



International Federation
of Red Cross and Red Crescent Societies

Use of Emergency Communications in International Disaster Operations

Legal and Policy
Considerations





Good communications are essential

“When we are unable to use our communications equipment, our operations are not only slower but the safety of our own staff and volunteers is placed at greater risk.”

IFRC Special Representative for the Tsunami Operation



International Federation
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Common legal challenges for communications equipment

Information drawn from research conducted by the
IFRC's International Disaster Response Laws, Rules
and Principles (IDRL) Programme



1. Importing new technology

Difficulties bringing in satellite telephones, Very Small Aperture Terminals (VSATs) and computers

Eg. Sri Lanka tsunami 2004

- Government allowed duty-free temporary admission for some telecommunications equipment, but applied special admission procedures and restrictions on VSATs.

Eg. Pakistan Earthquake 2005

- Significant customs delays for VSATs

Eg. Bolivia floods 2007, Thailand tsunami 2004:

- Difficulties importing computer equipment



2. Importing older technology

Difficulties bringing in VHF radios, which are still critical to many operations.

Eg. Sri Lanka tsunami 2004

- One UN agency was unable to import VHF radios, despite a prior agreement with the government

Eg. Mozambique Floods 2002

- IFRC radio equipment held for months in customs



3. Export from country of origin

Sometimes communications technology is subject to tight export controls

Eg. Wassenaar Arrangement on Export Controls on Convention Arms and Dual-Use Goods and Technologies (1996)

- Restricts the export of “dual-use” telecoms and IT equipment and software which could also be used for warfare or weapons systems.
- This has prevented NGOs and Red Cross from using some equipment in certain countries.

Exception: Bam Earthquake

- US Government lifted some restrictions to allow use of certain equipment in Iran.



4. Licensing and bandwidth restrictions

Applies in particular to the use of satellite technology and radio frequencies

Eg. IFRC survey on legal challenges in relief operations:

- 82% of humanitarian organisations reported bureaucratic delays in using equipment

Eg. Satellite use

- Often subject to special licenses for both end users and providers
- Imposition of very high fees for use



5. Requirement of local purchase

Some governments require international humanitarian organisations to purchase equipment locally

Problems:

- Equipment can be unsuitable for use (poor quality, inferior technology)
- Not all equipment is available locally

Problems:

- Humanitarian personnel and technicians have been trained on their own equipment – not used to using other technologies
- Delays operations



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What rules apply to communications equipment in disaster situations?





Early legal developments

- **1865 Convention Telegraphique International de Paris:** An emergency may justify interruption of transmissions
- **1906 International Radio Telegraph Convention:** Priority transmission and response to distress calls
- **1927 International Radio Telegraph Convention:** Priority distress calls for ships
- **1928 Règlement de service télégraphique international:** Priority distress calls for Airplanes
- **1932 General Radiocommunication Regulations:** Reservation of wavelengths for distress calls



Later legal developments

- 1965 20th International Conference of the Red Cross and Red Crescent, Resolution 15:
 - Encourages the development of an international radiocommunications network for National Red Cross / Red Crescent Societies
- 1977 'Measures to Expedite International Relief' (adopted by 23rd International Conference of Red Cross and Red Crescent, UN General Assembly and UN ECOSOC):
 - It is recommended that recipient Governments take advance measures to authorise recognised relief personnel to have access to all available telex, cable wire, telephone and radio facilities, as disaster relief circumstances require, for their internal and external communications
- 1979 World Administrative Radio Conference, Resolution 10:
 - Urges governments to take account of Red Cross/Red Crescent needs for radio communications and to assign them specific frequencies for disaster work



More recently

- **1994 World Radiocommunication Development Conference:**
 - **Resolution 7:** Calls on governments to remove national regulatory barriers to the use of telecommunications in disaster relief
- **2000 World Radiocommunications Conference:**
 - **Resolution 10:** Calls on states to assign working frequencies for two-way wireless communication to the components of the Red Cross/Red Crescent Movement
 - **Resolution 645:** Calls on states to move toward the creation of harmonized spectrums for disaster communications
- **2003 World Radiocommunications Conference:**
 - **Resolution 646:** Recommends the use of harmonized bands for public protection and disaster relief



Most recent

- **Tampere Convention** on the Provision of Telecommunications Resources for Disaster Mitigation and Relief Operations of 1998 (entered into force January 2005)
- **IDRL Guidelines** on the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance of 2007



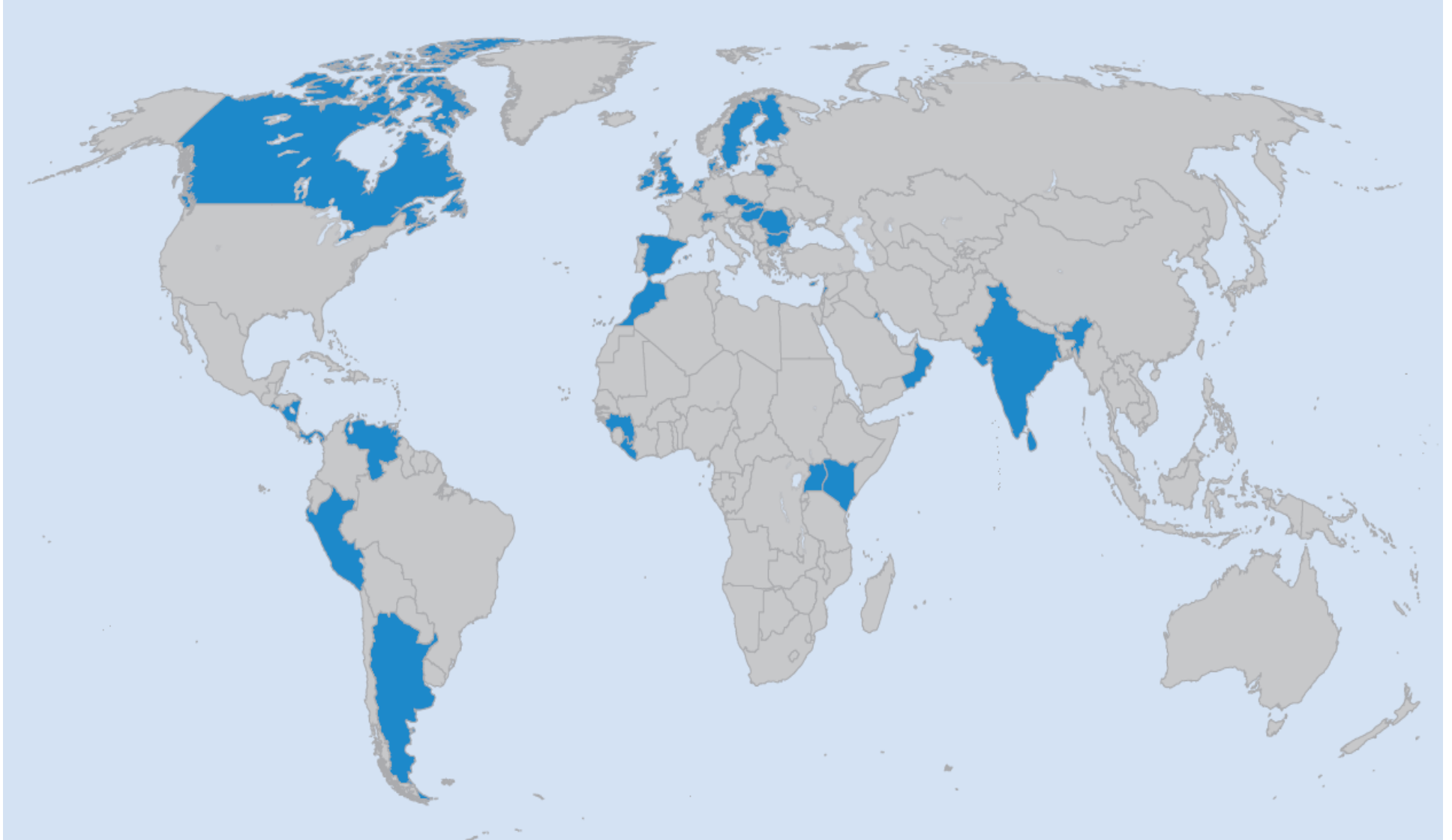
Tampere Convention

- First global treaty to provide a comprehensive regulatory framework for international cooperation in disasters, regarding telecommunications.
- Entered into force in January 2005
- 37 State Parties, as at Sept 2007



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State Parties to the Tampere Convention





Core provisions of the Tampere Convention

Reducing regulatory barriers (Article 9)

State Parties agree to “reduce or remove regulatory barriers to the use of telecommunication resources for disaster mitigation and relief” including, but not limited to:

- import or export restrictions,
- restrictions on the movement of essential personnel
- restrictions on use of particular types of equipment or radio-frequency spectrums
- licensing requirements and fees.

They further agree to reduce regulatory barriers for transit through their territory of personnel, equipment, materials and information for relief operations in other States.



Core provisions of the Tampere Convention cont.

Ensuring necessary privileges, immunities and facilities (Article 5)

State Parties agree, to the extent permitted by national law, to grant relief personnel and organizations providing telecommunications assistance with their express approval the necessary privileges, immunities and facilities for the performance of their functions.

These include:

- immunity from arrest, detention and legal process
- immunity from seizure, attachment or requisition in relation to their equipment, materials and property
- exemption from taxes, duties and other charges, excluding value-added tax (VAT);
- provision of local facilities; exemption or facilitation of license procedures;
- protection of personnel, equipment and materials.



Core provisions of the Tampere Convention cont.

Respect for state sovereignty

- Recipient States retain full control over the initiation and termination of telecommunications assistance, with the power to reject all or part of any offer of assistance (Articles 4(5) and 6(1)).
- Recipient States also retain the right to direct, control, coordinate and supervise telecommunication assistance provided under the Convention within their territory (Article 4 (8)).
- All organizations providing telecommunication assistance or otherwise facilitating the use of telecommunication resources have the duty to respect the laws and regulations of that State Party and not to interfere in the domestic affairs of the Requesting State (Article 5 (7)).



Core provisions of the Tampere Convention cont.

Improving coordination and information sharing:

Assignment of the operational coordinator: The United Nations Emergency Relief Coordinator (supported by the Office for the Coordination of Humanitarian Affairs (OCHA)) is appointed the “operational coordinator” for the Convention with a number of tasks aimed at improving coordination and information sharing with regard to telecommunications assistance. (Article 2)

Managing requests and offers: Requests for telecommunications assistance may be made directly or through the intermediary of the Operational Coordinator. They are to be as specific as possible. Other State Parties are to respond quickly as to the assistance it is able to provide and its terms. (Article 4)

Sharing information on hazards: State Parties agree to share information about hazards and disasters among themselves, non-State entities and intergovernmental organizations and the public, particularly at-risk communities. (Article 3)



Core provisions of the Tampere Convention ^{last.}

Establishment of a telecommunication assistance information inventory (Article 8)

States are to keep the operational coordinator informed as to which national authorities are responsible for matters arising under the Tampere Convention and competent to identify telecommunication resources which could be made available for disaster mitigation and relief.

The operational coordinator is asked to maintain lists of these authorities and disseminate them to States, non-State entities and intergovernmental organizations.



Benefits of the Tampere Convention

- **Creates a more orderly system** for requesting, accepting and terminating international assistance and encourages improved systems for cooperation among States.
- **Lowers administrative barriers** to international telecommunications relief
- **Clarifies important operational questions** on privileges and immunities, costs and liability.
- **For humanitarian actors:**
 - May benefit from the lowering of administrative barriers as well as States.
 - Extends privileges and immunities beyond States and international organizations to non-State actors providing telecommunications assistance.
 - Recognizes the unique identity of the Red Cross/Red Crescent within the humanitarian community (Article 1(11)).



What remains to be done for the Tampere Convention

- Encourage further ratifications.
- A number of international forums have encouraged this already:
 - UN General Assembly
 - World Telecommunications Development Conference
 - World Radiocommunications Conference
 - International Conference of the Red Cross and Red Crescent

More work is needed.



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Introduction to the

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

(The "IDRL Guidelines")



Version of 22.02.08



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

- Recommendations to governments on how to prepare domestic legal and institutional frameworks to handle international relief
- Compile existing international norms and best practice





Consultative development process



European Forum
Antalya, May 2006



Asia-Pacific Forum
Kuala Lumpur, Dec. 2006



Americas Forum
Panama City, April 2007



Pan-African Forum
Nairobi, May 2007



Middle East Forum
Abu Dhabi, June, 2007

+ other meetings



30th International
Conference
Geneva, November 2007

**Resolution 4 –
unanimously adopted**



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Common Problem Areas

Entry and Operations



Quality and Coordination





The Guidelines and humanitarian actors: the recommended link



Humanitarian actor
requests legal
facilities



Gov't decides
Facilities
conditioned on
adherence to
minimum quality
standards



Ongoing obligation of
recipient to abide by
standards
Gov't monitors
progress



What do they provide?

- **Scope and Definitions**
 - Wide definition of “disaster”, but exclude armed conflict
- **Part 1: Core Responsibilities**
 - Primary role of affected state
 - Assisting actors to adhere to international quality standards
- **Part 2: Early Warning and Preparedness**
 - Comprehensive laws and policies
 - Information sharing





What do they provide?



- **Part 3: Initiation and Termination**
 - Consent of affected state
 - Special rules for military relief
- **Part 4: Eligibility for Legal Facilities**
 - State decides
 - Assisting states and assisting humanitarian organizations
- **Part 5: Legal Facilities for Entry and Operations**
 - Visas, customs, tax, legal personality . . .
 - Distinctions between relief and initial recovery



Specific provisions on communications

- Affected states should
 - Waive or expedite the granting of applicable licences
 - Reduce any other barriers to the use, import or export
 - Grant (or encourage others to grant) priority access to bandwidth, frequencies and satellite use



IDRL Guidelines, art 18(2)



Commitments from the resolution adopting the IDRL Guidelines



- States are encouraged to use the Guidelines for **national law** and for **bilateral** and **regional** agreements
- States, Federation and National Societies to work with UN and other partners to:
 - **Disseminate** and provide technical support to domestic authorities
 - Bring the Guidelines to the attention of **international and regional inter-governmental bodies**
 - **Mainstream** the Guidelines into relevant initiatives



For more information

- IDRL website:
 - www.ifrc.org/idrl
 - Background on the Guidelines, studies, fact sheets, legal database . . .
- Monthly Newsletter
- Weekly News Service

