the legal and regulatory issues raised by the international response to Stan in Guatemala. Its focus is on how existing laws and policies impacted on the international relief and recovery effort during the period of declared national disaster and the early reconstruction phase in late 2005. Relevant laws and policies include those established to prevent and respond to disasters as well as a range of others, such as those regulating: legal recognition of relief organizations; tax status of NGOs; customs clearance and import duties; and visas for relief workers. Attention is also given to the regional frameworks that exist to coordinate disaster prevention and responses in Central America, Panama and the Dominican Republic. These mechanisms have been an important development in a region prone to natural occurrences such as earthquakes, volcanic eruptions, hurricanes, floods and landslides, which have historically led to large-scale human disasters.

It is not the aim of this report to criticize the Guatemalan Government or relief providers, but rather to provide an analysis of how the systems worked during the first major disaster since many of the most relevant laws and mechanisms were established. Based on a study of the relevant laws, as well as on reports, interviews and a workshop with many of those closely involved (see Annex B), this case study is intended to contribute to a process of reflection already under way at the national level as well as to discussions at the regional and international levels. While it has been carried out in parallel with the organizational evaluations and reporting processes of many key actors in their areas of specialization, it brings a different perspective by analyzing the relevant legal framework as a whole. In doing so, it seeks to record the processes that ran well and smoothly, as well as to highlight challenges that may be addressed through strengthening the laws, regulations and policies, and indeed the institutions responsible for their implementation.

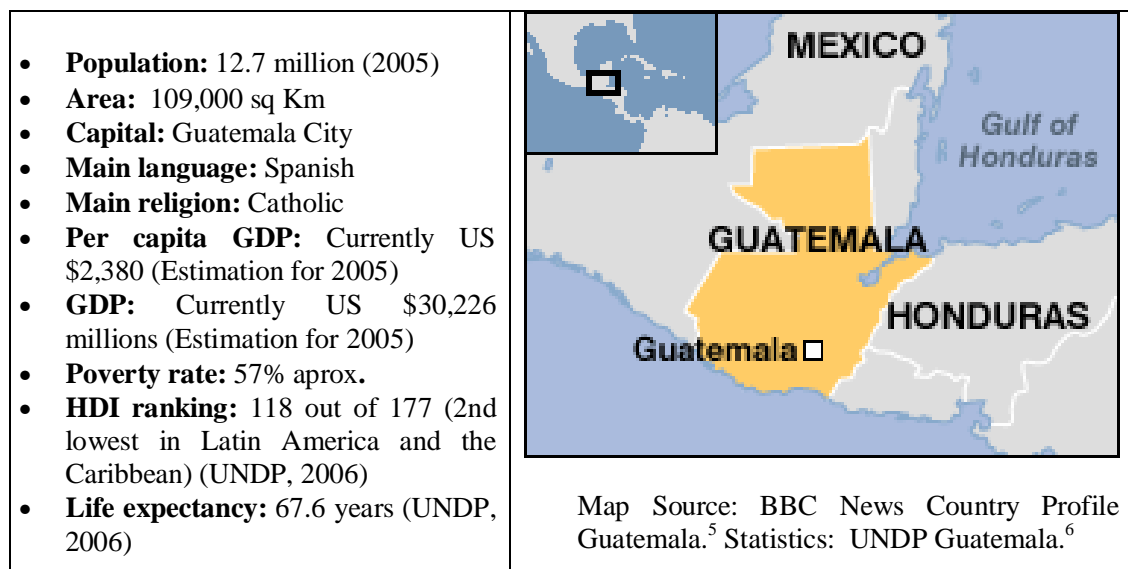
I. Background

A. Economy, Population and Geography of Guatemala

The Republic of Guatemala is a small Central American nation with a population of around 12.7 million.¹ Originally a Spanish colony, the national language is Spanish, although twenty-two other languages are also spoken, including Maya, Garifuna and Xinka languages. Many Guatemalans are of mixed Amerindian-Hispanic origin, usually referred to as *ladino*. The proportion of the population that is indigenous is at least 41 percent, and some estimates put it as high as 60 percent, depending on the definitional criteria used.² It is estimated that 75 percent of the overall population live in poverty,³ including 21 percent in extreme poverty.⁴

Guatemala has a long Pacific coast between Mexico in the northwest and El Salvador in the southwest, a short Atlantic/Caribbean coast between Belize and Honduras, and a large, mainly forested region in the north, inland between Belize and Mexico.

Map 1: Guatemala, Location and National Statistics



¹ Source United Nations 2005, cited in BBC News, http://news.bbc.co.uk/2/hi/americas/country_profiles/1215758.stm, (visited February 2007).

² The official statistic of 41% is understood to represent those who live and dress in a traditional manner, speak an indigenous language and define themselves as indigenous.

³ CIA, The World Fact Book – Guatemala, at <https://cia.gov/cia/publications/factbook/geos/gt.html> (visited February 2007). However, the Guatemalan National Institute for Statistics, using 2002 census figures, put the poverty level at 56%, including 15.7% living in extreme poverty: 'Encuesta Nacional Sobre Condiciones de Vida ENCOVI,' at <http://www.ine.gob.gt/censosB.html> (visited February 2007)

⁴ This figure rises to 31 percent in rural areas: Common Country Analysis (CCA) of the United Nations System, cited in UNDP, 'Draft Country Programme Document for Guatemala (2005-2008)' (UNDP, Guatemala 2004), at <http://www.undp.org/rblac/documents/cpo/CPD%20Guate2EXB%20CommentsEnglishText%20DEF.pdf>.

The Pacific coastal plain affected by flooding during the Stan disaster has major port facilities and supports a fishing industry, large sugar plantations and populous towns whose economies are based primarily on sugar production. The hinterland is a geologically unstable mountainous plateau that stretches from Salvador to Mexico and on which both the capital, Guatemala City, and the second largest city, Quetzaltenango, are located (the views from both these cities are dominated by active volcanoes).

It is in the higher parts of this plateau that another major crop, coffee, is grown. Many indigenous Maya communities live there, mainly in small villages, where they practice intensive farming based around the staple crops of maize and beans, plus small-scale cash crops including coffee. These were the areas most affected by landslides and mudflows during Stan.

On the Atlantic side of the central plateau the land drops down again to another coastal plain where large banana plantations are found, an area that narrows to Guatemala's small Caribbean coastal frontier and major port facilities. This area, the sparsely populated northern part of Guatemala, and the northern parts of the central plateau, are the regions normally most affected by hurricane activity, although the rains caused by Stan followed a different pattern.

B. Political and Governmental Structures

Guatemala is a democratic republic with a presidential executive branch, including ministers appointed by the President, and a national Congress consisting of one house of 158 elected representatives. For administrative purposes it is divided into 8 regions and 22 departments, the latter of which also form electorates for the national Congress. Regional and departmental administration comes under the umbrella of the national Ministry of Government.⁷ There are also 332 municipalities, in addition to Guatemala City, within which around 1,800 local communities are defined. The municipal level is the only other level of representative government apart from the national Congress.

Many of the current governmental structures have emerged in the last ten to fifteen years. Decades of military government were ended in 1985. However, the longstanding civil war, also known as *la violencia*, continued and was not finally ended until the signing of a series of UN-facilitated Peace Accords in the mid 1990s between the Guatemalan Government and the Guatemalan National Revolutionary Unity (URNG).⁸

The Peace Accords gave rise to constitutional changes intended to better safeguard human rights and the democratic process by reducing the role of the military and strengthening civil institutions. These reforms included a clearer separation of executive, legislative and judicial powers and a strong emphasis on decentralization of government administration. A number of autonomous government entities have since been created to operate under their own congressional law, separate from the executive power. Many of these are also decentralized

⁵ BBC News, at http://news.bbc.co.uk/2/hi/americas/country_profiles/1215758.stm (visited February 2007).

⁶ UNDP Guatemala, *National Human Development Report*, (UN, Guatemala, 2006).

⁷ *Ministerio del Gobierno*. So do the National Civil Police and the prison system, but not the Public Prosecutor.

⁸ These were, for the most part, translated into Guatemalan law. The original accords are available in English on the US Institute for Peace website at http://www.usip.org/library/pa/guatemala/pa_guatemala.html

entities, meaning that their offices are located and/or functions are delegated to the regions, departments or municipalities. This aspect of Guatemalan government is particularly relevant to national disaster response, as the country appears still to be in transition between a highly centralized national system and an autonomous decentralized system, both in terms of resource allocation and capacity, and in terms of the clarity of expectations and lines of responsibility.

Implementation of reforms has at times occurred by establishing new institutions rather than removing or changing pre-existing ones, leading to a highly complex governmental structure. In addition, during the term of the current government, a number of new institutions were established under executive powers as a means of implementing policy initiatives. As a result of these two trends, it has sometimes been difficult for outsiders to understand the lines of government authority and therefore their own legal and administrative accountabilities.

In addition, there does appear to be actual overlap in some governmental functions so that, in a disaster response situation, there may be more than one state entity with responsibility for a given aspect of the response (as described more fully below). There are currently thirteen national ministries under the executive branch⁹, thirteen presidential secretariats,¹⁰ at least ten national commissions and four foundations established to deal with specific issues, some of which grew out of the Peace Accords, and some of whose subject matter would also appear to fall under the ambit of one or more ministries or secretariats.¹¹ Aside from these there are other entities, some of which are highly relevant to international disaster relief actors, such as the Office of the Superintendent of Taxation Administration (*Superintendencia de Administración Tributaria de Guatemala -- SAT*), the regional development councils,¹² and, of course, the National Coordinator for the Reduction of Disasters (*Coordinadora Nacional para la Reducción de Desastres -- CONRED*).

II. Governmental Coordination Mechanisms Related to Disasters

A. The CONRED Law: “We are all CONRED”

1. CONRED’s Legal Base

The legal bases for the institution and operations of CONRED are:

⁹ Relevant Ministries include: Agriculture and Food; Environment and Natural Resources; Communications, Infrastructure and Housing; Economics; Education; Energy and Mines; Government; Public Health and Social Welfare; Public Finance; External Relations; Employment and Social Planning; and National Defense. See Annex A for Spanish titles.

¹⁰ The most relevant Secretariats deal with: Agrarian Affairs; Executive Coordination - SCEP; Welfare Work of the First Lady - SOSEP; Planning and Programs – SEGEPLAN; and Food Security and Nutrition – SESAN. See Annex A for Spanish titles.

¹¹ Relevant Commissions include those dealing with: Local Development; and the Use, Management and Conservation of Water Resources – *COPREAGUAH*. Relevant foundations include: Indigenous Development; Land Tenure - *FONTIERRA*; and the National Foundation for Peace – FONAPAZ. See Annex A for Spanish titles.

¹² Councils for Urban and Rural Development Law, Decree 11-2002; Councils for Urban and Rural Development Regulations, Government Accord 461-2002.

- National Coordinator for the Reduction of Disasters Law 1996 (hereinafter, the “CONRED law”);¹³ and
- National Coordinator for the Reduction of Disasters Law Regulations 2000 (hereinafter, the “CONRED regulations”).¹⁴

The CONRED law recognizes that the territory of Guatemala is, by virtue of its geographical location and geology, especially prone to natural disasters with the potential to inhibit the nation’s development. It confers wide-ranging powers and responsibilities on CONRED, the National Coordinator, to facilitate disaster prevention, mitigation, preparation and response. Amongst these is the ability during a disaster to require the cooperation of all public institutions and any private bodies within their areas of competence.¹⁵

CONRED has two modes of operation, the first applicable in normal circumstances and the second in the face of an impending or actual disaster. CONRED plays a key role in declaring states of alert and finally in recommending to the President of Guatemala that a national disaster (*estado de calamidad*) should be declared. This must be based on information from the Institute for Seismology, Volcanology, Meteorology, and Hydrology (*Instituto Nacional de Sismología, Vulcanología, Meteorología e Hidrológica* -- INSIVUMEH). The emergency mode is considered below in relation to the response to Stan, but it should be noted that the CONRED Regulations provide a mechanism for high level decisions to be made by the President or Vice President of Guatemala in extremely grave situations, and that these provisions were used during the Stan response, with President Oscar Berger actively involved in major decisions on the response.¹⁶

2. CONRED’s Structure

CONRED’s organizational structure is designed to establish a national system of coordination, horizontally across all the relevant sectors of government and humanitarian agencies, and vertically through the levels of territorial government from national, to regional, departmental, municipal and local.¹⁷

CONRED’s legally mandated structure consists of the following entities; however, it should be noted that the coordination mechanisms below the regional and departmental level were not fully functional at the time of the Stan disaster:

a) National Structures

- The **National Council for the Reduction of Disasters** (*Consejo Nacional para la Reducción de Desastres*) approves policies and standards and is available to support the Government during emergencies. Its membership includes: the Minister of Defense (Convener), and representatives of the Ministries of Health & Welfare, Education, Public Finance, Communications Infrastructure & Housing and Government; plus the Board and

¹³ *Coordinadora Nacional para Reducción de Desastres*, established under the *Ley de la Coordinación Nacional para la Reducción de Desastre, Decreto 103-96* (“the CONRED law”).

¹⁴ *Reglamento de la Ley de la Coordinación Nacional para la Reducción de Desastre, Acuerdo Gubernativo 443-2000*, . (“the CONRED regulations”)

¹⁵ The CONRED Law Art. 4

¹⁶ The CONRED Regulations Art. 25.

¹⁷ CONRED System organizational chart showing post-Stan changes, CONRED website at http://www.conred.org/quienessomos/ORGANIGRAMA%20SE-CONRED_1000.jpg (visited January 2007).

Executive Secretary of SE-CONRED, the National Fire Brigade, the Assembly of Professional Associations and the Coordinating Committee of the Association of Agricultural, Commercial, Industrial and Financial industries.

- The **National Board** (*Junta*) and **Secretariat** (*Secretaria Ejecutiva -- SE-CONRED*)
 - The National Board is convened by the Minister of Defense and includes the Executive Secretary of SE-CONRED and a representative of one of the private entities from the National Council.
 - The Executive Secretary is responsible for management of CONRED and implementation of National Council decisions. The position is responsible for four main offices within the CONRED national secretariat:
 - § The Secretariat's core operations, made up of five sections focused on: operations (which prepares plans and becomes the emergency response center in a national disaster); risk analysis; education (including the department for technical training); finance and administration.
 - § The section for Coordination of Planning and Strategy
 - § The section for Coordination of Cooperation
 - § The section for Sectoral and Territorial Coordination, including the Department of Coordination of Regional offices and Regional delegates.
- The **Scientific Council** (*Consejo Científico*) of the National Board and Secretariat, which is incorporated into INSIVUMEH. Its members include representatives of universities, scientific and technical research centers, autonomous and decentralized state entities, NGOs and technical-scientific volunteer groups.

b) Coordinators at Different Levels of Government

- The coordinators (*Coordinadoras*) of CONRED are not individuals, but cross-sectoral committees including public, private and civil society organizations and providers of emergency services, convened by the most senior government representative in the relevant locality.¹⁸ The intention is that regional and departmental delegates of SE-CONRED support the committees, which are delegated authority for coordination. The membership of each committee is intended to represent groups active in the relevant geographical area. Their main functions are to: participate in the process of prevention, reduction and response to disasters as well as mitigation, preparation, rehabilitation and reconstruction; relay information to the coordinator at the next level of the system about actual and potential disasters; and publicize, communicate and carry out actions relating to alerts, evacuation, security and emergency shelter.
- **Regional Coordinator** (*Coordinadora Departamental para la Reducción de Desastres – CORRED*), in each of the eight regions. These are convened by the presidents of the regional development councils (a separate decentralized structure established under its own law).¹⁹ They should each be supported by a regional delegate of SE-CONRED, although not all these positions were filled in 2005, and have telecommunications, information technology and logistics equipment.

¹⁸ The CONRED Law Regulations Arts. 29-33.

¹⁹ See note 25 above.

- **Departmental Coordinator** (*Coordinadora Departamental para la Reducción de Desastres – CODRED*), in each of the 22 departments. These are convened by the governor of the department and should also be supported by a departmental delegate of SE-CONRED, although none of these positions had been created in 2005.
- **Municipal Coordinator** (*Coordinadora Municipal para la Reducción de desastres – COMRED*), in each municipality. These are convened by the mayor of the municipality and rely on the CODRED for technical support.
- **Local Coordinator** (*Coordinadora Local para la Reducción de Desastres – COLRED*), in each local community. Consisting of local public, private and citizens’ organizations and emergency services, these are convened by an auxiliary mayor of the municipality or a recognized community leader.

c). We are all CONRED – Coordination Capacity

It should be noted that CONRED is not designed or resourced to be a single organization that is responsible for implementation of disaster response. As its name states, its job is to act as a national coordinator, and it is therefore more accurate to talk about ‘the CONRED system’ in relation to disaster response. Hence its organizational slogan: “We are all CONRED” (“*Todos Somos CONRED*”).

However, although this is the ultimate aim -- to have a cross-sectoral, multi-level system involving representative committees at each level -- it had not arrived at that point when the Stan disaster occurred. Practically speaking, the national level of this system had been in place for around six years, but it appears that some of the regional levels, many of the departmental structures and most of those at municipal and community level existed in little more than name.

For example, during Stan, some mayors who were technically responsible for convening the municipal coordinators did not do so, and instead worked through the regular local government structures and/or the more active municipal and local development councils (that in fact parallel the CONRED coordination structure, as well as being part of it at the regional level.)²⁰ This may reflect role confusion but there may also have been an element of committee-fatigue. As one interviewee put it: ‘The people at each level wear two hats’ – the CONRED coordinator hat and the development council hat – and the roles of these two in disaster preparedness and mitigation are not at all distinct.²¹ It appears that the CONRED committees were perceived as having a role only in disaster response, even though CONRED’s mandate is for the whole cycle of mitigation, preparation/prevention, response and reconstruction. Thus, many of the municipal and local CONRED committees had been allowed to atrophy in favor of municipal development councils and local government committees during the years free of major disaster. Since 2005, however, CONRED has received a larger budget to establish more offices in the regions and departments to support the coordination committee structures in the future. CONRED now has delegates in each Region and in twenty of the twenty-two Departments.

Many participants in the present study tended to equate the national Secretariat of CONRED (SE-CONRED) with the entity “CONRED.” Only those working closely with the CONRED system

²⁰. Councils for Urban and Rural Development - CODEDURs. These include National Development Councils - CONADE; Regional Development Councils- COREDE; Departmental Development Councils- CODEDE; Municipal Development Councils – COMUDEs and Local Development Councils – COCODEs

²¹ And nor should they be – their responsibilities overlap substantially in the areas of mitigation, prevention and recovery.

made the distinction between the national Secretariat and the “CONRED system.” Some of the reasons for this perception may be a hangover from the different type of organizational structure of CONRED’s predecessor organization, the centralized, military-run National Committee for Emergencies (*Comité Nacional de Emergencias* – CONE), which was a disaster response body rather than a coordinator.²² Some of it may also be due to the fact that the CONRED coordination system did not have a strong presence in the municipalities and local communities, such that, in practice, there was very little of the “CONRED system” outside of SE-CONRED.

It appears, then, that at the time the Stan disaster occurred in Guatemala, the CONRED system was still evolving into a decentralized structure but did not yet have an effective municipal and local presence, either in terms of resources, or in the minds of many of those involved in the humanitarian response, both government and non-government.

As of the drafting of this report, a presidential technical committee is considering possible changes to the CONRED law. One of these is the idea that the CONRED system’s vertical structure should be integrated with the urban and rural development councils that already operate at all the same levels of government. This is intended to solve the problem of the lapse of interest and activity of CONRED coordinators during disaster-free years. It also seeks to address the important issue of integrating local development and land use planning with disaster prevention and preparedness, providing an avenue to alleviate the impact of disasters on those currently living in poverty on marginal land that is repeatedly subject to flooding, landslides and volcanic activity.²³

B. CONRED’s Coordination Powers

Another comment made a number of times in interviews, by both governmental and non-governmental actors, was that CONRED does not have any mandatory powers, especially in relation to coordination of NGO activity during a national disaster. This perception is not consistent with the CONRED law. In fact, Article 4 of the CONRED Law not only imposes an obligation on citizens and all relevant State entities to cooperate with CONRED, but also says that all natural and legal persons, and private and service entities in their area of competence, may be required to cooperate under the law if necessary. On the other hand, the provisions relating to private entities were not further developed in the CONRED Regulations. The Regulations do, however, allow for the coordinators in each geographical area to assume control of an area affected by disaster (within their constitutional authority) and require citizens to act according to their instructions.²⁴

Aside from its legal powers, it seems that the real issues for CONRED in relation to coordination hinged on resources (personnel, information), capacity (sub-regional coordinators), procedures

²² Technically CONE - *Comité Nacional de Emergencia* - ceased with the passage of the CONRED Law in 1996, although its Executive became the first CONRED Secretariat in the transitional arrangements and its regulations were used until the CONRED Law Regulations 2000.

²³ In relation to the reform of the CONRED law, there seems to be a general view that it is an ‘organic law’ - *ley orgánica* - in the special sense described in the Constitution, and that it therefore requires a 2/3 majority of Congress to amend it. The author could find no evidence that the CONRED law has such a status, as it is not named as an organic law, is not annotated as having been passed by special majority and is not one of the listed constitutional organs or codes that must be established by such a law. It is noted, however, that in recent years the term ‘organic law’ has been used increasingly in Guatemalan law and regulations to denote a law establishing an organizational structure, so that the Spanish legal term *ley orgánica* may now have two distinct meanings in Guatemala, thus giving rise to some confusion.

²⁴ The CONRED Law Regulations, Arts. 33 and 37,

and policy. The CONRED Law and Regulations provide a framework for the organization, including a National Fund for the Reduction of Disasters, an organizational structure with provision for an annual operating budget, and the basic framework for an Emergency Operations Centre (*Centro de Operaciones de Emergencia* – COE). They do not prescribe how to manage and coordinate the response to a national disaster. Those details, to the extent that they were developed prior to the Stan disaster, were found in the following documents:

- The Institutional Response Plan (*Plan Institucional de Respuesta – PIR*), activated by CONRED for its institutional decision-making and preparation;
- The National Response Plan (*Plan Nacional de Respuesta – PNR*), activated by CONRED under Executive Branch authority;
- The Regional Manual of Procedures for the Centre for the Coordination of Aid and Humanitarian Assistance (*Manual de Procedimientos del Centro de Coordinación de Ayuda y Asistencia Humanitaria*), (“the CCAH Manual”); and
- The Regional Manual of Departments of External Relations in Case of Disaster, adopted by Guatemala through the system of integration of Central America through CEPREDENAC, the Coordination Center for the Prevention of Natural Disasters in Central America (*Centro de Coordinación para la Prevención de los Desastres Naturales en América Central -- CEPREDENAC*).²⁵

The Institutional and National Response plans are documents prepared by CONRED and updated or revised annually. Although they are published (in a limited form), they appear to function as internal system documents rather than as national policies or plans around which public awareness and training are conducted. A number of those consulted during this project referred to the lack of a national policy for disaster preparedness. Many of these people were aware the CONRED national plans existed, but they were either unaware of their content or did not regard them as suitable public policy documents which could be the basis for cross-sectoral coordination of an emergency response. Other valuable resource documents prepared by SE-CONRED also do not appear to have been in the public arena, including a May 2005 response plan for hurricanes.²⁶ It is understood the presidential technical committee currently examining the CONRED Law is also engaging with CONRED and other government and non-government organizations to draw up a more public and prescriptive plan of action, or national policy, for disaster response.

The CCAH Regional Manual was the main source of practical guidance for CONRED in relation to receipt of international aid and personnel. This was designed to be used as a manual in each country to channel humanitarian aid in cases of disaster, as well as to activate regional protocols. The department of SE-CONRED responsible for coordination of cooperation used the Regional Manual and worked closely with staff from CEPREDENAC during the emergency.²⁷ However, in

²⁵ *Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC), Sistema de la Integración Centroamericana (SICA), Comisión de Seguridad Centroamericana, Manual Regional de Procedimientos de las Cancillerías en casos de Desastres* ,

²⁶ In May 2005 SE-CONRED’s Department of Preparation and Planning produced a detailed 30 page document, the National Contingency Plan for Hurricanes: ‘The Response Phase’ (SE-CONRED, May 2005). It included communication protocols and diagrams showing lines of responsibility and communication, but its existence was not mentioned by anyone we spoke to. There was also the Plan for the Function of the Emergency Operations Center (SE-CONRED, January 2001).

²⁷ CEPREDENAC has its regional seat in Guatemala and is located adjacent to the SE-CONRED offices at Aurora Airport. Although they do not have a specific constitutional mandate in relation to disaster response, with their main role in prevention, they did support both El Salvador and Guatemala extensively during the response to Stan, and in the latter case had staff working as part of the CONRED system during the emergency.

the course of this operation, the CONRED and CEPREDNAC staff involved concluded that the CCAH Manual had insufficient operational detail and subsequently commissioned a review to better adapt the manual for Guatemala, based on lessons learned during the Stan disaster. In July of this year, a national disaster simulation exercise will be carried out in Guatemala during which the CCAH Manual will be used and assessed.

III. Tropical Storm Stan – The Impact and Response

A. The Impact of Tropical Storm Stan in Guatemala

In the last days of September 2005, a low pressure system that had developed in the Caribbean Sea began to move across the Yucatan Peninsula of Mexico into the southern Gulf of Mexico. Briefly reaching hurricane status in the Gulf, by 2 October it became the almost stationary Tropical Storm Stan that created a massive low-pressure system over Central America, drawing in humidity from the Pacific Ocean. Over the coming days, especially between October 2nd and 10th, it caused extremely heavy rain across the Central America region, affecting Guatemala most severely of all.

The areas most affected were those usually described as the ‘South Coast’, which includes the entire coastal plain bordering the Pacific between El Salvador and Mexico, and the ‘West’ of Guatemala which encompasses the western part of the central plateau or mountain chain (*altiplano*) that lies inland from the Pacific coast.²⁸ Affected areas included fifteen of the twenty-two administrative departments into which Guatemala is divided. The high rainfall in the mountains was not absorbed, partly due to deforestation and intensive land use, and this then caused both land slippage in the mountains and flooding on the coastal plain.²⁹ The basic pattern was that the communities of the *altiplano* were most affected by mudflows and landslides, while the communities on the coastal plain were most affected by flooding.

The main south coast Departments of Santa Rosa, Escuintla, Retalhuleu and Suchitepéquez are on a flat plain that receives the run-off from the western part of the central plateau. These areas are subject to frequent flooding during high rainfall years and, as expected, the main rivers flowing from the plateau swelled and burst their banks. In the latter two departments, early flood warning radio systems allowed advance placement of emergency shelters and supplies, but in all cases the flood levels were much higher than expected, and the consequent loss of crucial roads and bridges had a significant impact on relief efforts.

As one would expect in a disaster of this scale, there were some discrepancies in reports of numbers affected, especially after the massive mudflow that covered the villages of Panabaj and Tzanchaj on Lake Atitlan in the Department of Sololá, where some news reports suggested as many as 1,400 people were lost in one incident, and where bodies were still being recovered at the time of writing.³⁰ Nevertheless, the loss of life and livelihoods was massive, with the Panabaj disaster alone ultimately likely to count 500 dead, with the final official death toll likely to be well over 1,000 people. The final numbers established to date by CONRED were 669 deaths, 844

²⁸ Guatemala is divided into 22 administrative Departments. Those most affected by Stan were on the South Coast - Retalhuleu, Suchitepéquez, Escuintla, Santa Rosa- and in the Western highlands – Quetzaltenango, Huehuetenango, Sololá, Totonicapán, Quiché and San Marcos.

²⁹ SE-CONRED, A un año de Stan Estamos Transformando Guatemala, (Government of Guatemala, 2006)

³⁰ 9.

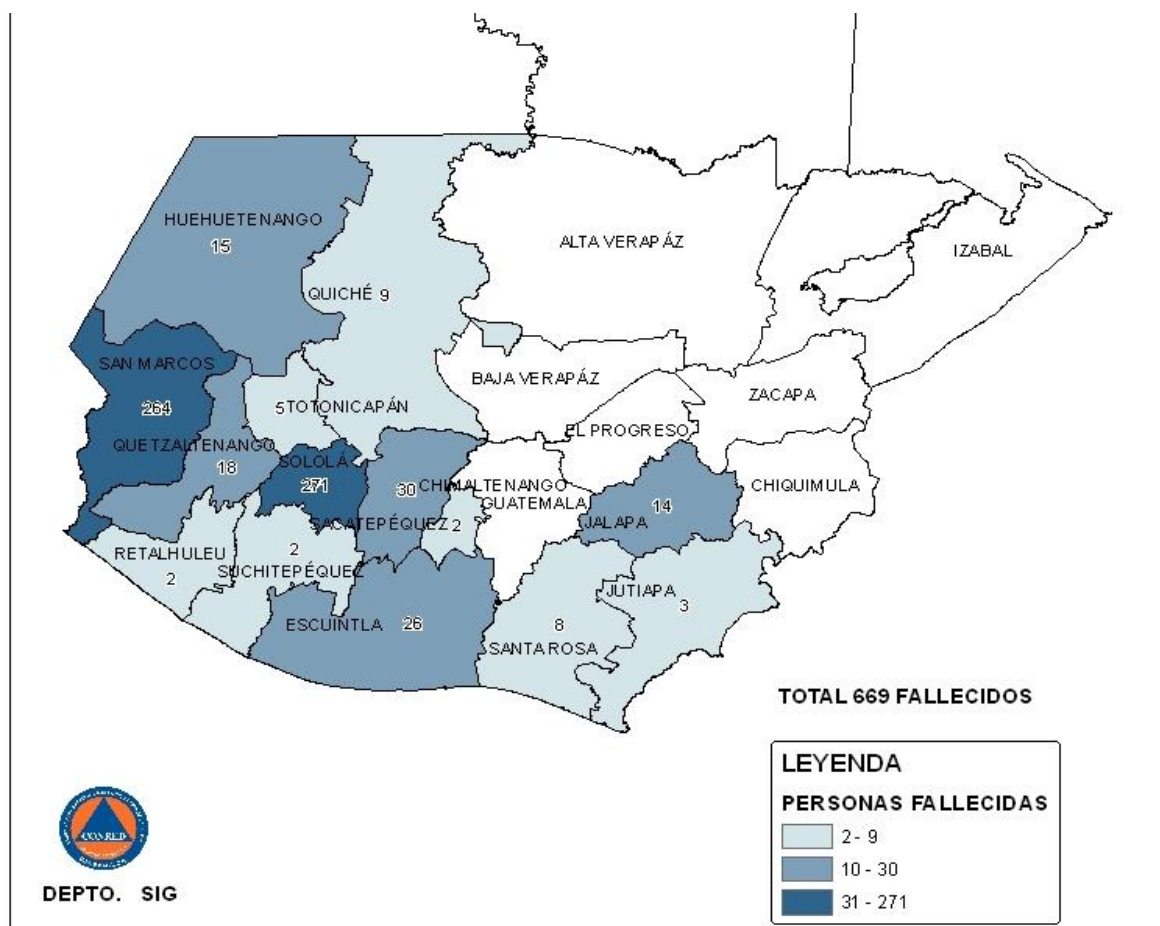
³⁰ Press Release, Act International: Action by Churches Together, 11 Oct 2005, at www.act-intl.org (visited November 2006).

disappearances, 386 injuries, 493,965 people who suffered direct damage, 14,743 provided with emergency shelter, 174 community emergency shelters established and 1,222 communities affected.³¹

Map 2: Number of Confirmed Deaths per Department

(Data as at 19 Oct 2005, 22:00 hours)

Source: CONRED, using information from the Emergency Operations Center



³¹ SE-CONRED, A un año de Stan (2006) 9.

Table 1: Magnitude Of The Impact: (Source: ECLAC October 2005)³²

Affected population:

Number of persons	Impact	Percentage of the total population
3,500,000	Persons affected directly and indirectly	31 %
474,821	Persons who were directly harmed	4 %
669	Persons confirmed dead on October 22	
884	Persons confirmed missing on October 22	
42,941	Persons who received shelter at the time of the most serious crisis	
386	Wounded	

Territory affected:

Number	Affected area	Percentage of the country's territory
15	Departments	68%
133	Municipalities	40%
1,158	Communities	

Impact:

Infrastructure	45 %
Productive sectors	27 %
Social sectors	15 %

Total cost of the impact: \$ 988.3 million

As is evident from the table of damages as at October 22, 2005, this was a disaster for Guatemala of a scale beyond anything in recent decades, including the 1998 Hurricane Mitch (hereinafter 'Mitch'). In Guatemala, Mitch resulted in 268 persons dead, 121 missing, 734,198 displaced, 105,055 injured, and 108,594 evacuated. It affected 750,000 people and the cost of direct and indirect damages were estimated by ECLAC at US\$748 million.³³

The populations most affected by Stan were those already living in poverty or extreme poverty, many of them farming or living on land unsuitable for such occupation because of its vulnerability to mudflows, landslides or flooding, as well as to earthquakes (and in many cases also to volcanic eruptions).³⁴ UNICEF has also estimated that half those affected were children or adolescents.

³² For more information see: ECLAC website, at: <http://www.eclac.cl/cgi-bin/getProd.asp?xml=/publicaciones/xml/3/23073/P23073.xml&xsl=/mexico/tpl/p9f.xsl&base=/tpl/top-bottom.xslt> (visited February 2007).

³³ ECLAC figures, cited in Consultative Group for the Reconstruction and Transformation of Central America, 'Central America after Hurricane Mitch: The Challenge of Turning a Disaster into an Opportunity', at http://www.iadb.org/regions/re2/consultative_group/backgroundunder5.htm (visited February 2007).

³⁴ SE-CONRED, *A un año de Stan* 6.

B. The Response

The storm's course was mapped and predicted and, from 29 September, SE-CONRED had already placed a number of departments on "Institutional Orange Alert."³⁵ On 2 October, the second day of heavy rain, CONRED's National Council declared a "Population Red Alert" in many of the coastal municipalities.³⁶ Despite these preparations, however, the exact effects of the rainstorms were difficult to predict and the precise locations that were therefore most 'at risk' could not all be identified in advance.

This is an important element in understanding the response to Stan, both national and international. Unlike the damage sustained in the direct path of a hurricane, a major earthquake, or indeed a massive event such as the 2004 Asian Tsunami, the national disaster resulting from Stan was more an accumulation of simultaneous local disasters caused by stationery torrential rains coming at the end of an already long and heavy wet season. This goes some way to explaining why – as a number of the persons interviewed for this study commented -- the response seemed slow to start; there was no single massive event that created an immediate consensus that here was a large-scale disaster. There was no clear 'day one.'

Table 2: Guatemala Government Legal and Institutional Steps October 2005

29 Sept	Based on meteorological data from INSIVUMEH concerning Hurricane Stan located in the Gulf of Mexico, SE-CONRED moved from an institutional yellow alert to orange alert for the eastern, northern and north central plateau Departments of Guatemala.
2 Oct	Torrential rains were falling in the west, central and south coast departments of Guatemala. CONRED moved to an institutional orange alert at a national level then later the same day approved a Population Red Alert for most of the Pacific coast municipalities in the Departments of Escuintla, Santa Rosa, Suchitepequez, Retalhuleu and San Marcos. The other municipalities in these Departments were placed on Population Orange Alert. CONRED continued to ship supplies of food, water and bedding to emergency storage in these areas and also began to distribute emergency shelters (<i>albergues</i>).
3 Oct	<ul style="list-style-type: none"> • INSIVUMEH indicated the rains were likely to continue for two more days. The National Council for CONRED declared a Population Red Alert for all the Pacific Coast Departments and the Department of Quetzaltenango, for 72 hours. It also recommended to the Presidency of Guatemala that the necessary alert orders be issued to government ministries and that schools in these regions should be suspended. • SE-CONRED activated the Emergency Operations Centre (COE) and began

³⁵ Those affected by the first Orange Alert were in the East, Northeast and Central plateau: Petén, Izabal, Alta Verapaz, Baja Verapaz, Huehuetenango, Quiché, Zacapa and Chiquimula. However, as the storm moved west towards the Pacific, departments in the southern and western parts of the country were added: Escuintla, Retalhuleu, Santa Rosa, Suchitepequez, the southwest of Quetzaltenango, San Marcos and some more municipalities in the central plateau, including Guatemala City.

³⁶ The Red Alert applied to specific municipalities in the Departments that appeared to be most at risk according to the meteorological prognosis of INSIVUMEH. These were Escuintla, Santa Rosa, Suchitepequez, Retalhuleu and San Marcos – and the Orange Alert applied to all other municipalities in those departments.

	to give and receive information from a range of sources, including the regional and municipal coordinators of the CONRED system, the COMREDS and the CODREDS.
4 Oct	President of Guatemala and his cabinet visited flooded Puerto San Jose on the Pacific coast and informed the press the CONRED system was managing the situation so far. National Council of CONRED extended Population Red Alert to the northwestern and central Departments of Huehuetenango, Sololá, Totonicapán and Quiché.
5 Oct	Presidential declaration of national disaster. The National Council of CONRED recommended to the President that he declare a State of National Disaster- <i>Estado de Calamidad Publica</i> . This was done the same day by Executive decree, in the form of <i>Decreto Gubernativo</i> No. 1-2005 (still required congressional ratification). Immediately: <ul style="list-style-type: none"> • Each ministry and relevant secretariat was assigned specific areas to manage in the response,³⁷ • SE-CONRED activated the CCAH.
8 Oct	Congressional Ratification of Disaster Declaration and Call for International Assistance. Massive landslides occurred in Panabaj and Tzanchaj, bordering lake Atitlan in the Sololá Department. <ul style="list-style-type: none"> • The National Congress ratified the declaration of the State of National Disaster by means of <i>Decreto Ley</i> 70-2005 (published 10 October). • The Ministry of External Relations made its first call for humanitarian assistance to the international community.
11 Oct	By this date there had been extensive flooding and mudslides (more than 900 landslides) in the Guatemalan highlands and southwestern departments of the Pacific coast, and most of the affected areas were still isolated. Continuing heavy rain hampered relief efforts and many affected rural areas were still without communications.
19 Oct	The Ministry of Finance made a Ministerial Declaration of Suspension of Government Contracting Requirements for Selected Government Entities involved in the Stan reconstruction, up to 31 December 2005. ³⁸
26 Oct	Ministry of External Relations made a ‘Second Call for International Assistance’ 26 October 2005 with a detailed Annex ‘Second Request for Humanitarian Assistance to meet the Emergency of Tropical Storm Stan’ of the types of aid required. This also detailed the types of goods that could be brought into the country by recognized charities (<i>beneficencias</i>) or CONRED, during the extended state of disaster. ³⁹

It was observed that the massive South Asia earthquake in India and Pakistan that occurred on the 9th and 10th of October may have drawn international disaster response resources away from Guatemalan and Central America just as the worst impact of Stan was felt. This may have been one reason why most of the international actors eventually involved in the response in Guatemala, whether government aid agencies, international organizations or NGOs, were those that already had an established presence in the country.

³⁷ SEGEPLAN, *Advance Report: Government actions against the effects of Tropical Storm Stan*, preliminary version (Government of Guatemala, 14 October 2005).

³⁸ Ministry of Public Finance, *Government Accord 533-2005* (Guatemala 19 October 2005).

³⁹ Ministry of External Relations, ‘Second Call for International Assistance’ and Annex ‘Second Request for Humanitarian Assistance to meet the Emergency of Tropical Storm Stan’ (Government of Guatemala, 26 October 2005).

Nevertheless, the international and national response was extremely generous in terms of financial aid, humanitarian donations, and the time, energy and commitment of all those who worked during it, whether paid or volunteer. The final figures recorded by the Government put monetary donations generated by the United Nations' Flash Appeal at US \$35,355,661.⁴⁰ The donations in goods and services were clearly also very high.

As noted above, a number of the persons interviewed for this study felt that the responses of both the government and international community were slow at the outset. All seemed to agree, however, that, in the end, sufficient assistance was provided both for immediate relief and major reconstruction projects.

C. Coordination Mechanisms Employed During Stan

1. CONRED's COE

The Emergency Operations Center – COE – was brought into operation according to the Constitution by the declaration of the State of National Disaster. The physical facility was based in SE-CONRED, consisting of a 60-seat communications center, staffed around the clock by CONRED personnel, employees of other government institutions and NGOs, delegates of some international organizations and volunteers (including 15 senior managers of a major beer producer, for a period of two weeks). Its main function was to gather information about climatic conditions from INSIVUMEH and events occurring during the disaster, as well as what assistance was being provided in which areas, and to distribute this information publicly to facilitate the relief effort in reducing the suffering of those affected.

Reports indicate that the COE operated very successfully with respect to the information available to it. However, it was somewhat overwhelmed by the sheer scale of the disaster and the number of different areas affected. It also soon became evident that the CONRED system was not functioning effectively below departmental level and that much of the information being received was not sufficiently detailed to be of operational use.

A number of those consulted for this case study opined that, in the end, CONRED was not able to provide the type of operational information relief agencies required. They cited a number of reasons, including:

- The lack of information flow to the COE from the affected areas, particularly from the municipal and local CONRED coordinators, as noted above;
- An overly cautious and time-consuming verification process conducted within CONRED before COE released the information; and
- Slow release of meteorological analysis to CONRED by INSIVUMEH, due to their lack of technical staff qualified to analyze the raw data.

2. CCAH Teams

An important coordination mechanism deployed by the government in the Stan response was inspired by CEPREDENAC's Regional Manual. This was the establishment of the Centre for the Coordination of Humanitarian Assistance (*Centro de Coordinación de Ayuda y Asistencia*

⁴⁰ SEGEPLAN, 'Support from International Cooperation During the Emergency Caused by Tropical Storm Stan', (Government of Guatemala, October 2006).

Humanitaria – CCAH). The CCAH consists of teams of technical experts from different branches of government expected to be in a constant state of readiness to be activated to work within SE-CONRED upon the declaration of a state of disaster. An early difficulty arose with activating the CCAH for Stan because the list of nominees, representing the member institutions was no longer current, inasmuch as some nominated persons had moved on from their ministries and no replacements had been nominated. This was quickly remedied and the teams were convened within a single day. Nevertheless, the situation seemed to reflect a low priority given to CCAH nominations by other government institutions.

Once convened, the CCAH teams in Guatemala included representatives from:

- The National Civil Police (*Policía Nacional Civil* - PNC) and/or their special Antinarcotics Analysis Service (*Servicio de Análisis e Información Antinarcóticos* SAIA);
- The Ministry of Public Health and Social Welfare
- The International Regional Organization of Public Health related to Agriculture and Livestock (*Organismo Internacional Regional de Sanidad Agropecuaria* - OIRSA)
- The CEPREDENAC Secretariat;
- The Ministry of External Relations (*Ministerio de Relaciones Exteriores* – MINEX);
- The Migration Office of the Ministry of Government;
- The Ministry of National Defense;
- The Humanitarian Rescue Unit of the Ministry of Defense
- General manager and Manager of Security, Aurora Airport
- The Guatemalan Air force (*la Fuerza Aérea de Guatemala* – FAG);
- The Customs Branch of the Office of the Superintendent of Taxation Administration (SAT);
- The Office of the Director General of Civil Aviation (*Dirección General Aeronáutica Civil* – DGAC);
- SE-CONRED, Coordination of Cooperation department; and
- The General Secretariat of the Executive Branch for Planning and Programming (*Secretaría General de Planificación y Programación de la Presidencia* – SEGEPLAN) (which, was included during Stan for the first time and will be so in the revised CCAH Manual;⁴¹
- The Volunteer Fire Brigade
- The Municipal Fire Brigades
- The Guatemalan Red Cross
- The US Office of Foreign Disaster Assistance (OFDA)

CCAH teams were established at each of the customs and immigration points, including ports, land borders and the international airport in Guatemala City. Most member institutions maintained a continuous presence in SE-CONRED during the response phase, although the most active elements of the CCAH teams in each port of entry were Migration and Customs. As a result of the experience during Stan the CCAH Manual has been revised and updated. The Manual that existed during the Stan response covered only the facilitation of humanitarian assistance rather than describing the functions of institutions, or procedures to assist reception of humanitarian aid by air, land and sea. A consultancy to revise and update the document will be

⁴¹ SEGEPLAN was not included in the CCAH under the Manual as it stood in 2005. However, it is a large and long-standing Presidential Secretariat with a high level of technical expertise due to its stable institutional history and, given its key role in coordination and accounting for international cooperation on behalf of the Executive Branch, SEGEPLAN was included in practice –and will be listed in the revised Manual.

finalized on 30 April. It has been achieved by holding five workshops with all the representatives of the CCAH team organizations, to take account of the experience and observations of each of them, and to discuss and validate the proposed changes. It is useful to note that Guatemala is the only country in Central America that has trialed the CCAH Manual in real time and used the procedures in an emergency, and as a result its revised CCAH Manual is the most complete. It is evident that the institutional members of the CCAH understand the importance of advance preparation, and that the CCAH mechanism is the best means to develop and maintain the capacity to receive humanitarian assistance when an emergency surpasses the national capacity for response, which is the only situation in which the CCAH is activated.

3. CONRED Coordination and Information

CONRED held regular information forums at its SE-CONRED offices, produced information bulletins on at least a daily basis during October 2005, and maintained a Stan information website. This system of information exchange appeared to work well for the government sector, and between CONRED and the UN system organizations, although there were a number of concerns expressed about the quality of the information CONRED was able to provide.

The CONRED relationship was more variable for NGOs. Some NGOs placed a person in the COE. Others regularly attended the information forums. However, a number of major national and international NGOs reported abandoning these meetings at an early stage, because they felt that they did not provide sufficiently updated or precise information and did not act in any way as a coordination mechanism for NGO activity. Instead, in the interest of efficient use of their time and energy, they preferred to use their own information sources, often directly linked to the affected communities, and their pre-existing connections with partner organizations. Some of these organizations provided CONRED with needs assessment information they received through their own networks, but many commented that this was largely a one-way exchange. But it should also be recognized that it is difficult for any organization to manage all the information flow while also working in the response. It is therefore important that all NGOs share their detailed information with CONRED to assist in the process of gathering and distributing verified information.

Many national NGOs have been historically reluctant to cooperate with government, and in particular with the military, which ran CONRED's predecessor CONE. One interviewee commented that CONE had taken some time to transform into CONRED, as at first the new CONRED had appeared to try to compete with NGOs to manage the emergencies rather than working with them. This person further added that: "Even today people do not have the message. CONRED is not the army. CONRED does not compete in the response. But now SE-CONRED understands its role and is trying to train others to understand it too."

Nevertheless, it is not clear to what extent national or international NGOs would wish to have their work in disaster response subject to greater coordination by CONRED or any other state entity at the national level. It certainly appears that they would need greater confidence in the needs assessment information provided to them. Moreover, as one interviewee put it with respect to the possibility of CONRED allocating roles or regions of responsibility to NGOs in future disasters: "it would depend how it was done." With respect to this, it is the ideal situation that CONRED does coordinate all sectors (public, private, NGO and civil society in general) during an emergency, because when everyone uses their own information and, based on that, sends aid to the same locations, at times there is duplication of effort and neglect of areas that could be covered. It is also important that international donors recognize the importance of good

coordination between CONRED and the NGOs, as during the Stan response and reconstruction there were project and financing requests relating to risk reduction in areas already being coordinated by CONRED.

4. Institutional Links and Sectoral Clusters

CONRED is structured to operate as a system with strong inter-institutional links within government agencies. During the Stan response, and in accordance with the Institutional and National Plans, these were each allocated areas of responsibility in the disaster response and reconstruction.

In addition, each responsible ministry was designated to convene a sectoral cluster (*mesa*) to cooperate with other government, NGO and international agencies. The latter structure does not appear to have functioned during the emergency phase, and has reportedly worked in only some sectors in the reconstruction phase. Many large NGOs were not contacted by the relevant ministries until some weeks after the disaster commenced. Other NGO staff members found these forums to be an inefficient use of time during the emergency phase, inasmuch as they did not provide new information or effectively coordinate action within the sectors. For example, a non-government aid worker arrived to what she understood to be an informational meeting on relief in the early weeks, only to find it was a one-day workshop on the root causes of food insecurity.

5. SEGEPLAN and International Cooperation

While CONRED was responsible for managing the national emergency as a whole, the General Secretariat of the Executive Branch for Planning and Programming – SEGEPLAN --, although not an official member of the CCAH, was responsible by virtue of its legal mandate for the management, negotiation, contracting and administration of international cooperation. It supported CONRED in the reception of international humanitarian assistance in the form of goods and qualified personnel

The registration of international assistance was in the hands of CONRED, which then sent the information to SEGEPLAN to incorporate it into the official register of all foreign government assistance received during the Stan disaster. This register was updated daily and a summary of it was included on the SEGEPLAN web page with the object of ensuring transparency of information. SEGEPLAN also kept a registry of assistance received from non-government international institutions, for example, churches and international NGOs such as World Vision and the Red Cross.

SEGEPLAN also liaised directly with the UN system and donor states through the pre-existing mechanism of the “Dialogue Group,” which has existed since 2004 and includes 13 countries and all the international development agencies, thus representing the international community in Guatemala.⁴²

Furthermore, SEGEPLAN had a key role in the reconstruction phase, inasmuch as it was responsible for management of international financial assistance in the form of non-reimbursable funds, in conformity with Guatemala’s National Plan of Recovery and Reconstruction.

⁴² As distinct from the “Consultative Group,” also a forum for coordination of international assistance, which has its roots in the Peace Accords.

6. UN System

The UN system response was coordinated by the Resident Coordinator through the UN Country Team, which allocated clear responsibility to each UN agency and also prepared the Flash Appeal for international humanitarian assistance in close consultation with the Government.

Cooperation between CONRED and the UN system was reported to be excellent. The UN's Office for the Coordination of Humanitarian Assistance (OCHA) sent a specialist UN Disaster Management and Coordination (UNDAC) team, that arrived in the country between 9-11 October and stayed until the end of the month. They operated from two coordination centers, in SE-CONRED and the offices of the United Nations Development Programme (UNDP). Among other things, courtesy of WHO/PAHO, they set up the "SUMA" inventory system for international aid (described in further detail below) in CONRED, and conducted an extensive evaluation of the situation, including field missions to a number of municipalities in seven of the most severely affected departments. The UNDAC report, completed in October 2005, also touched on many of the legal and practical issues explored in the present case study.

7. Red Cross

The Guatemalan Red Cross (*Cruz Roja Guatemalteca* – hereinafter "CRG") is a national society of long standing, with local links and networks across the country. The CRG was not incorporated into the CONRED system at its inception, due to institutional circumstances in the mid 1990s. However, there now appears to be growing consensus that the CRG should have a place in the national structure if the CONRED Law is amended. During Stan the CRG participated and assisted in the Emergency Operations Center as a member of the CCAH team, and facilitated the reception of aid sent to CONRED, using the IFRC tax exemption, and maintained a strong relationship and communication with CONRED through this involvement.

During the Stan operation, the CRG quickly formed the view that the CONRED system was somewhat overwhelmed by the magnitude of the disaster and it took the decision to act on the basis of its own information and distribution networks, especially covering regions in the west and parts of the south coast where there was little international presence. But the CRG advised CONRED where it was working and maintained technical contact, including through a designated officer who attended CONRED information meetings.

In addition to the CRG, there is a program of the IFRC, an office of the ICRC, and offices of the Norwegian, Spanish and Dutch national Red Cross societies based in Guatemala. Each has its own status agreement and staff, but they coordinated their responses to the Stan disaster. PADRU also provided personnel support in Guatemala during the early part of the Stan disaster and ongoing support from its offices in Panama.

The IFRC has a seat agreement with the Guatemalan Government that includes tax exemptions. Accordingly the CRG and other offices of the Red Cross movement were able to import humanitarian goods tax free under its auspices. The IFRC then channeled all donations and distribution of goods through the CRG, while the other national societies also used their own distribution systems.

8. NGOs

Coordination among NGOs was mainly accomplished through pre-existing partnerships and informal cooperation. Six international NGOs⁴³ were able to take a more systematic approach to coordination among themselves because they were all involved in a joint “Emergency Capacity Building” project prior to Stan. Others, such as ACSUR, Action Against Hunger, Caritas, Doctors Without Borders, PLAN International coordinated on a more informal basis.⁴⁴ They appear to have made some efforts to avoid duplication of effort, including by communicating with UN agencies and telling CONRED where they were working. Nevertheless, there was some duplication and also some regions that did not receive enough initial assistance.

9. Summary

In summary, while the experience of UN and international cooperation with CONRED and SEGEPLAN was positive and effective, the non-state sector was for the most part not integrated into any nationally coordinated response. The most widespread discontent with the coordination of the disaster response was voiced by NGOs, although other actors voiced similar concerns, and these were that:

- The public information provide by CONRED was neither specific enough nor sufficiently recent to provide the basis for planning action; and
- CONRED did not appear to perceive its role as extending to coordination of the total relief effort, thereby leaving most NGOs to decide where to go and what to do on the basis of their own information and that of CONRED. But equally, some NGOs did not see it as their role to act in partnership with CONRED in the essential process of sharing and verifying information.

IV. Specific Legal Issues Affecting International Disaster Response

Guatemala has a large ongoing presence of international NGOs and international organizations involved in development projects. Most of the international assistance provided in Stan came from these already-established organizations. Moreover, while some of them brought in extra staff and expert teams, there appears to have been no major influx of relief personnel. Likewise, few sought to bring in large amounts of external food relief. Many chose instead to purchase supplies within Guatemala, and in many cases within the regions affected, thus avoiding the problems of shipping, customs clearance and even transport within the country. Moreover, it was reported that government regulatory officials generally took a permissive attitude to the entry and operations of international relief and showed great willingness to seek out ways to solve potential bureaucratic barriers.

Nevertheless, certain legal problems did arise with regard to the registration and tax status of international actors, the legal status of international personnel, and importation of goods and equipment.

⁴³ CARE, Catholic Relief Services, Mercy Corps, Oxfam U.K., Save the Children and World Vision.

⁴⁴ The same was reportedly true for the large bilateral donor agencies, including those of Canada, Denmark, Germany, Ireland, Spain and the USA.

A. Legal Recognition of Relief Organizations

1. Normal Legal Recognition Processes

There are a number of ways in which national and foreign state or humanitarian entities can be authorized to operate legally in Guatemala, and there appears to be some confusion even amongst experienced international actors, as to which method is best. The major methods are:

- i. For foreign state aid agencies, the sending nation has usually entered a bilateral treaty or accord with the Government of Guatemala, allowing the agency to operate in the country as a recognized legal entity, often on a tax-exempt basis (including exoneration from income tax, import duties and/or valued added tax on goods and services provided and obtained).⁴⁵
- ii. UN entities and agencies come under the UN Conventions on Privileges and Immunities which confers on them legal personality and certain institutional privileges and immunities.⁴⁶ These include tax exemption for their institutional operations (including exoneration from income tax, import duties and/or valued added tax on goods and services provided and obtained). Each UN agency has also entered into a Headquarters Agreements for agency-specific and personnel matters, some as long ago as the 1950s agreement of UNICEF and some as recently as the 2005 agreement of the Office of the High Commissioner for Human Rights.⁴⁷
- iii. Other international actors can use a number of different procedures, including a bilateral agreement with the government, recognition as an international organization, recognition as a national non-profit association, or simple registration by a municipality:
 - o Some organizations, such as the International Federation of Red Cross and Red Crescent Societies (IFRC) have negotiated Headquarters Agreements directly with the Government through the Ministry of Foreign relations (MINEX) similar to those of the UN system agencies. However, this is a lengthy process that is often measured in years, rather than weeks or months, and is not an avenue open to all organizations;
 - o Others have applied for and received recognition as branches of international entities permitted to operate in Guatemala. This is done by Ministerial Accord issued by the Ministry of Government under the Civil Code;⁴⁸

⁴⁵ For example, USAID in Guatemala operates under a general cooperation agreement that confers exemption from import duties and other taxes : General Convention of Technical Cooperation between the Government of Guatemala and the Government of the United States 1959 Art.III.

⁴⁶ E.g., Convention on the Privileges and Immunities of the United Nations, 1946, (United Nations, Treaty Series, vol.1-15, and vol. 90 -327 (corrigendum to vol. 1), (UN, 2000). Guatemala has been a party since its inception in 1946.

⁴⁷ These are negotiated with the Ministry of External Relations (MINEX) and formalized as Ministerial Accords, for example, the Headquarters Agreement between Guatemala and the UN Development Program (UNDP), Decree 17-2000 (Government of Guatemala, 20 July 1998).

⁴⁸ Ministerial Accord, Ministry of Government, authorized under: The Civil Code, Decree 106 Art. 28; The Executive Branch Law, Decree 114-97 Art. 27(m); The Political Constitution of Guatemala 1986 ('The Constitution') Art.194 (a) and (f).

- Still other organizations establish or operate through a locally recognized association, foundation or charity that has obtained legal personality under Guatemalan law, either as a regular non-profit association or a foundation under the Civil Code, in one of the ways outlined below.
- iv. National non-profit groups, associations and foundations are also faced with a number of options for obtaining legal status.⁴⁹
- For those established as part of recognized churches it is a simple matter, as the Constitution provides for legal personality of the churches, and allows for application by new churches for this status (which many have sought and obtained).⁵⁰
 - For other groups the easiest method is simply to register with the municipality.⁵¹ They can either do this as “Development NGOs” if they meet the criteria under the applicable law, or as “residents organizations” under the Civil and Municipal Codes.⁵² The Development NGO law provides a special regime for legal recognition of NGOs whose main purpose is development work, and it explicitly includes foreign entities that share these objectives.⁵³ Also, for organizations that do not meet the criteria for Development NGOs, the relevant sections of the Municipal Code provides for the category of residents organizations (*organizaciones de vecinos*) that come under the jurisdiction of a particular municipality. This mechanism does not appear to have been created to register national or international groups, which is no doubt why the Development NGOs law was created. The process is essentially the same as that for Guatemalan municipal resident organizations to be entered on the civil registry, except that the foreign NGOs may only register in the Municipality of Guatemala City.
 - Under both the above laws, the associations are entered on the civil registry in the municipality and thereby obtain legal personality. However both laws also make it clear that this process does not validate the association’s by-laws, which can only be done by the Ministry of Government. So it appears that municipal registration is a limited form of legal personality that can be challenged on the basis of the by-laws.
 - Whatever its technical shortcomings, simple registration on the civil registry under one of these two laws appears to be one of the more commonly used

⁴⁹ There is a separate registration process and official registry for profit-making enterprises, also authorized under the Civil Code.

⁵⁰ The Constitution Art. 37; the Civil Code Arts. 15 and 17.

⁵¹ This was still the case during the Stan emergency, although a Guatemalan legal practitioner has advised the author that during 2006 the Ministry of Government decided to change the regulations so that non-profit associations and foundations would need to register with the Ministry at the national level. This would still leave other types of organizations registered with the municipality.

⁵² The Law of NGOs for Development, Decree 02-2003 Arts. 5-11 establishes the criteria and registration process for such NGOs in the Civil Registry of the Guatemala City Municipality. The Civil Code Arts. 15 and 18 does the same thing, but for non-profit associations and foundations in general, in the municipality in which they are located.

Law of NGOs for Development ⁵³ Art.12.

recognition procedures, for both national and some of the smaller international organizations, no doubt because of its relative speed and simplicity;⁵⁴

- Those who wish to have unequivocal legal personality and approval of their by-laws under Guatemalan law, as Guatemalan associations or foundations, must use the approval process through the Ministry of Government under the Civil Code.⁵⁵

None of the above procedures for legal recognition are rapid, and the only one likely to be available to international organizations as a short-term (but not immediate) measure is civil registration with the Municipality of Guatemala City. The main implications of the different types of legal personality appear to be related to taxation, especially whether value added tax and import duties must be paid. However, inasmuch as tax exonerations have now become quite rare for civil society organizations, both national and foreign, there may be little incentive for these groups to establish full legal personality. It is not clear from the information available, but it also appears from the practice of the Ministry of Foreign Relations, that legal recognition as an international organization may allow personnel to receive courtesy visas for temporary residence.

2. Legal Recognition during the Stan Emergency

In Guatemala there is no expedited procedure or legal recognition process specific to an emergency situation. Therefore, for humanitarian agencies that did not already have a presence in Guatemala before Stan (and most of those involved did have a prior presence) the only legal mechanisms available to ensure their humanitarian assistance was delivered were to:

- (a) donate the goods or funds to an existing Guatemalan entity or international agency that was already recognized in Guatemala; or
- (b) donate goods to CONRED, thereby nationalizing them, either temporarily for purposes importation, or permanently; or
- (c) provided they had legal personality in another national jurisdiction, give a power of attorney to a Guatemalan lawyer to act as a legal representative for purposes such as importation of goods and entering contracts. However, the benefits of this mechanism were limited. It did not confer legal personality or constitute legal recognition, or even permission for an agency to operate within the country.

A number of organizations successfully employed the first two of these options.

B. Taxation of International Relief Actors

NGOs and other relief agencies that are non-profit operations are not liable to pay income tax in Guatemala, but they must still have a tax identification number and lodge quarterly or annual financial statements. The other two main forms of national taxes, for which most NGOs are liable, are the value added tax (*impuesto al valor agregado* - IVA) and import duties.

⁵⁴ A particularly useful publication (in Spanish) explaining the different types and legal basis of civil organizations is: Luis Villator, Department of Alta Verapaz Legal Department, 'Civil Organizations: Legality and Functional Structures' (Government of Guatemala, Secretariat, CODEDEAV March, 2003), on the website of the *Instituto de Fomento Municipal (INFOM)* at <http://www.infom.org.gt/infom/downloads/08reginog.pdf> (visited January 2007).

⁵⁵ The Ministry of Government was empowered to approve the articles of non-profit associations and foundations and to supervise their operations, under Government Accord 515-93, as amended by Government Accord 496-2001. The main legal bases are: the Civil Code, Arts. 15 and 31; the Executive Branch Law Arts. 19(10), 27(m) and 36(b); and the Constitution Art.183(e).

1. The Normal Tax Regime

The IVA is regulated by SAT, and more specifically by, on the one hand, the Directorate of Internal Revenue and, on the other hand, the Directorate General of Customs, which is required to monitor IVA payments as well as customs duties on imported items.⁵⁶ Only certain types of transactions or types of organizations are exempt from payment of IVA on goods and services provided and received within Guatemala, or on goods imported into the country. These are listed in Articles 7, 8 and 9 of the IVA Law, the *Ley del Impuesto al Valor Agregado*.⁵⁷

The 12% IVA is payable on all tangible and intangible goods and services unless, under Article 7 of the IVA Law, the type of transaction or entity falls under one of the general exemptions. These include, among others, the following exempt transactions, of potential relevance to relief organizations:

- (a) importation of goods by international organizations that have an accord with the Government of Guatemala providing for tax exemption on imports;⁵⁸
- (b) importation of goods by accredited foreign diplomatic missions and diplomatic agents,⁵⁹
- (c) importation of goods by cooperatives, or federations of cooperatives, who have previously sought the exemption from the Ministry of Economics, after which the Ministry of Finance awards the corresponding documentation of the exemption (usually called the *franquicia*);⁶⁰
- (d) transfer of goods or real estate to societies;⁶¹
- (e) transactions between cooperatives (but not with third parties), and cooperative credit society lending to members or others;⁶²
- (f) donations and contributions to legally recognized and registered non-profit associations, foundations, institutions of education, cultural assistance, welfare services and religion;⁶³
- (g) sale or purchase of staple food items in communal markets where the value of each transaction is Q100 or less (US \$12.50);⁶⁴
- (h) the sale of modest family homes valued at under US \$17,500 (relevant for reconstruction projects that provided subsidized new homes);⁶⁵
- (i) non-commercial lending to associations, foundations, institutions of education, cultural assistance, welfare services and religion;⁶⁶
- (j) purchase of generic and alternative medicines on the Ministry of Health and Welfare Register, and antiretroviral medicines to combat HIV/AIDS (in this case if dealing with public and private entities registered in Guatemala that are dedicated to combating HIV/AIDS);⁶⁷

Alternatively, the transaction may be IVA exempt because, under Article 8, the legal person receiving or providing the goods or services has a specific exemption from IVA. These include

⁵⁶ *La Dirección General de Rentas Internas*, which is also responsible for maintaining the system and registry of the Tax Identification Number -NIT, for the Spanish: *el Número de Identificación Tributaria*.

⁵⁷ The Value Added Tax Law, Decree 27-92, as amended, (“the IVA Law”).

⁵⁸ IVA Law, Article 7 (1)(f).

⁵⁹ IVA Law, Article 7 (1)(e).

⁶⁰ IVA Law, Article 7 (1)(a)

⁶¹ IVA Law, Article 7 (2) (a) and (b).

⁶² IVA Law, Article 7 (5).

⁶³ IVA Law, Article 7 (9).

⁶⁴ IVA Law, Article 7 (11).

⁶⁵ IVA Law, Article 7 (12).

⁶⁶ IVA Law, Article 7 (13).

⁶⁷ IVA Law, Article 7 (15).

the following types of exempt entities, which are of potential relevance to disaster relief:

- (a) schools, universities and other educational institutions (often focal points for receipt and distribution of humanitarian aid and community reconstruction projects);⁶⁸
- (b) diplomatic missions and their personnel;⁶⁹
- (c) international organizations that have entered an accord with the Guatemalan Government that has awarded them a tax exemption.⁷⁰

Organizations that are entitled to a specific exemption by virtue of Article 8 of the IVA Law still need to receive bills for goods or services with the 12% IVA included, but they may then complete an exemption form and discount the amount noted for the IVA tax in their payments to vendors.⁷¹

With respect to importation of goods, IVA exempt organizations must normally request exemption in advance of each importation from the Ministry of Public Finance. Diplomatic missions and international organizations operating under an accord with the government must likewise make a request in advance of importation, but to the Ministry of External Relations (MINEX). Once MINEX has issued the written exemption (*franquicia*), the Office of Customs will apply the tax exemption to these entities in accordance with this documentation.⁷²

The regime for customs duties operates in parallel with IVA for imported goods, in so far as the same goods may be subject to both taxes at the time of importation. The amount of customs duties payable depends on the nature of the goods. The responsibility of an NGO or other international organization to pay customs duty depends on whether it has been granted an organizational exoneration. This, in turn, relates to the type of legal personality it enjoys and the content of any relevant accord with the government.

In summary, relief organizations importing and delivering humanitarian aid under the normal tax regime may be liable for payment of IVA on imported goods, or for goods and services transactions within the country, and they may also be liable to pay customs duties on imported goods. This depends on the nature of the transaction, the tax status of the recipients, and their own legal status. The clearest status is for those who come under the auspices of an international diplomatic mission (who pay no tax), or those international organizations that have negotiated, or operate under the umbrella of an accord with the Guatemalan government. While UN agreements provide diplomatic status for the UN Country Representative and tax exemption for the UN system organizations, similar accords with other international actors such as NGOs do not generally provide blanket tax exemptions, but rather state specifically what, if any, exemption an organization has been granted. It appears from evidence gathered in the present study, that it is rare for these accords to grant exemptions for operations within the country but more common for humanitarian organizations to be awarded a tax exemption for importation of goods.

⁶⁸ IVA Law, Article 8 (1) and 8 (2).

⁶⁹ IVA Law, Article 8 (5).

⁷⁰ IVA Law, Article 8 (6).

⁷¹ Concluding paragraphs, IVA Law Art.8.

⁷² Final paragraph, IVA Law Art.9.

2. The Tax Regime during the Stan Emergency

a) Exemptions and Exonerations for Humanitarian Goods

During the declared disaster, exonerations from import duties and IVA were granted for importation of humanitarian items listed in the international appeal, but only to registered charities (*beneficencias*). This was the cause of much confusion, as many NGOs were surprised to find they were expected to pay import duty and IVA on the listed items, simply because they were classified as humanitarian organizations rather than being officially registered charities.

Moreover, SE-CONRED believed at the outset that IVA and import duties could be avoided if it nationalized incoming humanitarian goods. However, it later emerged that CONRED's own tax exemption had been repealed in 1997. Article 17 of the CONRED Law provides that all scientific, technical and operational equipment and any international support received by CONRED are exempt from all taxes. However, Article 3 of the Law for the Abolition of Tax Exemptions, Exonerations and Deductions, states:

'This law repeals all those exemptions and exonerations from import duties and tariffs that have been awarded in any other laws or agreements. It allows the following exceptions to the foregoing...'⁷³

It then lists the exceptions, and CONRED is not among them. It remains unclear whether this repeal was intentional. In any event, without its legislative exemption CONRED was not entitled to import the listed humanitarian items tax free as it was not a registered charity. As a result of its misapprehension on this point, SE CONRED proceeded to nationalize a large quantity of goods and was left with a massive tax debt for which it had no budget allocation.

The congressional decree that ratified the President's declaration of the disaster described the items entitled to exemption as follows:

[This law...] awards to charities, who must be registered as such in the Municipal Register and the Unified Tax Register of SAT respectively, exemption from payment of import duties and IVA for the importation of food, clothing, medicines, construction materials, marquees/tarpaulins, tents/shelters and blankets that are contemplated within the Presidential Decree of 5 October 2006 and that are destined specifically to support people affected by Tropical Storm Stan.'⁷⁴

The second appeal for humanitarian assistance was different and more specific than the first, but does not appear to have altered the tax exemption criterion. So humanitarian agencies that did not already have an exemption by virtue of their own decree or accord with the Government, or that were not registered charities, could not claim any exemption on goods included in the disaster appeal, even during the emergency period.⁷⁵

⁷³ Translation from Decree 117-97.

⁷⁴ Translation from Congress of the Republic of Guatemala, Decree 70-2005, *Diario de Centro América*, (Monday 10 October 2005) Art.5.

⁷⁵ *Ministerio de Relaciones Exteriores, 'Nuevo llamado de ayuda internacional'*, Guatemala, 26 de octubre de 2005 y Anexo 'Segunda Requerimiento de Ayuda Humanitaria Atención a la Emergencia-Tormenta Stan.'

b) Expedited Import Procedure

During this time, SAT also allowed expedited entry of humanitarian goods with minimal documentation, although full documentation was then expected within sixty days. Unfortunately it appears that few if any humanitarian agencies were aware of this full documentation requirement, and it is therefore likely that a large number of these transactions have never been completed.

A one-page special procedure was produced as an internal document by SAT and was also apparently available on its website during the relevant time (just as the normal procedures are published today).⁷⁶ However, some interviewees suggested its content was not well known and that it would have been very useful to have a brief manual on how to import humanitarian goods during the disaster, as it was the first time it had been done this way. In any event, a careful reading of the document does not make it clear that other documents had to be filed subsequently.

From the perspective of the various government entities responsible for approving the entry of goods and equipment, there was no other special regime to process humanitarian goods entering the country, except that the CCAH teams that controlled the ports and airports expedited the process. The vast majority of goods shipments arriving were notified in advance and well documented. All freight was manually checked because of concerns about narcotics and arms smuggling, as such items had been found in donated food shipments earlier that year, but this was done rapidly and goods were not delayed at the points of entry.

3. Summary

There were two main areas of confusion for international humanitarian actors in the importation process:

- The international appeal for aid and the law supporting it referred to tax exemptions for listed goods, and yet – especially without CONRED’s exemption – most of the non-government agencies bringing in such goods could not claim the exemption even during the disaster period because they were not classified as charities.
- Although the expedited procedure for importation of humanitarian aid worked efficiently during the disaster, it appears most agencies were not aware of the need to lodge the remaining full paperwork with SAT within 60 days.

In addition, there is the question of whether CONRED should have tax-exempt status, at least for importation of humanitarian goods during declared emergencies. There appears to be some consensus that this should be so, and this is another matter being considered by the presidential review committee examining the CONRED Law discussed above. Also, in an elegantly simple solution, the new CCAH Manual provides a model Declaration of Disaster for the use of the President and the Congress, in which they are asked to include a tax exemption for CONRED for the duration of the emergency.

⁷⁶ ‘Guide to the Procedures for those Sending Emergency Assistance,’ (SAT, Government of Guatemala, August 2006), (in Spanish).

C. Entry of Relief Personnel

There was no special emergency legal regime for entry of relief personnel. However, the assessment and clearance was expedited for humanitarian relief personnel by the presence of the migration officer in the CCAH team.

The normal legal regime that applies to entry of foreign personnel depends on their country of nationality (e.g., whether they come under Guatemala's visa waiver program), whether they are sponsored by another state in any diplomatic or official capacity, and whether they wish to work for pay. These questions are regulated principally by the Migration Law, which is administered by the Office of the Director General of Migration (hereinafter "Migration") within the Ministry of Government. However, work permits are issued by the Ministry of Labor and Social Planning under the Labor Code and the special regulations for employment of foreign nationals in the private sector⁷⁷ and the Ministry of External Relations sets the criteria for diplomatic and official visas.

The Migration Law and Regulations provide for three main categories of entry visa relevant to foreign humanitarian personnel, other than those from certain Central American States who are entitled to live and work in Guatemala, or those who can enter for non-business purposes under a visa waiver agreement for ordinary visits.⁷⁸ These are divided firstly into the two categories of non-resident (transit, tourist, visitor) and resident (temporary or permanent) visas. Those relevant for present purposes are the following:

1. Non-Resident visas, which includes a special type of card for those visiting in organized groups (30 days only), or individually with:
 - a tourist visa for 90 days – for recreational visits, with no paid work allowed;
 - a visitor visa for 90 days – for a foreign national who is visiting for scientific, cultural, sporting or academic purposes, also with no paid work allowed;⁷⁹
2. Temporary Resident visas, which may be issued for the expected duration of the residency, but are more commonly issued for one year at a time.⁸⁰ Only persons issued a resident visa (which must be done while still outside the country, inasmuch as immigration status cannot be changed while in Guatemala) may apply for a work permit.⁸¹ In addition, all resident foreigners are required to register with Migration.⁸²

⁷⁷ The Migration Law, 1999 - *Ley de Migración, Decreto 95-98*; The Migration Law Regulations, 1999: *Reglamento de la Ley de Migración, Acuerdo Gubernativo, 529-99*; The Labor Code: *Código de Trabajo, Decreto 1441 (as amended to No. 18-2001)*; and the Regulations for Work Permission for Foreigners, 2003: *Reglamento para Permiso de Trabajo a Personas Extranjeras, Acuerdo Gubernativo No. 528-2003*.

⁷⁸ Nationals of other parties to SICA do not require visas: Belize, Costa Rica, El Salvador, Honduras, Nicaragua and Panama. Others depend on mutual waiver agreements under the Migration Law Art. 73. The visa requirements for countries in categories A to D are specified in the Migration Law Regulations Arts. 64-68. The website of the Guatemala Embassy in the USA indicates that nationals of most of the relevant donor countries do not need visas for ordinary entry, e.g. Canada, Finland, France, Germany, Great Britain, Italy, The Netherlands, Norway, Spain, Sweden, Switzerland and the USA, See: http://www.guatemalaembassy.org/main.php?parent_id=5&id_area=5 (visited February 2007).

⁷⁹ Visitor/tourist card, the Migration Law Arts. 15, 62 & 63; individual tourist and visitor visas, The Migration Law Arts. 15, 80 & 81.

⁸⁰ Migration Law Arts. 16 and 81; Migration Law Regulations Art. 71.

⁸¹ The Migration Law Art. 43; The Labor Code Art. 13; and generally, the Regulations for Work Permission for Foreigners, Government Accord 528-2003

⁸² Migration Law Regulations Art. 43.

3. Diplomatic, Consular, Official or Courtesy visas in accordance with the criteria established for the Consular Section of the Ministry of External Relations in the Migration Law Regulations. Chapter III of the Regulations describes the characteristics of the Courtesy Visa, (*visa de cortesía*), in Article 76, as follows:

‘... courtesy visas may be awarded to foreigners carrying either official or ordinary passports who come to the country on a special mission, or whose high status in the field of politics, culture or science merits such recognition.’⁸³

It appears, then, that the courtesy visa is not necessarily limited to diplomatic or consular uses, although it is placed in the same general category of visa. Certainly some recognized international organizations that are not under the umbrella of either the UN or a foreign State, have courtesy visas for their staff and report that they need only a little over one week to have these organized.

Many of those who work for NGOs in Guatemala on a regular basis rely on three –month tourist visas, as did most of the foreign personnel entering Guatemala during the response to Stan. There would seem to be some scope for greater use of the longer term courtesy visa for international humanitarian personnel from recognized international organizations, rather than a 90 day entry for non-business purposes under a tourist visa or visa waiver scheme. A courtesy visa with the right to temporary residence and the capacity to apply for a work permit would better reflect the real needs of the situation, providing continuity during the relief phase and into the recovery and reconstruction phase. The work permit is, however, another problem. It seems that most international staff do not apply for these permits because they are long and bureaucratic procedures, and the criteria then applied is whether it is a job that could not be done by a Guatemalan. In any event, there appears to be no effective system for monitoring of work permits.

Many international organizations and NGOs chose not to bring in international personnel, as they already had experienced staff present in Guatemala working in development projects. Some, however, brought in doctors, technical experts and volunteers. The majority of these received rapid clearance by a migration representative at the port of entry – as part of the CCAH team, and generally in consultation with CONRED – and were admitted on temporary tourist visas of 90 days, if visas were required.

No one consulted during this study reported difficulties relating to the initial entry of personnel during the period of the declared disaster. However, some organizations found the 90-day tourist visa a problem, both for its short-term nature and the lack of permission to undertake paid employment.

D. Storage of Relief Goods

CONRED maintained a large central warehouse at the airport, used for temporary storage of humanitarian aid received prior to distribution. It also had access to a series of *cuartos de reacción*, or small storage facilities for emergency supplies, placed in various municipalities in the departments. The latter were restocked in advance of the Stan disaster, but were not of course intended to be adequate for more than the first reaction to a disaster. It is understood the CONRED system also had access to storage facilities of the military, and departmental and municipal government.

⁸³ Migration Law Art. 84; Migration Law Regulations Arts. 73-76.

Most of the aid agencies with a prior presence in Guatemala had access to substantial warehousing facilities of their own. However, given the magnitude of the disaster, some required larger warehousing facilities. One example of where this went wrong was when the Government offered warehousing space for large quantities of humanitarian aid in the Department of San Marcos. A number of humanitarian organizations, including national and international organizations and NGOs, accepted use of the space in a military base. Over subsequent months it became clear that substantial thefts occurred at this facility, in the order of 4.7 metric tonnes (4,700 kilograms) of food aid, 180 large rolls of plastic sheeting used for temporary shelters and a large quantity of corrugated roofing iron. One of the affected organizations subsequently removed all its goods because security could not be guaranteed. And while some of the claims arising from this security breach have been settled, others have yet to be resolved. The conclusion of one interviewee from an organization affected by the thefts was that it would be unlikely to use state warehousing facilities in the future.

E. Transport of Relief Goods

Aside from the question of security, discussed below, transport of humanitarian aid was seriously hampered by bad weather (initially) and lack of road access due to landslides and the loss of major bridges.

The Guatemalan military forces, as part of their role in the CONRED system, played a major role in clearing debris and repairing roads and bridges. However, many of the landslides were so large that roads could not even be repaired to the point of single vehicle access for some weeks. CONRED relied heavily on the Guatemalan military for logistics in providing vehicles for road transport also, where alternative routes could be found and after roads were repaired, but air transport of humanitarian aid remained important for some time.

In the early days of the disaster, members of the Guatemalan flight club loaned their helicopters and small planes and their own services. These flights were used for damage assessment flights and food drops to isolated areas as part of the distribution effort from CONRED's central warehouse. And the US Southern Command (based in Honduras) allocated 7 helicopters for the use of the Guatemalan government to transport material aid. These were integrated into the CONRED distribution system. Each afternoon the CONRED Coordination department informed US Southern Command of the next morning's destination (based on their most current needs information), and each morning the helicopters were loaded and sent to the identified communities.

Many humanitarian workers who had been in Guatemala for some time commented positively on the role of the Guatemalan military, saying it played a very useful but low-key role in logistics, security and road repairs. They regarded this as a positive change from the past, when they said the military expected to run the relief operations, even after it had ceased to be in charge of the national agency CONE. It was also noted that within the CCAH, the military and air force personnel provided excellent advice on logistics and other technical matters.

In addition to the Government transport and logistics systems, international agencies used their own means of transport to distribute humanitarian aid. According to at least one interviewee, humanitarian shipments were not exempted from highway tolls on the Pacific Coast. Most of these were vehicles already in the country, although some international agencies experienced delays in importing vehicles (an aspect of the disaster importation that did not work so well, with strong suggestions that vehicle entry could be expedited on the payment of bribes). One

international search and rescue team arrived without their vehicles, delayed somewhere in the process, which presented obvious difficulties in carrying out their work, given the already high demand for vehicles.

F. Security of Relief Personnel, Goods and Equipment

Security of persons and property is recognized as a serious issue for residents of Guatemala, and was so before, during and after the Stan emergency. However, in consultations for this case study, personal security was not highlighted as a specific problem for humanitarian workers during the response to Stan, whereas theft of goods and equipment caused substantial losses to some organizations (including with regard to warehouse storage, as noted above). Aid agencies mentioned that they always took precautions by keeping in frequent contact with drivers and not sending them out alone.

Others reported armed assaults on food trucks on the highway, and theft of large numbers of vehicles (one international NGO lost 36 vehicles to theft during the Stan operation). One NGO observer noted that there were some assault incidents. But CONRED (CCAH-COE) liaised with the military and the police, who accompanied and guarded the aid they sent to the affected areas.

The increased demand for aid transport vehicles no doubt contributed to a temporary shortage of freight-carrying vehicles, but these thefts appear to be a problem endemic to the current security situation in Guatemala, rather than something related specifically to the disaster situation. However, like many local businesses in Guatemala, some agencies have now moved to GPS tracking of vehicles, for the security of personnel and as a deterrent to vehicle theft (accomplished by clearly marking that the vehicles are subject to GPS tracking).

G. Quality and Accountability of Relief

Many of the individuals and organizations involved in the Stan response had also worked in the response to Mitch in Guatemala or other Central American countries. Opinions were divided on the comparative efficacy of national coordination and the availability of information during Stan and Mitch. However, while commentators were careful to emphasize the differences in these disaster situations, especially given the different geographical areas and populations affected, the overwhelming view was that the quality and accountability of relief during the Stan response was a substantial improvement on that during Mitch.. Nevertheless some problems were reported both with regard to Government control systems and among humanitarian organizations. Government Inventory and Audit of Donations

First-hand accounts of the system at Guatemala Aurora Airport, and second-hand accounts of procedures at the seaports, suggest that inventory control was very effective and complete for aid accepted by the CCAH/CONRED teams at the national level,⁸⁴ but significant problems arose at the departmental, municipal and local levels.

1. Government Inventory and Audit of Donations

At the airport, SE-CONRED's Cooperation section, along with the CCAH, the UN's inventory SUMA software/team, and SEGEPLAN, made a full inventory of every item of humanitarian aid

⁸⁴ As evidenced by the 64 page LSS/SUMA Report, CONRED: Items Donated for Distribution, (UN, LSS/SUMA, Guatemala 19 October 2005).

that arrived through the national system. SUMA, which is a Logistic Support System (LSS), was a contribution of WHO/PAHO provided to CONRED at its request. Its purpose during the emergency was not simply to make an inventory of donations received into the country through the national system, but also to register the requests made and assistance provided to the departments within Guatemala, keeping a real-time record of all goods received and sent. However, it appears that there were also considerable amounts of international aid given directly to NGOs and churches that do not appear to have been registered as donations because they were not declared.

The goods were stored in the CONRED central warehouse and distributed by helicopter or in trucks or released to other organizations for distribution. However, despite the fact that parallel procedures were supposedly in place in the departments, municipalities and local communities, it appears there were a number of system failures.⁸⁵ One interviewee familiar with the CONRED system at this level said that, in some cases, SE-CONRED kept copies of each truck driver's license but had no systematic way to determine if they had arrived. As a result, "some truckloads of food just went missing." This is clearly a problem requiring attention in any future disaster response, given the sensitivity of international assistance to questions of accountability.

Workers from NGOs involved in distribution of humanitarian aid from the regional facilities reported that the municipalities and local committees took responsibility for coordination and that they established orderly and fair systems for distribution. They generally required that family representatives show identity cards and sign for emergency relief kits. Only a few interviewees reported having become aware of corruption or hoarding, which they said was on a small scale and confined to initial phase of the response. On the other hand, the UNDAC team found cases of political influence in the distribution of humanitarian aid at the local level as a cause of community conflict.⁸⁶

2. Quality and Accountability of International Relief

It was not possible, in light of the short time and limited resources available for the present study, to obtain first-hand accounts from recipient communities as to the quality of relief provided to them by relief organizations. It should therefore be kept in mind that the limited information reported here is based solely on the self-reporting of the disaster relief actors themselves. Those reports indicate that problems of poor quality were rare in the Stan operation.

a) Quality of Relief Goods

Very few quality problems were reported in the relief goods provided after Stan. Almost all of the material aid received by SE-CONRED was either in compliance with the items detailed in the international call for assistance or, if not, could still be usefully distributed through national NGOs. These included a large unsolicited donation of used clothing and shoes from neighboring Belize, and similar private donations, which were in good condition and in a variety of sizes appropriate to the small stature of the Guatemalan population (in contrast with some experiences during the Hurricane Mitch response, when quantities of over-large clothing and shoes were shipped from a European donor).

⁸⁵The report of the UNDAC Mission referred to a program to reinforce the central inventory system at the Departmental level, in coordination with SEGEPLAN: UNDAC, Floods and Landslides Caused by Tropical Storm Stan, ("The UNDAC Report"), Report of Guatemala Mission (in Spanish) (UNDAC, October 2005) 10.

⁸⁶The UNDAC Report 14.

In general, donors of goods followed the procedures for offers and acceptance of assistance, clarifying what was needed in advance, notifying and coordinating with the CCAH/CONRED. Importantly, this enabled the Guatemalan authorities to ensure that there was no backlog of humanitarian aid in the ports, seaports or land borders, in contrast with the situation during the response to Hurricane Mitch.⁸⁷

A few minor incidents stood out in relation to food aid. A planeload of milk donated by the Government of Venezuela had to be returned because it did not comply with Guatemala's regulations concerning foot-and-mouth disease (*fiebre aftosa*). A truckload of ham sandwiches was sent from Guatemala City to the tropical coastal plain – without refrigeration, and to communities who normally do not consume either ham or sandwiches. A shipment of pickles from international sources was received although this item was not included in the government's appeal. They were nevertheless distributed without incident.

Those consulted from both international organizations and NGOs agreed that the emergency food kits distributed by the UN's World Food Program and many other organizations were well matched for the affected populations' preferences and nutritional needs. For other basic needs, the system seemed to work well when there was an opportunity to ask affected communities what was required. For example, one international NGO revised the contents of its cooking and household kits after consulting with the local women's association, who said they did not need sanitary products and disposable diapers, but they did need kitchen grinding stones (essential to make corn into tortillas) and their men needed machetes and basic digging tools - with sharpening files.

It has not been possible to document and assess private assistance, although it was clear that emergency food, medicines, bedding and clothing were delivered to a number of localities by private vehicles, including helicopters. No concerns were expressed about the type of aid thus delivered, which appears to have been well received, other than to note that much of this private effort was concentrated in Sololá, resulting in some duplication of effort. Also, national and international NGOs, including the Guatemalan Red Cross, received very substantial private donations at their warehouses in Guatemala City and in the affected regions, and were able to distribute them according to their own needs assessment data. One commentator who worked in an international NGO on the South Coast said this was a particularly important source of material aid there in the first few days, before international aid and governments distribution systems were able to supply the communities directly, or the organizations working in them.

At one stage, there was something of a glut of temporary and emergency accommodation materials and kits. To quote one aid worker "Everybody was doing shelters." Moreover, aside from the question of quantity, a number of relief workers suggested there were also some issues of quality and suitability with emergency housing. Some plastic-based shelters, while keeping the rain out, were too hot for the tropical coast and yet provided insufficient protection from the cold in the mountains at night. Some recipients in the cooler mountain regions improvised by using the small camping tents provided by one donor as children's sleeping quarters inside the larger plastic-covered wooden structures provided by another donor. In the hotter regions people cut ventilation windows in the plastic. Other organizations built semi-permanent housing in affected communities, where stable dry land was available, with concrete slab floors and low walls of cement block brick and timber frame walls and roofs, which recipients built for themselves from

⁸⁷ At at one point CONRED was so overwhelmed with the volume of donations that it asked the Guatemalan Red Cross to receive them on its behalf.

kits provided, and later extended by adding new rooms. These were particularly well received in the poorer communities, where earth floor and timber houses remain the norm for their ordinary housing.

b) Awareness and Application of Quality Standards

Most disaster relief organizations, in their written reports and interviews for this study, indicated a high level of awareness of the need to provide quality relief goods, to target aid appropriately for the culture and climate, and to avoid duplication of similar relief work in a given region.

A number of the international NGOs stressed their commitment to maintaining a development focus in their response efforts, especially in the early reconstruction phase. Accordingly, they were careful to work through local organizations and the appropriate levels of departmental, municipal and local governments, as a means of strengthening these institutions. For example, one large international NGO that had worked in this way during the disaster response and early reconstruction, then went on to support the establishment of new, active and well-trained emergency response committees at local and municipal level.

Some of the workshop participants and interviewees mentioned that their organizations complied with the standards set out in the Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response, as a matter of policy.⁸⁸ One head of a church-based NGO wryly said of the Sphere handbook, “It’s our Bible,” and expressed regret that this was not the case for all organizations.

The UNDAC team report also noted that some local communities operated emergency shelters without any CONRED assistance. In several cases, this was being done in ignorance of the Sphere standards and without regard to the principles for protecting the rights of the most vulnerable groups.⁸⁹

c) Financial Accountability of International Actors

Financial accountability for funds and proper implementation of projects does not appear to have been an issue generally in the Stan response. Most international organizations and NGOs working in Guatemala are linked with international parent bodies, and they are accountable through those organizations and their public reporting mechanisms. Many of the larger international agencies also indicated that they directed emergency relief funds through local bodies or NGOs with whom they already had a trusted working relationship in Guatemala. These arrangements were also generally supported by specific contractual agreements.

Also, the majority of the large organizations and institutions involved in the response to Stan, including government bodies, have subsequently produced reports detailing monies received and details of expenditure on humanitarian aid.

d) Information Base for Needs Assessment

For the purpose of needs assessment during the disaster, a number of agencies mentioned that the availability of certain baseline data would have assisted all those involved in the relief effort.

⁸⁸ The Sphere Project, (Geneva, 2004).

⁸⁹ The UNDAC Report 14-15.

Different interviewees noted examples of baseline and background data that was not available during Stan but would be useful in future emergencies. These were:

- (a) detailed population statistics available at national level, especially of the small, isolated and high-risk communities. In some cases, there was no information available at the national level on how many families or individuals were actually or potentially affected in a given locality which, combined with a breakdown in communications, made it very difficult to determine the type and quantity of emergency relief required. It should be noted that under the Municipal Code and related laws it is the responsibility of each municipality to register births, deaths and marriages and to issue citizen identity cards.⁹⁰ While this is no doubt the best collection point for such data, it would also be useful to retain a computerized record centrally which could be broken down to local level statistics, at least to identify numbers of people living in each locality;
- (b) updated lists of local and municipal organizations and humanitarian agencies working in each municipality or local area, with contact names, telephone, email and any radio contact details. This would have helped relief agencies obtain specific local data on weather, disaster events and relief needs;⁹¹
- (c) specific local data on normal rainfall and river levels as well as concurrent data on actual rainfall and river levels, especially in the mountains where there appears to be very little systematic localized monitoring. While some communities and river systems had functioning early flood warning systems in place before Stan, it appears many did not, and many communities were surprised by flood waters; and
- (d) basic health and especially epidemiological data on the affected populations to assist in emergency medical relief and to monitor and prevent any emerging epidemics, along with a clear policy and practice of cooperation by the Ministry of Health at departmental level.

In addition to the need for baseline data on populations and localities affected, most of the organizations involved, including SE-CONRED, agreed that there was a real information gap between the local and national levels. In many cases, there was a breakdown in the most common means of communication (telephones and radios) while landslides and destroyed bridges blocked road access. The lack of information or access to the communities thus isolated became critical. In a number of such cases, reconnaissance by helicopter (once the weather permitted) was the only means of assessment. However, this was not considered very reliable data, even by those who used it, because the inability to land in flooded or unstable areas rendered it impossible to ask the affected communities about their needs. Two main suggestions were made in relation to this lack of up-to-date information on isolated communities:

- (a) The local, municipal, departmental and regional components of the CONRED system should be strengthened, so that participants at these levels are trained in the procedures, have the physical means to communicate, and regard it as one of their

⁹⁰ The Municipal Code, Decree 12-2002 Art.16; The Citizen Identity Card Law, Decree 1735, as amended by Decree 2760 (22 October 2002) Art.13.

⁹¹ The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) is currently working on an active network/map for Guatemala using such data, as part of its disaster preparedness initiatives. This will mainly use wireless internet communications based on satellite signals.

responsibilities in a disaster situation to communicate needs assessment to the next level up in the CONRED system, or even straight to the National Emergency Operations Centre. Likewise, the verification and distribution of needs assessment information received by CONRED needs to be much faster in order to allow a timely response, as discussed above; and

- (b) Guatemala should move towards a disaster-proof communication system, such as wireless Internet communication (e.g. satellite based systems offered by telephone companies) as the principal means of communication in any future disaster.

For affected communities that were not physically isolated, there were still issues around assessments and communication of needs. Some communities did not make systematic assessments and were unable to provide accurate data to CONRED or relief agencies, while others used the very reliable and inexpensive assessment method of having representatives of the Local Development Councils (COCODEs) go house to house to determine the needs of each family.

e) The Early Stage of Reconstruction

Many relief projects of NGOs and other international organizations soon moved into a reconstruction phase, especially those where the agencies had a prior presence. However, the Government's reconstruction phase was very slow to commence as it took months to produce the budget allocations of international assistance in accordance with the national reconstruction plan.

In many areas, reconstruction remains hampered by the need to relocate some communities from unsafe land, when they are not necessarily willing to go and when there is little land available to purchase for relocation.

V. Future Directions for the Legal Framework concerning International Assistance

The underlying purpose of this case study, in identifying legal frameworks and their implementation in the international response to Stan, is of course to ask what worked. And the question of what worked is primarily about whether the legal mechanisms - and the way in which international and national agencies used or understood them - enabled the delivery of quality humanitarian assistance, in a timely manner, to the affected communities. Accordingly, a number of aspects of the response are noted below as being examples of best practices that should be maintained into the future, examples of good frameworks that may need better resourcing or systematization, and examples of aspects that may need to be changed or regulated to assist in the prevention or response to any future disasters.

A. Best Practices

One of the outstanding aspects of the international response to Stan in Guatemala was the way in which relevant Government agencies were able to facilitate the rapid entry of humanitarian goods, equipment and personnel into the country. This was made possible by CONRED stationing the CCAH teams at each airport and port, and by giving them the authority to inspect goods and decide on entry permission for personnel. The process was also greatly assisted by SAT's expedited import procedure, introduced by Customs, requiring minimal documentation for entry of humanitarian goods during the state of disaster.

Other efficient and useful practices or decisions were:

- the clarity of the international appeal in terms of the exact nature and type of assistance required, and
- tax exoneration of humanitarian items included in the international appeal during the declared disaster period (although broader access to the exemption would have better facilitated aid through NGOs).

B. Good Frameworks that May Need Additional Resources

Some gaps in this system became evident during the Stan response, especially those relating to:

- rapid needs assessment and timely distribution of specific information on local needs (due to: an emergency operations centre whose resources were overwhelmed by the magnitude of the disaster; a lack of local population records available at national level; an overly time-consuming process of verification; and very little systematic information flow from the affected areas);
- the idea that CONRED is a cascading system that operates at national, regional, departmental, municipal and local levels, and that “We are all CONRED” rather than just the national secretariat (when in reality: the SE-CONRED resources were fully stretched in facilitating information flow, coordinating with its government institutional network, the UN system and some other relief agencies, and overseeing importation and distribution of international emergency relief; the regional tiers of the system had not been fully established and resourced through personnel and training at all levels; and there remained a common perception that SE-CONRED was the manager of the disaster response, just as its military antecedent CONE had been, rather than the coordinator of a decentralized system);
- the capacity of CONRED to carry out information-sharing and coordination tasks, particularly at the sub-national levels;
- the related issue of national coordination of NGO assistance (in part due to: a perception that CONRED was not empowered to do so; the lack of an established effective means or forum for such coordination; and a hesitation on the part of NGOs to accept direction from a government body such as CONRED when they felt they had better local information and in some cases also had established policies of working directly with communities rather than central authorities); and
- the advance organization of the CCAH teams (with updated membership lists, appropriate technical experts, and the means for immediate mobilization through cell phone or other contacts in an emergency).

Many of the legal and institutional issues identified above are already being addressed or have been addressed by the Government of Guatemala. These include a consultation process on the CONRED law and procedures that is considering, among other things, whether CONRED should have a tax exemption on the importation of humanitarian goods during a declared disaster and whether the CONRED system committees should be one and the same as the regional, municipal and local development committees. The latter proposal would likely better integrate the cycle of mitigation, prevention, response and reconstruction at regional, municipal and local levels, as the

same bodies would be looking at all issues, and working with governmental organizations at the relevant level. In addition, it would be more efficient to have one active committee doing this work in each area, rather than having a parallel system in which the CONRED system committee may simply atrophy and be difficult to activate in response to a disaster.

The technical committee considering the CONRED law is also consulting on a revision of the National and Institutional response plans or the development of a more detailed national response policy, in light of the Stan experience. SE-CONRED has also commissioned a revision of the National Procedures Manual (which is based on the regional manual), that will be completed in March 2007 and be available to use and evaluate during a major regional disaster simulation exercise in mid 2007.

C. Areas that Would Benefit from Change or Regulation

The overall situation in relation to security, especially of vehicles and humanitarian aid traveling by road, is a serious one that could be addressed by increased use of the armed forces and police in future disasters. The military forces were sometimes used in this way during the Stan response, and apparently without causing public concern.

There is a need for better accountability of humanitarian aid at the destination points and in all government storage and distribution services, not just at the national level.

Other legal challenges not directly related to the disaster response regime that could nevertheless be facilitated by changes to policies and procedures include:

- Simplify the systems for obtaining legal recognition and tax exempt status for non-profit associations and international NGOs;
- Clarify the visa/work permit regime for disaster response personnel;
- Clarify the tax exemption regime, especially for NGOs, during a declared disaster
- Provide clearer information on the tax procedure for expedited imports of humanitarian aid during a declared disaster;
- Collect better baseline statistics on both populations and meteorological data in rural areas.

D. Conclusions

The CONRED system established in Guatemala, and its links to regional disaster prevention and response mechanisms through CEPREDENAC, provided a solid basis for an efficient and well-coordinated disaster response by national and international agencies. And the declaration of the national disaster, the detailed emergency appeal and associated import tax exemptions for humanitarian aid, greatly assisted the efficiency of the international response.

The overall conclusion would have to be that, despite problems related to coordination and information in the disaster response system, and the desirability of increasing resources for the system at departmental and municipal levels for the future, the international humanitarian response to the Stan disaster was ultimately efficient and effective in doing what it intended to do – that is, to deliver quality humanitarian assistance, in a timely manner, to the affected communities.

Much of the credit for this goes to the readiness on the part of CCAH teams, SE-CONRED, and most international relief agencies to cooperate and use whatever legal mechanisms were available to overcome hurdles. This goodwill can be shored up in the future by the systemic improvements and clarifications recommended here.

ANNEX A

ACRONYMS

CAUCA	Uniform Customs Code of Central America (for the Spanish title: <i>Código Aduanero Uniforme Centroamericano</i>)
CCAH	Coordination Centre for Humanitarian Assistance (for the Spanish title, <i>Centro de Coordinación de Asistencia Humanitaria</i>).
CEPREDENAC	Coordination Center for the Prevention of Natural Disasters in Central America (for the Spanish title: <i>Centro de Coordinación para la Prevención de los Desastres Naturales en América Central</i>)
COCODE	Local Development Councils (for the Spanish title: <i>consejos comunitarias de desarrollo</i>)
CODEDE	Departmental Development Councils (for the Spanish title: <i>consejos departamentales de desarrollo</i>)
CODEDURs	Councils for Urban and Rural Development (for the Spanish title: <i>Consejos de Desarrollo Urbano y Rural</i>)
CODRED	Departmental Committees of CONRED System (for the Spanish title: <i>Coordinadora Departamental para la Reducción de Desastres</i>)
COE	National Centre for Emergency Operations, of CONRED (for the Spanish title: <i>Centro de Operaciones de Emergencia Nacional</i>)
COLRED	Local Committee of CONRED System (for the Spanish title: <i>Coordinadora Local para la Reducción de Desastres</i>)
COMRED	Municipal Committee of CONRED System (for the Spanish title: <i>Coordinadora Municipal para la Reducción de desastres</i>)
COMUDE	Municipal Development Council (for the Spanish title: <i>Consejos municipales de desarrollo</i>)
CONE	National Committee for Emergencies (for its Spanish title: <i>Comité Nacional de Emergencia</i>) [until 1996 – now CONRED]
CONRED	National Coordinator for the Reduction of Disasters (for its Spanish title: <i>Coordinadora Nacional para Reducción de Desastres</i>).
ECLAC	UN Economic Commission for Latin America and the Caribbean (also CEPAL for its title in Spanish: <i>Comisión Económica para América Latina</i>)
INSIVUMEH	National Institute of Seismology, Volcano logy, Meteorology and Hydrology (For its Spanish title: <i>Instituto Nacional de Sismología, Vulcanología, Meteorología e Hidrológica</i>)
IVA	Value Added Tax, Guatemala (for the Spanish: <i>Impuesto al Valor Agregado</i>)
MINEX	Ministry of External Relations, Guatemala
OCHA	United Nations Organization for the Coordination of Humanitarian Assistance
SAT	Early Warning Systems (for the Spanish title: <i>Sistemas de Alerta Temprana</i>)

SAT	Office of the Superintendent of Taxation Administration (for the Spanish title: <i>la Superintendencia de Administración Tributaria</i>).
SE-CONRED	National Secretariat of CONRED
SEGEPLAN	General Secretariat for Planning of the Executive Branch (for the Spanish title: <i>Secretaría general de planificación</i>)
SICA	System of Central American Integration (for the Spanish title: <i>Sistema de la Integración Centroamericana</i>)
SUMA	United Nations Humanitarian Supply Management System
UNDAC	UN Disaster Management and Coordination
UNDP	United Nations Development Program
WFP	United Nations World Food Program

ANNEX B

PROJECT CONSULTATIONS

ORGANIZATIONS THAT PARTICIPATED IN THE WORKSHOP OF 30 NOVEMBER 2006

- ACEP Rhetalhuleu
- Cruz Roja Guatemala
- Local Committee, COCODE, Caserío El Martillo, Matzatenango
- ECA Santa Isabel, Retalhuleu
- Foundation of Forensic Anthropologists, Guatemala (*Fundación de Antropología Forense de Guatemala - FAFG*)
- Ministry of Communications, Infrastructure and Housing
- Ministry of Education (MINEDUC)
- Ministry of External Relations (MINEX)
- Norwegian Red Cross
- Office of the Human Rights Ombudsman (*Procuraduría de Derechos Humanos – PDH*)
- Peace Corps, Crisis Corps
- SE-CEPREDENAC
- SE-CONRED
- Spanish Red Cross

ORGANIZATIONS INTERVIEWED OR CONSULTED IN SOME DETAIL

- ACSUR – Association for Cooperation with the South – *Asociación para la Cooperación con el Sur, Las Segovias, España.*
- Action contra el Hambre
- Caritás Guatemala
- CARE
- CIDA / ACIDI – Canadian International Development Agency
- CRS - Catholic Relief Services, USA
- ECB – Emergency Capacity Building, a coordination program of six NGOs: CARE, CRS, Mercy Corp, Oxfam G.B., Save the Children and World Vision.
- FAO – UN Food and Agricultural Organization
- CRG - Guatemala Red Cross
- IFRC Guatemala
- Medicos sin Fronteras (France)
- MINEX – Ministry of External Relations
- OCHA - UN Organization for the Coordination of Humanitarian Assistance
- Oxfam Great Britain
- PAHO-WHO (OPS-OMS)
- PLAN International
- SAT – Office of the Superintendent of Taxation Administration (*Superintendencia de Administración Tributaria*)
- SE-CEPREDENAC – Secretariat of the Coordination Center for the Prevention of Natural Disasters in Central America (*Centro de Coordinación para la Prevención de los Desastres Naturales en América Central*)

- SE-CONRED - National Coordinator for the Reduction of Disasters (*Coordinadora Nacional para la Reducción de Desastres*)
- SEGEPLAN - General Secretariat for Planning (*Secretaria general de planificación*)
- USAID – United States Agency for International Development
- Vision Mundial
- WFP – World Food Programme

ANNEX C

THE CONRED LAW AND REGULATIONS (SPANISH)

Part I: The CONRED Law 1996

ORGANISMO LEGISLATIVO CONGRESO DE LA REPUBLICA DE GUATEMALA

DECRETO NÚMERO 109-96

El Congreso de la República de Guatemala,

CONSIDERANDO:

Que debido a las características del territorio guatemalteco, derivadas de su posición geográfica y geológica hace susceptible al país a la ocurrencia periódica de fenómenos generadores de desastre que con su caudal de pérdidas de vidas humanas, materiales y económicas, provocan la paralización y retraso del desarrollo;

CONSIDERANDO:

Que por las causas y efectos indicados en la anterior consideración, deviene la necesidad para el Estado de Guatemala, de crear una organización que a nivel nacional este en la capacidad legal, económica, científica y tecnológica de coordinar, planificar, desarrollar y ejecutar todas las acciones destinadas a reducir los efectos que causen los desastres naturales o antropogénicos en la población ubicada en área de riesgo. Coordinadora que, para su efectividad, deberá disponer de la colaboración y coordinación de entidades públicas, privadas, de servicio y organismos internacionales relacionados con esa clase de problemas, evitando la duplicidad de esfuerzos, logrando así una acción articulada e inmediata,

CONSIDERANDO:

Que la Coordinadora que esta ley crea, deberá orientar todos los esfuerzos a establecer una política permanente y congruente de prevención, mitigación, y preparación que permita hacerle frente a los desastres y calamidades públicas de cualquier naturaleza, procediendo de conformidad con los adelantos y experiencias que sobre la materia se tienen a nivel nacional e internacional cumpliendo con las resoluciones y convenios internacionales o regionales de los cuales Guatemala es signataria;

CONSIDERANDO:

Que se hace necesario de acuerdo a la experiencia técnica, científica y operativa adquirida por el Comité Nacional de Emergencia, que este pase a constituir la Secretaria Ejecutiva de la Coordinadora Nacional para la Reducción de Desastres Naturales o antropogénicos, debiendo hacerse las modificaciones legales para su organización y funcionamiento.

POR TANTO,

En ejercicio de las atribuciones que le confiere el Artículo 171 inciso a) de la Constitución Política de la República de Guatemala.

DECRETA:

La siguiente

LEY DE LA COORDINADORA NACIONAL PARA LA REDUCCION DE DESASTRES DE ORIGEN NATURAL O PROVOCADO

CAPITULO I

OBJETIVO Y FINES

ARTICULO 1.- Objeto. El objeto de esta ley es crear la Coordinadora Nacional para la Reducción de Desastres Naturales o Provocados, con el propósito de prevenir, mitigar, atender y participar en la rehabilitación y reconstrucción por los daños derivados de los efectos de los desastres, que en el texto de la ley se denominara "Coordinadora Nacional".

ARTICULO 2.- Integración. La Coordinadora Nacional estará integrada por dependencias y entidades del sector publico y del sector privado.

ARTICULO 3.- Finalidades. La Coordinadora Nacional tendrá como finalidades las siguientes:

- a. Establecer los mecanismos, procedimientos y normas que propicien la reducción de desastres, a través de la coordinación interinstitucional en todo el territorio Nacional;
- b. Organizar, capacitar y supervisar a nivel nacional, regional, departamental, municipal y local a las comunidades, para establecer una cultura en reducción de desastres, con acciones claras antes, durante y después de su ocurrencia, a través de la implementación de programas de organización, capacitación, educación, información, divulgación y otros que se consideren necesarios;
- c. Implementar en las instituciones publicas su organización, políticas y acciones para mejorarla capacidad de su coordinación interinstitucional en las áreas afines a la reducción de desastres de su conocimiento y competencia e instar a las privadas a perseguir idénticos fines;
- d. Elaborar planes de emergencia de acuerdo a la ocurrencia y presencia de fenómenos naturales o provocados y su incidencia en el territorio nacional;
- e. Elaborar planes y estrategias en forma coordinada con las instituciones responsables para garantizar el restablecimiento y la calidad de los servicios públicos y línea vitales en casos de desastres;
- f. Impulsar y coadyuvar al desarrollo de los estudios multidisciplinarios, científicos, técnicos y operativos sobre la amenaza, vulnerabilidad y riesgo para la reducción de los efectos de los desastres con la participación de las Universidades, Instituciones y personas de reconocido prestigio;
- g. La Junta Ejecutiva podrá: Declarar de Alto Riesgo cualquier región o sector del país con base en estudios y evaluación científica y técnica de vulnerabilidad y riesgo para el bienestar de vida individual o colectiva. No podrá desarrollarse ni apoyarse ningún tipo de proyecto publico ni privado en el sector, hasta que la declaratoria sea emitida en base a dictámenes técnicos y científicos de que la amenaza o ocurrencia ha desaparecido;
- h. Elaborar el reglamento de la presente ley.

ARTICULO 4.- Obligación de colaborar. Para los efectos de la presente ley, todos los ciudadanos están obligados a colaborar, salvo impedimento debidamente comprobado. Los Organismos del Estado, las entidades autónomas y descentralizadas de este y en general los funcionarios y autoridades de la administración publicas, quedan obligados a participar en todas aquellas acciones que se anticipen a la ocurrencia de los desastres. Las personas naturales o jurídicas, entidades particulares y de servicio lo realizaran conforme su competencia y

especialidad. En el proceso de atención de los efectos de los desastres, todas las instituciones antes indicadas deben prestar la colaboración que de acuerdo con esta ley les sea requerida.

ARTICULO 5.- Marco Legal. La Coordinadora Nacional, el Consejo Nacional, la Junta Ejecutiva, la Secretaria Ejecutiva y las coordinadoras regionales, departamentales, municipales y locales, dentro de sus funciones en el proceso de reducción de desastres antes, durante y después, se regirán por esta ley y su reglamento, en el cual se normaran todas sus actividades, funciones, atribuciones y deberes.

CAPITULO II

ORGANIZACION

ARTICULO 6.- Son órganos integrantes de la Coordinadora Nacional, los siguientes:

- a. Consejo Nacional para la Reducción de Desastres
- b. Junta y Secretaria Ejecutiva para la Reducción de Desastres
- c. Coordinadora Regional para la Reducción de Desastres
- d. Coordinadora Departamental para la Reducción de Desastres
- e. Coordinadora Municipal para la Reducción de desastres
- f. Coordinadora Local para la Reducción de Desastres

ARTICULO 7.- El órgano superior de la Coordinadora Nacional de Reducción de Desastres será el Consejo Nacional y estará integrado por el sector publico, entidades autónomas y por el sector privado, y se integrara por un representante titular y un suplente, quienes laboraran en forma ad honorem de las siguientes instituciones:

- a. Ministerio de la Defensa Nacional, quien la coordinara
- b. Ministerio de Salud publica y Asistencia Social
- c. Ministerio de Educación
- d. Ministerio de Finanzas Publicas
- e. Ministerio de Comunicaciones, Transporte y Obras Publicas
- f. Ministerio de Gobernación
- g. Coordinador de la Junta y Secretaria Ejecutiva de la Coordinadora Nacional, quien asistirá a las reuniones con voz pero sin voto
- h. Cuerpo de Bomberos Nacionales
- i. Asamblea de Presidentes de los Colegios Profesionales
- j. Comité Coordinador de Asociaciones Agrícola, comerciales, Industriales y Financieras

ARTICULO 8.- INSIVUMEH. El Consejo Científico de la Junta y Secretaria Ejecutiva, estará integrado por el Instituto de Sismología, Vulcanología, Metereología e Hidrología-INSIVUMEH- de acuerdo a las funciones que a cada uno de ellos corresponde.

ARTICULO 9.- Coordinadora Nacional. Sus niveles. La Coordinadora Nacional para la Reducción de Desastres se estructura en los siguientes niveles:

- a. Nivel Nacional: Comprende la jurisdicción de toda la República, y se compone por:
 1. Consejo Nacional para la Reducción de Desastres
 2. Junta y Secretaria Ejecutiva para la reducción de Desastres

- b. Nivel Regional: Comprende la jurisdicción según la regionalización del país y la integran:
- Organizaciones publicas, privada y ciudadanas de orden regional.
- c. Nivel Departamental: Comprende la jurisdicción del departamento y tendrá la siguiente composición:
- Coordinadora departamental para la Reducción de Desastres, integrada por Organizaciones Publicas, privadas y ciudadanas del orden departamental y cuerpos de socorro que por sus funciones y competencias tengan o puedan tener relación con las actividades en la presente ley y su reglamento, frente a situaciones de riesgo o desastre.
- d. Nivel Municipal: Comprende la jurisdicción de la totalidad del municipio y tendrá la siguiente composición:
- Coordinadora Municipal para la Reducción de Desastres integrada por: organizaciones publicas, privadas y ciudadanas del orden municipal y cuerpos de socorro del lugar que por sus funciones y competencias tengan o puedan tener en algún momento, relación con las actividades establecida en la presente ley y su reglamento.
- e. Nivel Local: Coordinadora local para la Reducción de Desastres, integrada por:
- Organizaciones publicas, privadas y ciudadanas del orden local y cuerpos de socorro locales que por sus funciones y competencias tengan o puedan tener en algún momento relación con las actividades establecidas en la presente ley y su reglamento.

CAPITULO III

INTEGRACION DE IDENTIDAD DELA COORDINADORA Y METODOLOGIA DE TRABAJO Y CALIDADES

ARTICULO 10.- Integración de las Coordinadoras. Las coordinadoras regionales, departamentales, municipales y locales serán presididas por el funcionario publico que ocupe el cargo de mayor rango en su jurisdicción.

ARTICULO 11.- Las Coordinadoras Regionales, Departamentales, Municipales y Locales se regirán y funcionarán de acuerdo a su normativa aprobada por la Secretaría Ejecutiva y su Consejo Técnico.

ARTICULO 12.- Nombramiento de Comisiones. La Coordinadora Nacional a través de la Secretaría Ejecutiva. Las Coordinadoras Regionales, Departamentales, Municipales y Locales están facultadas para nombrar comisiones y subcomisiones, para el mejor cumplimiento de sus funciones.

ARTICULO 13.- Metodología de Trabajo. La Metodología de trabajo perseguirá la integración, identificación y vinculación entre los sectores y entidades participantes en la Coordinadora Nacional para la Reducción de Desastres, en todas las instancias.

ARTICULO 14.- Calidad de los miembros:

- a. Los integrantes de los órganos de la Coordinadora Nacional, así como de las comisiones y subcomisiones que se nombren, desempeñarán sus cargos ad honorem y no podrán asignarse dietas ni estipendios por su trabajo, salvo las inherentes a representaciones por designación como lo son los traslados, alimentación y alojamiento.
- b. El personal administrativo, técnico, científico, y de servicio de la Secretaría Ejecutiva de la Coordinadora Nacional, devengará salarios, gastos de representación y gozará de un seguro de vida por el riesgo a que se ve sometido en el cumplimiento de su labor.

CAPITULO IV

REGIMEN ECONOMICO

ARTICULO 15.- Fondo Nacional para la Reducción de Desastres. Se crea el fondo Nacional Permanente de Reducción de Desastres, a través de una cuenta específica abierta para el efecto en el Banco de Guatemala, misma que será capitalizada en razón a la posibilidad financiera del Estado, más donaciones nacionales e internacionales, que será colocado en forma proporcional y mensual conforme reciba los ingresos del Ministerio de Finanzas Públicas. El presupuesto de inversión y gastos de la Coordinadora Nacional, será propuesto por la Junta y la Secretaría Ejecutiva y aprobado por el Consejo Nacional para la reducción de Desastres.

ARTICULO 16.- De la Coordinadora Nacional. La Coordinadora Nacional funcionará con recursos asignados anualmente, con base en los planes de labores aprobados por la Junta Ejecutiva para la Reducción de Desastres y los que se le asignen del fondo Nacional Permanente para la Reducción de Desastres.

ARTICULO 17.- Cooperación Externa. La cooperación procedente del exterior de la índole que fuere, debe coordinarse conforme a la normativa constitucional y legal respectiva, lo que establezca el reglamento de esta ley. Los materiales y equipos científicos, tecnológicos y operativos, así como de apoyo que se reciban, quedan exentos de toda clase de impuestos y serán patrimonio de la Coordinadora respectiva, la que deberá oportunamente incluirlos en su inventario.

ARTICULO 18.- Deduciones sobre la Renta. Las donaciones y, ayuda financieras aportadas a las Coordinadoras para los fines de esta ley, serán deducibles de la renta bruta.

ARTICULO 19.- Colaboración con otros países. La Coordinadora Nacional, queda facultada para prestar su colaboración en caso de desastres, a otros países, de conformidad con sus posibilidades, de manera especial con los que el Estado de Guatemala tenga suscritos, aprobados y ratificados Convenios o Tratados sobre la materia. La colaboración a que se refiere este artículo se proporcionará conforme lo preceptuado en esta ley. Reglamento y Tratados Internacionales aplicables.

CAPITULO V

INFRACCIONES Y SANCIONES

ARTICULO 20. Las acciones y omisiones que constituyen infracciones a la presente ley o su reglamento serán sancionadas de acuerdo a lo establecido para el efecto en el citado cuerpo reglamentario, sin perjuicio de que, si la acción u omisión sea constitutiva de delito o falta, se certifique lo conducente al tribunal competente, para lo que conforme la ley sea procedente.

El incumplimiento de las obligaciones que esta ley y su reglamento imponen, la renuencia, atraso o negligencia en su colaboración y función de todo funcionario o empleado público, derivadas de la aplicación de las indicadas normas, dan lugar a la aplicación de las sanciones respectivas.

ARTICULO 21. Toda persona individual o jurídica tiene la obligación de denunciar o dar aviso de cualquier infracción a esta ley o su reglamento, así como de toda amenaza, acción, evento y posible riesgo de desastre de la naturaleza y que amenace la vida, salud, seguridad y bienestar del ser humano, ante la autoridad más cercana o sus agente, quienes de inmediato deberán dar parte de la denuncia a la autoridad correspondiente.

CAPITULO VI

DISPOSICIONES TRANSITORIAS, DEROGATORIAS Y FINALES

ARTICULO 22. Integración del Consejo Nacional y su Junta directiva. El consejo a que se refiere el artículo 7 de la presente ley, quedará integrado treinta días después de su puesta en vigencia.

ARTICULO 23. Destino del CONE. Conjuntamente con la vigencia de la presente ley, el Comité Nacional de Emergencia –CONE- y su personal, se transformará en la Junta y Secretaría Ejecutiva, para la Reducción de Desastres, la cual se regirá por el reglamento del CONE, en tanto se emita el reglamento de la presente ley.

ARTICULO 24. Se deroga toda disposición que se oponga o contravenga lo establecido en esta ley.

ARTICULO 25. El presente decreto entrará en vigencia un día después de su publicación en el diario oficial.

PASE AL ORGANISMO EJECUTIVO, PARA SU SANCION, PROMULGACION Y PUBLICACION.

DADO EN EL PALACIO DEL ORGANISMO LEGISLATIVO EN LA CIUDAD DE GUATEMALA, A LOS SIETE DIAS DEL MES DE NOVIEMBRE DE MIL NOVECIENTOS NOVENTA SEIS.

**CARLOS ALBERTO GARCIA REGAS
PRESIDENTE**

**ENRIQUE ALEJOS CLOSE
SECRETARIO**

**EFRAIN OLIVA MURALLES
SECRETARIO**

PALACIO NACIONAL: Guatemala, Nueve de Diciembre de Mil Novecientos Noventa y seis.

PUBLIQUESE Y CUMPLASE
ALVARO ARZU IRIGOYEN

Part II: The CONRED Regulations 2000

ACUERDO GUBERNATIVO No. 443-2000

Guatemala, 12 de septiembre de 2000.

EL PRESIDENTE DE LA REPÚBLICA

CONSIDERANDO:

Que es deber del Estado proteger la vida humana, asegurando a los habitantes del país las condiciones propicias para el desenvolvimiento de la actividad productiva y creadora, así como prever en lo posible las consecuencias que puedan derivarse de desastres de origen natural o provocado.

CONSIDERANDO:

Que para el cumplimiento de los deberes indicados en el considerando que antecede, se emitió el Decreto número 109-96 del Congreso de la República, que creó la Coordinadora Nacional para la Reducción de Desastres de Origen Natural o Provocado, como una instancia integrada por entidades de los sectores públicos y privados, orientada a prevenir, mitigar, atender y participar en la rehabilitación y reconstrucción por daños derivados de los efectos de los desastres de origen natural o provocado.

CONSIDERANDO

Que la Coordinadora a que se refiere el considerando anterior necesita para responder a los requerimientos propios de sus funciones, de las disposiciones reglamentarias ordenadas en la ley que le dio origen; para definir sus responsabilidades operativas y las reglas de coordinación de los sectores involucrados en su intervención.

POR TANTO:

En el ejercicio de las funciones que le confiere la literal e) del artículo 183 de la Constitución Política de la República,

ACUERDA:

Emitir el siguiente

REGLAMENTO DE LA LEY DE LA COORDINADORA NACIONAL PARA LA REDUCCIÓN DE DESASTRES DE ORIGEN NATURAL O PROVOCADO

CAPITULO I

DISPOSICIONES GENERALES

ARTICULO 1. OBJETO.

El presente reglamento tiene por objeto desarrollar con procedimientos técnicos las disposiciones normativas contenidas en el Decreto número 109-96 del Congreso de la República, dotando a la Coordinadora Nacional para la Reducción de Desastres de Origen Natural o Provocado de una estructura administrativo-financiera y de procedimientos para el cumplimiento de las funciones encomendadas en la ley.

ARTICULO 2. DEFINICIONES.

Para los efectos de interpretación y aplicación del presente reglamento se establecen las definiciones siguientes:

CONRED: Siglas de la Coordinadora Nacional para la Reducción de Desastres de Origen Natural o Provocado, abreviada: Coordinadora Nacional.

CONSEJO NACIONAL: Órgano superior de la Coordinadora Nacional para la Reducción de Desastres de Origen Natural o Provocado.

COORDINADOR DEL CONSEJO NACIONAL: Ministro de la Defensa Nacional o su suplente.

JUNTA Y SECRETARIA EJECUTIVA: Órgano de ejecución y de administración del Consejo Nacional de CONRED.

SECRETARIA EJECUTIVA DE CONRED: Es la instancia ejecutiva, a cargo de un Secretario ejecutivo responsable de CONRED.

COORDINADORAS: Niveles de organización administrativa por medio de los cuales CONRED tiene presencia en todo el país.

CONSEJO CIENTÍFICO: Organización de asesoría formada por el Instituto Nacional de Sismología, Vulcanología, Meteorología e Hidrología (INSIVUMEH).

DESASTRE: Toda calamidad o acontecimiento que produce en una comunidad o población alteración de su entorno físico y social, que puede causar pérdidas humanas y materiales, por efecto de un suceso natural o provocado, que incide negativamente sobre la capacidad normal de respuesta de la comunidad o las comunidades afectadas, y que requiere de coordinación y ayuda externa para afrontarlo.

CAPITULO II.

ORGANIZACIÓN, ATRIBUCIONES Y FUNCIONES DE CONRED

ARTICULO 3. NATURALEZA Y ESTRUCTURA ADMINISTRATIVA DE CONRED.

La Coordinadora Nacional para la Reducción de Desastres de Origen Natural o Provocado es un ente del Organismo Ejecutivo y, como tal, cubierta por las exenciones fiscales que corresponden a éste.

Su organización administrativa estará conformada de la siguiente manera:

- a) Consejo Nacional,
- b) Coordinador del Consejo Nacional,

- c) Junta y Secretaría Ejecutiva,
- d) Coordinador de la Junta y Secretaría Ejecutiva,
- e) Coordinadora Regional
- f) Coordinadora Departamental,
- g) Coordinadora Municipal, y
- h) Coordinadora Local.

ARTICULO 4. CONSEJO NACIONAL.

El Consejo Nacional, como órgano superior de la Coordinadora Nacional, será el encargado de aprobar políticas y normas para hacer efectivo el cumplimiento de las finalidades ordenadas en el artículo 3 de la ley, así como el cumplimiento de todas aquellas disposiciones de que, en caso de emergencia disponga el Gobierno de la República. Las instituciones que lo integran tendrán la responsabilidad en su representante del máximo nivel jerárquico, quien tendrá su correspondiente suplente, también de alto nivel, con suficiente capacidad para la toma de decisiones.

ARTICULO 5. INTEGRACIÓN DEL CONSEJO NACIONAL.

Estará integrado por el sector público, entidades autónomas y sector privado, por medio de representantes titulares y suplentes designados de la manera siguiente:

- a) Por los Ministros de Estado a que se refiere el artículo 7 del Decreto 109-96 del Congreso de la República, como titulares, y con la suplencia del Viceministro que designe;
- b) El coordinador de La Junta y el Secretario Ejecutivo de CONRED, por el mencionado y como suplente el funcionario de la Secretaría ejecutiva que el Secretario Ejecutivo designe;
- c) Los cuerpos de Bomberos Nacionales que designarán un representante titular y un suplente de cada uno de dichos cuerpos, legalmente constituidos, de conformidad con su propio régimen interno y debidamente acreditados por su personero legal;
- d) Un titular y un suplente designados por la Asamblea de Presidentes de los Colegios Profesionales;
- e) Un representante y un suplente del Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras.

ARTICULO 6. FUNCIONES DEL CONSEJO NACIONAL.

El Consejo Nacional tendrá las funciones siguientes:

- a) Garantizar el cumplimiento de las finalidades de la Coordinadora Nacional de acuerdo con las competencias que se establecen en la ley y se desarrollan en el presente reglamento;
- b) Aprobar el proyecto anual de gastos de administración y de operación de la Coordinadora Nacional;
- c) Elevar al Organismo Ejecutivo el proyecto de presupuesto para el financiamiento de las acciones propias de la entidad y del Fondo Nacional para la Reducción de Desastres a ser incluidos en el Presupuesto General de Ingresos y Egresos del Estado;

- d) Aprobar el Plan Nacional de Emergencias;
- e) Autorizar las operaciones financieras mayores de cien mil quetzales.
- f) Proponer al Organismo Ejecutivo las declaratorias de Estado de Desastre o de otra jerarquía, de acuerdo con la gravedad del caso;
- g) Aprobar los manuales generales o sectoriales de procedimientos;
- h) Dictar políticas y ordenar acciones tendentes al cumplimiento de los fines de la Coordinadora Nacional;
- i) Nombrar comisiones y subcomisiones para el estudio y realización de acciones propias de la Coordinadora Nacional;:
- j) Emitir opinión, cuando se considere procedente sobre iniciativas de ley del organismo Ejecutivo relacionadas con situaciones de desastre específicas o generales.
- k) Ordenar fiscalizaciones y auditorías de los fondos y recursos administrados por la Coordinadora Nacional y las otras coordinadoras;
- l) Aprobar los proyectos de acuerdos y convenios de asistencia técnica y financiera con organismos internacionales y gobiernos extranjeros, exceptuándose en los casos de emergencia y de desastre en los que la ayuda podrá ser recibida bajo responsabilidad del coordinador del Consejo y del secretario ejecutivo de CONRED, sin perjuicio de la aprobación gubernamental que de acuerdo con la ley, en cada caso, sea necesario;
- m) Acordar distinciones honoríficas a personas individuales o jurídicas que así lo ameriten por sus servicios de asistencia y bienestar social en situaciones relacionadas con los fines de CONRED.
- n) Aprobar la memoria anual de labores y enviarla al Organismo Ejecutivo;
- o) Emitir toda clase de instructivos que correspondan conforme sus atribuciones legales y reglamentarias; y,
- p) Todas aquellas otras que sean necesarias para el cumplimiento de sus finalidades y funciones asignadas por la ley y el presente reglamento.

ARTICULO 7. COORDINACIÓN DEL CONSEJO NACIONAL.

Conforme lo dispuesto en el inciso a) del artículo 7 del Decreto 109-96 del Congreso de la República, coordinará al consejo Nacional el Ministro de la Defensa Nacional, o su suplente.

ARTICULO 8. REPRESENTACIÓN LEGAL.

El Coordinador del Consejo Nacional representa legalmente a la entidad, pudiendo delegarla en su suplente o el Secretario Ejecutivo de CONRED.

ARTICULO 9. SESIONES DEL CONSEJO NACIONAL.

El Consejo Nacional se reunirá ordinariamente la última semana de cada trimestre; de manera extraordinaria, las veces que su Coordinador lo convoque, por sí o a solicitud de tres de los miembros del Consejo. En tiempo normal, la convocatoria se hará por medio del Secretario Ejecutivo, con la debida antelación, y en estos casos la convocatoria deberá ir acompañada de una propuesta de Agenda y de la documentación pertinente. Ante la inminencia o durante una declaratoria de alerta o de desastre, el Consejo Nacional podrá ser convocado en cualquier día y hora y por cualquier medio de comunicación, por el coordinador del Consejo Nacional o por el Coordinador de la Junta o el Secretario Ejecutivo de CONRED.

ARTICULO 10. QUÓRUM DE LAS SESIONES DEL CONSEJO NACIONAL.

El quórum para las sesiones del Consejo Nacional será el de mayoría simple de la totalidad de sus integrantes. En casos de urgencia, ante peligros o desastres inminentes o efectivos, habrá quórum con los miembros que estén presentes.

ARTICULO 11. DECISIONES DEL CONSEJO NACIONAL.

Las decisiones del Consejo Nacional serán tomadas por mayoría simple de los presentes con derecho a voto, y, en caso de empate, su Coordinador tendrá voto decisorio. El Coordinador de la Junta y Secretaría Ejecutiva les dará cumplimiento, comunicando a quien corresponda la concerniente e informando en su oportunidad al Consejo Nacional.

ARTICULO 12. ACTAS DEL CONSEJO NACIONAL.

De todas las sesiones que realice el Consejo Nacional deberá levantarse el acta correspondiente bajo la responsabilidad del Coordinador de la Junta a través del Secretario Ejecutivo, la que será firmada por los miembros que asistan luego de su aprobación final en la sesión siguiente.

ARTICULO 13. VACANTES.

En caso de ausencia definitiva o renuncia de alguno de los integrantes del Consejo Nacional, titular o suplente, se comunicará a la entidad que lo haya designado para que acredite a la brevedad a sus sustituto, excepto en los casos en que su integración en el Consejo sea por razón del cargo.

ARTICULO 14. COORDINADOR DEL CONSEJO NACIONAL.

El Consejo Nacional de CONRED será coordinado por el Ministro de la Defensa Nacional, o por su suplente, y tendrá las atribuciones siguientes:

- a) Representar legalmente a la Coordinadora Nacional, pudiendo delegarlo como está previsto en este reglamento;
- b) Convocar a sesiones ordinarias y extraordinarias al Consejo Nacional;
- c) Presidir las sesiones del Consejo Nacional; en caso de ausencia presidirá otro Ministro de Estado y si tampoco estuviere presente, presidirá el suplente del Coordinador del Consejo Nacional y, en su defecto, otro miembro titular;
- d) Firmar la correspondencia oficial del Consejo Nacional cuando esté dirigida a los presidentes de los organismos del Estado, ministros del gabinete y entidades internacionales;

- e) En casos de desastre grave solicitará la presencia del Presidente de la República para que se constituya en el Centro de Operaciones de Emergencia;
- f) En casos de previsión de desastre o de ocurrencia del mismo, será coordinador entre CONRED y los demás órganos del Estado y entidades autónomas, descentralizadas y privadas;
- g) Las demás atribuciones que correspondan por ley, por este reglamento y por disposición del Consejo Nacional.

ARTICULO 15. INTEGRACIÓN DE LA JUNTA Y SECRETARÍA EJECUTIVA.

La Junta y Secretaría Ejecutiva del consejo Nacional de la Coordinadora Nacional la integran: a) El Ministro de la Defensa Nacional como Coordinador del Consejo Nacional; b) El Secretario Ejecutivo de CONRED; y c) un representante del Consejo Nacional designado por los entes privados que lo integran.

ARTICULO 16. JUNTA Y SECRETARÍA EJECUTIVA DE EMERGENCIA.

En casos muy especiales, para la toma de decisiones puramente técnicas en el desarrollo de sus actividades, la Junta y Secretaría Ejecutiva, se constituirá como comité de emergencia, el Presidente del Consejo Científico e incorporando a los jefes y gerentes que se consideren necesarios, según el caso; para adoptar las decisiones de las que dará cuenta lo más pronto posible al Consejo Nacional. Las funciones de este grupo, actuando como comité de emergencia serán las siguientes:

- a) Asesorar y recomendar disposiciones atinentes a situaciones de alerta máxima y de emergencia al Consejo Nacional;
- b) Establecer áreas o sectores del país de Alto Riesgo con base en estudios y evaluación científica y técnica de vulnerabilidad y riesgo para el bienestar y vida individual o colectiva, recomendando las medidas a tomar por el consejo Nacional o la autoridad que sea competente.

ARTICULO 17. SECRETARÍA EJECUTIVA.

La Secretaría Ejecutiva de CONRED tiene a su cargo la dirección y administración general de la Coordinadora Nacional, sin perjuicio de las competencias y atribuciones que corresponden al Consejo Nacional y a su Coordinador. Es el órgano de ejecución de las decisiones del Consejo Nacional. Contará con un Secretario Ejecutivo, subsecretarios y el personal administrativo indispensable.

ARTICULO 18. ORGANIZACIÓN DE LA SECRETARÍA EJECUTIVA.

La Secretaría Ejecutiva de CONRED contará con las gerencias, departamentos y secciones técnicas y administrativas necesarias, pudiendo coordinar con entidades voluntarias de servicios y operativas.

ARTICULO 19. ATRIBUCIONES DEL SECRETARIO EJECUTIVO.

El Secretario Ejecutivo de CONRED, será nombrado por el Presidente de la República, actuará en dependencia directa del consejo Nacional, y tendrá las siguientes atribuciones:

- a) Ejercer por mandato del Coordinador del Consejo Nacional la representación legal de CONRED, y representarlo ante organismos nacionales e internacionales por su designación;
- b) Ejecutar las decisiones que el Presidente de la república por sí o en Consejo de Ministro y el consejo Nacional de CONRED le encomienden;
- c) Actuar como Secretaría General del consejo nacional y del Coordinador, llevando los libros de actas, acuerdos y registros necesarios;
- d) participar con derecho a voz en las reuniones y sesiones del Consejo Nacional;
- e) preparar y proponer al consejo nacional, antes del treinta de abril de cada año, el proyecto de Presupuesto de Ingresos y Egresos de CONRED;
- f) ejecutar el presupuesto de CONRED con apego a las normas y procedimientos legales y los aprobados por el consejo Nacional y proponer el uso de fondos provenientes del Fondo Nacional para la Reducción de Desastres y los que se obtengan de otras fuentes.
- g) coordinar, planificar, desarrollar y ejecutar el correcto funcionamiento de CONRED;
- h) someter a la aprobación del Consejo Nacional proyectos de reglamentos, instructivos y manuales operativos internos;
- i) elaborar los planes anuales, programas y proyectos de CONRED, antes del quince de diciembre de cada año, y someterlos a la aprobación del Consejo Nacional; en particular el Plan Nacional de Emergencias, su revisión y actualización;
- j) presentar proyectos de manuales operativos para el control y distribución de la ayuda internacional al Consejo Nacional;
- k) informar mensualmente al Consejo nacional, por medio de su Coordinador, del avance de los programas y actividades ordinarias y extraordinarias, y presentar antes del diez de enero de cada año la memoria anual de labores de CONRED, incluyendo un informe de cierre del presupuesto.
- l) aprobar las negociaciones cuyo monto no exceda de cien mil quetzales;
- m) elaborar proyectos de manuales de procedimientos que rijan el funcionamiento de las coordinadoras;
- n) someter a la aprobación del Consejo nacional los convenios de donaciones a favor de CONRED que impliquen contrapartida nacional;
- o) elaborar proyectos de manuales operativos o de procedimientos para implementar las políticas de prevención, mitigación, y preparación frente a eventuales desastres, y calamidades públicas, incluyendo los de organización, capacitación, educación, información, divulgación y otros;
- p) Representar a CONRED en comisiones oficiales en el extranjero por designación del Consejo Nacional o del Coordinador del mismo;
- q) Contratar el personal administrativo, técnico, científico, y de servicio de la Secretaría

Ejecutiva;

r) Organizar y mantener actualizada una base de datos georeferenciada, con la información estadística existente y la relativa a la ejecución de los programas, proyectos y acciones en materia de prevención, mitigación, respuesta, rehabilitación y reconstrucción en caso de desastres, en coordinación con instituciones y entidades públicas y privadas, las que deberán presentar la información disponible que fuere necesaria;

s) Organizar y coordinar los diferentes grupos y comisiones técnicos y de trabajo establecidos en CONRED, en particular indicando objetivos y metas tendentes a la preparación de eventos de capacitación y adiestramiento y de documentos operativos para conocimiento del Coordinador y del Consejo Nacional;

t) Participar por sí o por los gerentes y otros funcionarios que designe en eventos científicos o académicos relacionados con los fines de la institución;

u) Las demás que le asigne el Consejo Nacional y el Coordinador del mismo.

ARTICULO 20. SUBSECRETARIO.

Habrá un Subsecretario que será nombrado por el Presidente de la República a propuesta del Secretario Ejecutivo, a quien sustituirá en casos de ausencia o impedimento, con las mismas atribuciones que el mismo tiene asignadas, así como las demás que le señale el Secretario Ejecutivo.

ARTICULO 21. CONSEJO CIENTÍFICO.

El Consejo Científico estará integrado por el Instituto de Sismología, Vulcanología, Meteorología e Hidrología, quien lo presidirá y otras instituciones calificadas por este. Lo presidirá el director del INSIVUMEH, quien podrá integrar y solicitar la cooperación de instituciones que realicen investigaciones técnico-científicas nacionales y extranjeras para la prevención y/o reducción de desastres, tales como:

a) Universidades del país;

b) Centros de investigación técnico-científica;

c) Entidades estatales autónomas y descentralizadas;

d) Organizaciones No Gubernamentales y de servicio del sector privado;

e) Entidades voluntarias técnico-científicas.

El presidente del Consejo Científico mantendrá constantemente informada a CONRED de la situación que prevalezca en el país en materia de fenómenos naturales que son objeto de control del INSIVUMEH.

CAPITULO III

CENTRO DE OPERACIONES DE EMERGENCIA Y SISTEMA DE ENLACE INTERINSTITUCIONAL

ARTICULO 22. CENTRO DE OPERACIONES DE EMERGENCIA.

Se instituye el Centro de Operaciones de Emergencia -COE- como un sistema operativo que deberá funcionar en dos etapas:

I. A nivel técnico, formado por funcionarios de enlace institucional, coordinados por el Secretario Ejecutivo de CONRED;

II. A nivel ejecutivo, formado en pleno o sectorialmente, según la gravedad y el área o materia de la emergencia, por los miembros titulares, o los suplentes del Consejo nacional y el Secretario Ejecutivo de CONRED. En todo caso participarán los funcionarios o delegados de enlace interinstitucional

ARTICULO 23.OBJETIVOS DEL COE.

El Centro de Operaciones de Emergencia debe asegurar la participación efectiva de los integrantes de CONRED y de las coordinadoras y población en general en tiempos de alerta máxima o de desastre Funcionará como centro de información especializada en tales situaciones y como coordinador con las direcciones, agencias u otras dependencias ministeriales e institucionales que atiendan emergencias atinentes a su propia función, y procurará apoyarlas en aquellos rubros que, por la gravedad o extensión del desastre, no puedan cubrir con sus propios recursos institucionales.

ARTICULO 24.COLABORACIÓN DE FUNCIONARIOS Y EMPLEADOS PÚBLICOS.

En las situaciones de alerta máxima o de emergencia por desastres, el COE podrá pedir, por medio del Coordinador del Consejo Nacional o del Secretario Ejecutivo, la colaboración de personal de diferentes órganos e instituciones del Estado, el que será puesto a disposición manteniendo su puesto y salario y por el tiempo que sea estrictamente necesario.

ARTICULO 25. DECISIONES DE ALTO NIVEL.

En casos de extrema gravedad, que requieran decisiones de alto nivel, presidirá el Centro de Operaciones de Emergencia, el Presidente o el Vicepresidente de la República.

ARTICULO 26. DESIGNACIÓN DE ENLACES.

Los órganos e instituciones que forman CONRED deberán designar un funcionario con capacidad técnico profesional y poder de decisión por medio de acuerdo o acta, según el caso, que formará el sistema técnico de operaciones de emergencia. Asimismo, podrá pedirse a otros ministerios, entidades e instituciones la designación de su correspondiente enlace.

ARTICULO 27. ATRIBUCIONES DE LOS ENLACES.

Los delegados a que se refiere el artículo anterior, serán funcionarios o personas con capacidad técnico-profesional y poder de decisión o de iniciativa en sus correspondientes ministerios, entidades o instituciones, y tendrán las siguientes atribuciones:

a) Actuarán como enlaces entre el órgano o las instituciones nominadoras con CONRED;

- b) Asistir a sesiones periódicas plenarios por lo menos una vez al mes, y a aquellas sectoriales a que fueron convocados por la Secretaría Ejecutiva de CONRED;
- c) Integrarán el Centro de Operaciones de Emergencia, como delegados en su Fase Técnica, y como asesores específicos de los Ministros, Viceministros o miembros titulares del Consejo Nacional, en su Fase Ejecutiva;
- d) Formarán, en su caso, comisiones técnicas o sectoriales del Centro de Operaciones de Emergencia;
- e) Transmitirán las disposiciones ejecutivas que emanen del Consejo nacional, del coordinador del Consejo o de la Secretaría Ejecutiva de CONRED;
- f) Contribuirán a la preparación de Manuales de Procedimientos generales o específicos;
- g) Proporcionarán información necesaria de su correspondiente sector institucional para la formulación de los planes de alerta, prevención, mitigación, respuesta, rehabilitación y reconstrucción por desastres;
- h) Otras que contribuyan a cumplir con los objetivos que la ley determina.

CAPÍTULO IV

COORDINADORAS

ARTICULO 28. COORDINACIÓN INTERINSTITUCIONAL.

CONRED constituye el centro de interrelación institucional con los órganos, y entidades autónomas y descentralizadas del Estado, con organismos internacionales, y con las instituciones de naturaleza privada que operan a nivel nacional. En su relación con entidades regionales, departamentales, municipales y locales se instrumentarán canales de comunicación por medio de las correspondientes coordinadoras, excepto cuando por situaciones de emergencia sea necesario hacerlo directamente.

ARTICULO 29. CLASES DE COORDINADORAS.

Para los efectos de control administrativo y el eficaz cumplimiento de sus objetivos, CONRED, basada en el principio de centralización normativa y descentralización ejecutiva, contará con los siguientes niveles de ejecución:

- a) Coordinadoras regionales -CORRED-
- b) Coordinadoras departamentales -CODRED-
- c) Coordinadoras municipales -COMRED-
- d) Coordinadoras locales -COLRED-

ARTICULO 30. INTEGRACIÓN DE LAS COORDINADORAS.

Para los efectos de control administrativo y el eficaz cumplimiento de sus objetivos, CONRED, basada en el principio de descentralización normativa y descentralización ejecutiva, contará con los siguientes niveles de ejecución:

- a) Director regional de los Consejos de Desarrollo;
- b) Gobernador departamental;
- c) Alcalde Municipal.
- d) Alcalde auxiliar.

Estarán formadas por un representante titular y un suplente de organizaciones públicas, privadas y ciudadanas, incluyendo cuerpos de socorro, de la correspondiente jurisdicción, que por sus funciones y competencias tengan o puedan tener relación con las actividades de la ley y su reglamento, frente a situaciones de emergencia o desastre. El funcionario que preside las coordinadoras regionales, departamentales, municipales o locales, hará la convocatoria para la integración de ellas, y comunicará a la Secretaría Ejecutiva de CONRED las designaciones, para el registro correspondiente.

ARTICULO 31. COMISIONES Y SUBCOMISIONES.

Las personas que integren las comisiones y subcomisiones nombradas por las coordinadoras cumplirán su cometido ad honorem.

ARTICULO 32. FUNCIONES DE LAS COORDINADORAS.

Las coordinadoras dependerán del Consejo Nacional a través del Secretario Ejecutivo de CONRED y tendrán las funciones siguientes:

- a) participar en el proceso de prevención y reducción de desastres, especialmente en sus respectivas jurisdicciones;
- b) mantener informada a la Secretaría Ejecutiva de CONRED sobre cualquier situación susceptible de originar un desastre;
- c) atender y ejecutar todas las directrices que emanen del Consejo Nacional a través de la Secretaría Ejecutiva de CONRED;
- d) proponer medidas de prevención, mitigación, preparación, alerta, alarma, atención, rehabilitación y reconstrucción;
- e) presentar a la Secretaría Ejecutiva de CONRED su plan anual de trabajo y su presupuesto de funcionamiento e inversión, en concordancia con las políticas y estrategias que en esta materia disponga el Consejo Nacional;
- f) todas aquellas funciones que les sean delegadas o encomendadas por el Consejo Nacional.

ARTICULO 33. COMPETENCIA.

Las coordinadoras, dentro de sus límites y circunscripción territorial, y de acuerdo con las leyes

vigentes, en situaciones de declaratoria de emergencia por el Consejo Nacional o autoridad competente, asumirán el control de la zona mientras dure la emergencia y todos los ciudadanos deben acatar sus instrucciones; las autoridades velarán porque dicho acatamiento sea efectivo. El incumplimiento de esto último será indicativo de negligencia del empleado o funcionario para los efectos de la sanción correspondiente.

CAPÍTULO V

REGIMEN FINANCIERO

ARTICULO 34. PATRIMONIO.

El patrimonio de CONRED estará constituido por los bienes muebles e inmuebles que anteriormente le fueron asignados al Comité Nacional de Emergencia -CONE-, los que adquiera por compra directa, donaciones nacionales o extranjeras o por cualquier otro medio legal y los que adquieran de igual forma las Coordinadoras territoriales.

ARTICULO 35. ADMINISTRACIÓN DEL PATRIMONIO.

La administración del patrimonio de CONRED estará bajo la responsabilidad de la Secretaría Ejecutiva y el Gerente Financiero, de acuerdo con el régimen legal aplicable a los bienes del Estado.

ARTICULO 36. RECURSOS.

Constituyen recursos propios de CONRED, los siguientes;

- a) Los que integran el Fondo Nacional para la Reducción de Desastres, instituido por el artículo 15 del Decreto 109-99 del Congreso de la República;
- b) Partidas que le asigne cada año fiscal el presupuesto General de Ingresos y Egresos del Estado;
- c) Las donaciones y financiamientos de carácter nacional o internacional.

CAPÍTULO VI

INFRACCIONES Y SANCIONES

ARTICULO 37. RESPONSABILIDAD.

Los funcionarios y demás personas que integren cualquiera de las instancias organizacionales a que se refiere la Ley y el presente Reglamento, están obligados a cumplir y hacer que se cumplan las leyes y disposiciones normativas, siendo responsables por su actuación. También es obligación de todos los ciudadanos prestar el auxilio o colaboración necesarias en los casos de alarma o de desastre, siendo responsables por omisión o acción de conformidad con las leyes del país.

ARTICULO 38. DENUNCIAS.

Las denuncias sobre infracciones a la Ley y al presente Reglamento, podrán presentarse ante el Consejo Nacional en forma verbal o escrita. En caso de que los hechos denunciados fueren

constitutivos de delito o faltas, el Consejo trasladará la denuncia al Ministerio Público.

CAPÍTULO VII

DECLARATORIA DE ALERTA

ARTICULO 39. TIPOS DE ALERTA.

Se establecen dos tipos de alerta:

I) Alerta Institucional, que opera únicamente para el personal de CONRED y será declarada por el Coordinador de la Junta y Secretaría Ejecutiva; y

II) Alerta pública, que será declarada por el Consejo Nacional a propuesta del Coordinador de la Junta y Secretaría Ejecutiva.

ARTICULO 40. GRADUALIDAD DE LAS ALERTAS.

En los Manuales de Procedimientos se establecerán los diferentes grados de los tipos de alerta mencionados en el artículo anterior, a efecto de determinar encada uno de los niveles de respuesta y disponibilidad del personal de CONRED, de los sectores públicos y privados y los calendarios y horarios de duración mínima. Asimismo, indicarán los ministerios, entidades, dependencias u otros sectores llamados a mantenerse en situación de alerta.

ARTICULO 41. INFORMACIÓN INTERNA Y EXTERNA.

Una vez que las entidades encargadas de monitoreo y vigilancia de los fenómenos naturales y demás situaciones comprendidas en la Ley, determinen que éstos constituyen amenaza, y cuando se presentará una situación de desastre, la información oficial sobre los mismos se centralizará en el Centro de Operaciones de emergencia y en el Secretario Ejecutivo de CONRED.

ARTICULO 42. SITUACIONES DE EMERGENCIA.

En los casos de desastre o peligro o grave de producirse, CONRED, por medio de sus órganos institucionales, lo pondrá en conocimiento del Organismo Ejecutivo y podrá sugerir la adopción de las medidas previstas en la Ley de Orden Público.

CAPÍTULO VIII

DISPOSICIONES ESPECIALES

ARTICULO 43. USO DE EMBLEMAS.

Los distintivos, emblemas, señales y uniformes que para el cumplimiento de sus actividades determine el Consejo Nacional, serán de uso exclusivo de CONRED.

ARTICULO 44. ACREDITACIONES.

El personal de CONRED y las personas que queden bajo su jurisdicción eventual, llevarán un distintivo que los acredite; el que deberán devolver inmediatamente a la terminación de su cargo o de la comisión o servicio para el que fueren incorporados. En caso de renuencia a la devolución, CONRED hará la denuncia al Ministerio Público por el delito previsto en el artículo 339 del

Código Penal.

ARTICULO 45. FONDOS EXTRAORDINARIOS.

Por situaciones derivadas de un estado de Calamidad Pública, el Organismo Ejecutivo, por medio del Ministerio de Finanzas públicas, proporcionará los fondos que sean necesarios para su atención o respuesta adecuada.

ARTICULO 46. DEROGATORIA.

Se deroga el Acuerdo Gubernativo de quince de mayo de mil novecientos ochenta y cinco que contiene el Reglamento General del Comité Nacional de Emergencia.

ARTICULO 47. VIGENCIA.

El presente Acuerdo Gubernativo entrará en vigencia el día siguiente de su publicación en el Diario Oficial.

COMUNÍQUESE

ALFONSO PORTILLO

BYRON HUMBERTO BARRIENTOS DÍAZ
MINISTRO DE GOBERNACIÓN

Lic. J. LUIS MIJANGOS C.
SECRETARIO GENERAL
PRESIDENCIA DE LA REPÚBLICA

ANNEX D

REFERENCES

1. GUATEMALAN LAWS, REGULATIONS, DIRECTIVES AND POLICIES

a. Disaster and Emergency Laws, Regulations and Manuals

CONRED. The National Response Plan, Government of Guatemala, 2005: PNR for its Spanish title: Plan Nacional de Respuesta.

CONRED. The Institutional Response Plan, Government of Guatemala, 2005: PIR for its Spanish title: Plan Institucional de Respuesta.

Government of Guatemala, Presidential Declaration of National Emergency. 5 October 2005 (published 6 October): Decreto Gubernativo Número 1-2005, Diario de Centro América, Jueves 6 de octubre 2005.

Government of Guatemala, Congressional Ratification of Presidential Declaration of National Emergency. 10 October 2005: Congreso de la Republica de Guatemala, Decreto Numero 70-2005, Diario de Centro América, Lunes 10 de octubre 2005.

Government of Guatemala, Ministry of Finance, Ministerial Declaration of Suspension of Government Contracting Requirements for Selected Government Entities involved in Stan reconstruction, up to 31 December 2005. 19 October 2005: Ministerio de Finanzas Públicas, Acuerdo Gubernativo No. 533-2005, Guatemala, 19 de octubre de 2005.

Government of Guatemala, Ministry of External Relations. 'Second Call for International Assistance' and Annex, 'Second Request for Humanitarian Assistance to Meet the Emergency of Tropical Storm Stan', Guatemala, 26 October 2005: Ministerio de Relaciones Exteriores, 'Nuevo llamado de ayuda internacional', y Anexo 'Segunda Requerimiento de Ayuda Humanitaria Atención a la Emergencia-Tormenta Stan,' Guatemala, 26 de octubre de 2005.

National Coordinator for the Reduction of Disasters Law 1996 ("the CONRED law"): Decreto Ley 109-96, Ley de Coordinadora Nacional para la Reducción de Desastres (CONRED).

National Coordinator for the Reduction of Disasters Law Regulations 2000 ("the CONRED regulations"): Acuerdo Gubernativo 443-2000, Reglamento de la Ley de la Coordinación Nacional para la Reducción de Desastre.

SE-CONRED. Plan for the Function of the Emergency Operations Center, Guatemala, January 2001: Plan de Funcionamiento del Centro de Operaciones de Emergencia, Junta y Secretaria Ejecutiva CONRED, enero 2001.

SE-CONRED. National Contingency Plan for Hurricanes: 'The Response Phase', Guatemala, May 2005: Plan Nacional de Contingencias para Huracanes: "Fase de Respuesta," Secretaría Ejecutiva de la Coordinadora Nacional para la Reducción de Desastres, Guatemala, Mayo de 2005.

SEGEPLAN, Government of Guatemala. 'Lines of Inter-Institutional Cooperation in the Procedure for International Cooperation,' 7 October 2005: '*Lineamientos para la Coordinación Interinstitucional en la Gestión de la Cooperación Internacional*' 7 de octubre 2005.

b. Taxation Laws & Regulations Relevant to the International Humanitarian Response and Organizations

Constitutive Law of the Superintendent of Taxation Administration (SAT) 1998: *Ley Orgánica de la Superintendencia de Administración Tributaria (SAT), Decreto Número 1-98.*

Income Tax Law, 1992: *Ley del Impuesto Sobre la Renta, Decreto 26-92.*

Internal Regulations of SAT 1998: *Reglamento Interno de la Superintendencia de Administración Tributaria (SAT), Acuerdo del Directorio número 2-98.*

Law for the Abolition of Exemptions, Exonerations and Deductions on Matters Related to Taxation and Public Finance, 1997: *Decreto Número 117-97, Ley de Supresión de Exenciones, Exoneraciones y Deduciones en Materia Tributaria y Fiscal.*

SAT, the Office of the Superintendent of Taxation Administration. 'Guide to the Procedures for those Sending Emergency Assistance,' Government of Guatemala, August 2006: '*Guía para el Procedimiento de los Envíos de Socorro, la Superintendencia de Administración Tributaria, agosto 2006.*

SAT, the Office of the Superintendent of Taxation Administration, internal standard forms for tax exemptions for each type of non-profit organization, provided January 2007.

Value Added Tax Law 1992 ('the IVA Law'): *Decreto 27-92, Ley Del Impuesto al Valor Agregado.*

c. Organizational / legal status of national and international humanitarian entities

Law of NGOs for Development 2003: *Ley de Organizaciones No Gubernamentales para el Desarrollo, Decreto Numero 02-2003.*

Specific agreements (some examples only)

General Convention of Technical Cooperation between the Government of Guatemala and the Government of the United States, 1959: *Decreto Numero 78, Convenio General de Cooperación Técnica entre el Gobierno de Guatemala y el Gobierno de los Estados Unidos de América.*

Headquarters Agreement between Guatemala and CEPREDENAC: *Acuerdo de Sede Entre la República de Guatemala y el Centro de Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC).*

Headquarters Agreement between Guatemala and Catholic Relief Services, USA, 17 June 2004: *Acuerdo Ministerial Número 993-2004, Ministro de Gobernación, 17 junio 2004.*

Headquarters Agreement between Guatemala and the IFRC, Decree 48-2002: *Acuerdo de Sede Decreto Numero 48-2002.*

Headquarters Agreement between Guatemala and the UN Development Program (UNDP), 20 July 1998, ratified by Decree 17-2000: *Acuerdo de Sede entre el Gobierno de Guatemala y el PNUD, suscrito el 20 de julio de 1998, y ratificado por el Congreso, mediante el Decreto 17-2000.*

d. Foreign personnel – visas and work

Internal Organizational Regulations of the Ministry of External Relations, 2003: *Reglamento Orgánico Interno Del Ministerio De Relaciones Exteriores, Acuerdo Gubernativo Número 415-2003.*

Regulations for Work Permission for Foreigners, 2003: *Reglamento para Permiso de Trabajo a Personas Extranjeras, Acuerdo Gubernativo No. 528-2003.*

The Labor Code: *Código de Trabajo, Decreto 1441 (as amended to No. 18-2001).*

The Migration Law, 1999: *Ley de Migración, Decreto 95-98.*

The Migration Law Regulations, 1999: *Reglamento de la Ley de Migración, Acuerdo Gubernativo, 529-99.*

e. Relevant Constitutive and Structural Laws of Guatemalan Government

Civil Code - *Decreto Ley 106: Código Civil*

Councils for Urban and Rural Development Law 2002: *Decreto Número 11-2002, Ley de los Consejos de Desarrollo Urbano y Rural.*

Councils for Urban and Rural Development Regulations 2002: *Reglamento Ley de Consejos de Desarrollo Acuerdo Gobierno 461-2002.*

Decentralization Law 2002: *Decreto Número 14-2002, Ley General de Descentralización.*

Executive Branch Law 1997: *Decreto 114-97, Ley del Organismo Ejecutivo*

Legislative Branch Law 1994: *Decreto 63-94*

Municipal Code 2002: *Decreto 12-2002, Código Municipio*

Organic Law of the Institute of Municipal Development: *Decreto Ley 1132, Ley Orgánica de INFOM.*

Organic Law of the Public Ministry, Decree 40-94 and Decree 512: *Ley Orgánica del Ministerio Público, Decreto 40-94: and Decreto Ley 512.*

Political Constitution of the Republic of Guatemala 1986 ('the Constitution') as reformed by Legislative Accord 18-93: Decreto de la Asamblea Nacional Constituyente, Constitución Política de la Republica de Guatemala, reformado por Acuerdo Legislativo 18-93.

2. REGIONAL, AND INTERNATIONAL LEGAL INSTRUMENTS

Convention for the Creation of a Single Central American Visa for the Free Movement of Foreign Nationals between El Salvador, Guatemala, Honduras and Nicaragua, signed June 2005, (not yet in effect, awaiting ratification): Convenio de Creación de la Visa Unica Centroamericana para la Libre Movilidad de Extranjeros Entre las Repúblicas de El Salvador, Guatemala, Honduras y Nicaragua, 30 junio 2005.

Convention on the Privileges and Immunities of the United Nations
New York, 13 February 1946, in United Nations, Treaty Series, vol.1-15, and vol.90 327 (corrigendum to vol. 1), UN, 2000.

Regional Manual of Departments of External Relations in Case of Disaster: Manual Regional de Procedimientos de las Cancillerías en casos de Desastres, Sistema de la Integración Centroamericana (SICA), Comisión de Seguridad Centroamericana, Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC).

Regional Mechanism for Cooperation and Coordination in Disaster Response (CEPREDENAC): Mecanismo de Cooperación Coordinada para la Respuesta Ante Desastres: Centroamérica, Belice y República Dominicana, Sistema de la Integración Centroamericana (SICA), Comisión de Seguridad Centroamericana, Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC).

New Constitutive Convention for the Coordination Center for the Prevention of Natural Disasters in Central America CEPREDENAC, September 2003: Nuevo Convenio Constitutivo del Centro de Coordinación para la Prevención de los Desastres Naturales en América Central (CEPREDENAC), por los Ministros de Relaciones Exteriores de Costa Rica, El Salvador, Guatemala, Panamá y Honduras, en Belice, el 3 Septiembre 2003

Uniform Customs Code of Central America and Regulations of the Uniform Customs Code of Central America: Código Aduanero Uniforme Centroamericano (CAUCA) y Código Aduanero Uniforme Centroamericano (RECAUCA).

3. REPORTS, ARTICLES AND TEXTS

a. Stan and Disaster Response

CONRED, Secretariat. A Year Since Stan We Are Transforming Guatemala CONRED, Government of Guatemala, October 2006: A un año de Stan Estamos Transformando Guatemala.

- ECLAC. The Disaster of October 2005 in Guatemala: Preliminary Estimate of the Socio-Economic and Environmental Impact, ECLAC, 8 November 2005, at <http://www.eclac.cl/mexico/noticias/noticias/9/22889/Presentación%20Daños%20Stan%20Guatemala.pdf> (visited February 2007): *El Desastre de Octubre de 2005 en Guatemala: Estimación Preliminar de su Impacto Socio--Económico y Ambiental*.
- LSS/SUMA. CONRED: Items Donated for Distribution, United Nations, 19 October 2005: *Coordinadora Nacional para Reducción de Desastres – Items entregados por destino*.
- SEGEPLAN, Government of Guatemala. ‘Distribution of Resources Authorized for the “Program of Reconstruction Generated by Tropical Storm Stan” (excluding UNDP projects), undated: *Secretaría Planificación y Programación, SEGEPLAN, Distribución de los Recursos Autorizados al ‘Programa de Reconstrucción por la Tormenta Tropical Stan*.
- SEGEPLAN, Government of Guatemala. Advance Report: Government actions against the effects of Tropical Storm Stan, preliminary version, 14 October 2005: *Informe de Avance: Acciones de gobierno ante los efectos de la tormenta tropical Stan, Versión preliminar con datos integrados al 14/10/05*.
- SEGEPLAN, Government of Guatemala. Policy on International Cooperation, February 2005 (revised August 2005): Secretaría Planificación y Programación, SEGEPLAN, *Política de Cooperación Internacional*, Guatemala, Febrero 2005 (última revisión Agosto 2005).
- SEGEPLAN, Government of Guatemala. Proposal for Micro-Regionalization, Municipalities Affected by Tropical Storm Stan, Guatemala, 11 October 2005: *Propuesta de Microregionalization, Municipios Afectados por la Tormenta Stan, 11 octubre de 2005*.
- SEGEPLAN, Government of Guatemala. ‘Support from International Cooperation During the Emergency Caused by Tropical Storm Stan’, October 2006: *Apoyo del la Cooperación Internacional durante la emergencia provocada por la Tormenta Stan, octubre, 2006*.
- SPHERE PROJECT. Humanitarian Charter and Minimum Standards in Disaster Response, The Sphere Project, Geneva, 2004.
- UNDAC, Misión Guatemala. Inundación y Deslizamientos Ocasionados Por la Tormenta “Stan”, Informe de Misión, Octubre 2005.
- UN, Guatemala. Guatemala: Floods and Mudslides: Flash Appeal, Consolidated Appeals Process, October 2005.
- UN, Guatemala. ‘Flash Appeal: Guatemala 2005’, Table G: Total Funding per Donor (to projects listed in consolidated Flash Appeal and additional NGO or bilateral contributions), compiled by OCHA, ‘Financial Tracking Service (FTS), 6 October 2006.
- UNDP Guatemala. National Human Development Report, UN, Guatemala, 2006.
- UNICEF. UNICEF Crisis Appeal for Central America: Humanitarian Assistance to Children and Women in Central America affected by the passage of Hurricane Stan, October 2005: http://www.unicef.org/infobycountry/files/Crisis_Appeal_Central_America_20oct05.pdf

b. Guatemala political and legal structures

GUTIERREZ de Colmenares, Carmen María and Josefina Chacón de Machado. *Introducción al Derecho*, Universidad Rafael Landívar, Guatemala, 2004.

RODRIGUEZ, Ana Cristina. 'Guide to Legal Research in Guatemala', Globalex, Hauser Global Law School Program, New York University School of Law, July 2006, at: <http://www.nyulawglobal.org/globalex/Guatemala.htm> (visited November 2006).

VILLATOR, Luis. 'Organizaciones Civiles: Legalidad y Estructura Funcionalidad,' Secretaría CODEAV, Department of Alta Verapaz, Guatemala, March 2003. From website *Instituto de Fomenta Municipal (INFOM)* at <http://www.infom.org.gt/infom/downloads/08reginog.pdf> (visited January 2007).