



Federating the national Civil Protection, Civil Defence, Civil Safety and Emergency Management structures, the mission of the International Civil Defence Organization (ICDO) is, on the one hand, to enable them to attain common objectives and, on the other, to promote and encourage solidarity, as a bond which unites them.

Conscious of this dual responsibility, the ICDO has drafted a Framework Convention on Civil Defence Assistance which was adopted in the course of the 11th World Conference on Civil Defence (October 1998, Beijing, China).

**The International Conference to finalize the Framework-Convention regarding Civil Defence which was convened after consultations carried out with all States between 1999 and 2000, adopted the final version of this text on the 22<sup>nd</sup> of May 2000 in Geneva, Switzerland.**

Furthermore, the Conference accepted the proposal put forward by the International Civil Defence Organisation to be the Depository for this Framework-Convention.

These notes seek to describe and explain the main considerations which were behind the ICDO's drafting of this Framework Convention, in terms of the issues, the terminology and the form.

### ***General remarks***

The title of the proposed instrument «Framework Convention on Civil Defence Assistance» was chosen on the basis of practical considerations and past experience.

The issue of disaster assistance has always been a «thorny» matter whenever the idea of regulating international action in this field has been mooted<sup>1</sup>.

Conventions certainly exist concerning specific questions such as simplified customs' procedures<sup>2</sup>, but there is, however, no comprehensive legal instrument covering assistance activities.

---

<sup>1</sup> See in particular the Proposed draft convention on expediting the delivery of emergency relief, prepared in 1984 by the United Nations Disaster Relief Co-ordinator Office (UNDRO) (United Nations General Assembly document A/39/267 Add.2 of 18 June 1984).

<sup>2</sup> See the Special provisions concerning relief consignments of the «International Convention on the simplification and harmonization of Customs procedures», concluded at Kyoto on 18 May 1973.



Although it is, in the first instance, up to States to provide assistance to disaster victims on their own territory<sup>3</sup>, there are no legal obligations for these same States to assist victims of another State.

Moreover, it should be noted that risks and consequences of disasters can extend beyond a State and threaten whole regions.

This reluctance of States to be bound by a general obligation to provide assistance is based upon the principle of national sovereignty and that of non-interference as recognised by international law.

Consequently, given the need to reduce or even eliminate obstacles to effective international collaboration between States, the ICDO wished to offer them a universal framework better able to foster both mutual understanding between them and the solidarity which should bind Civil Defence Services.

To this end the Convention sets out the various general principles according to which all assistance operations should be conducted.

## PREAMBLE

The Preamble refers to the various studies on the increased number of natural and technological disasters recorded over the world<sup>4</sup> and stresses the active role played by the State in the face of disasters<sup>5</sup>.

Numerous and contradictory doctrinal debates have taken place over the choice of title for the «appropriate national planning and action system»<sup>6</sup>, the establishment of which is the responsibility of the State. The main names for these national systems are: Civil Defence, civil protection, civil safety, emergency management. However, although it may be appropriate to discuss the relevance of the terminology, only the final objective, that is, the missions given to these bodies, should be taken into account.

The Preamble thus reaffirms the role and tasks to be undertaken by the different national systems. Their mission is threefold:

---

<sup>3</sup> Resolution No. 2034(XX) of the United Nations General Assembly of 7 December 1965: Every State must «*establish an appropriate instrument for planning and implementation which is best adapted to its specific situation with a view to defining the scope and nature of the assistance needed and centralising the management of rescue operations*».

Resolution 43/131 of the United Nations General Assembly of 8 December 1988 : «*It is up to each State first and foremost to take care of the victims of natural disasters and similar emergency situations occurring on its territory*».

<sup>4</sup> See, for instance, the study conducted by the Swiss Reinsurance Company (Compagnie Suisse de Réassurance): between 1970 and 1998 «*the number and scale of natural and technological disasters has continuously increased* ».

<sup>5</sup> See footnote 3, above.

<sup>6</sup> Resolution no. 2034(XX) of 7 December 1965, *op cit*.



- To protect and assist the population<sup>7</sup>;
- To safeguard property;
- To safeguard the environment.

Certainly, the role of protecting and assisting people should be a priority for State Civil Defence Services. However, the object of this Framework Convention is to encourage assistance in all aspects of Civil Defence. Consequently, international co-operation in this field should apply to all three missions entrusted to these services.

## ARTICLE 1

Given the differences in the definitions of the many terms used (see items (a) to (g)), this article defines the terms employed throughout the Convention.

It makes clear once again, the public service nature of Civil Defence and defines particularly the field of application of this Convention.

Indeed, only «Assistance» between «Civil Defence Services» of the states is taken into account. Although the Convention does not make any particular provision to international governmental organizations or non-governmental organizations or the private sector, the participation of these last is nonetheless not excluded. Clearly, the significant role played by these last in this respect is not at issue here. The reason for the Convention is quite different. The ICDO acts as the umbrella organization of national Civil Defence structures in order to strengthen co-operation between them. Logically, therefore, the Convention focuses on co-operation between «Civil Defence Services».

Further, as mentioned above «Assistance» in Civil Defence matters cannot be limited to only one of the components (to protect and assist populations).

Moreover, «Assistance» can only result from the agreement of the «Beneficiary State» to welcome on its territory «Civil Defence Units» of the «Supporting State». These must then be identified and identifiable by the national emblem of the Civil Defence Service of the «Assisting State» or the international Civil Defence emblem (blue equilateral triangle on an orange background), the adoption of which is strongly encouraged by the ICDO<sup>8</sup>.

---

<sup>7</sup> Protection covers all disaster prevention activities; assistance covers all measures taken to reduce the consequences of disasters (rescue and rehabilitation operations).

<sup>8</sup> In accordance with resolution II, Point A, paragraph j, relating to protection of people in times of armed conflict, the 26<sup>th</sup> International Conference of the Red Cross and the Red Crescent (3-7 December 1995, Geneva, Switzerland) recommended that the International Committee of the Red Cross (ICRC), in collaboration with the ICDO, work towards the promotion and dissemination of international humanitarian law relating to Civil Defence.



## ARTICLE 2

Whether in the field of prevention, forecasting, preparation, intervention or post-crisis management, communities do not always have the resources necessary for efficient intervention.

In this case only efficient international co-operation can bridge the gap. However, such international co-operation efforts may be confronted by inflexible administrative procedures and regulations which, although understandable in normal times, are not at all adapted to the need for rapid reactions and speedy dispatch of rescue teams to the disaster site.

In the same way, these obstacles are a serious handicap to the national Civil Defence structures whose development and strengthening will inevitably occur through the exchange of information and experience between States.

Aware of this need, the ICDO has compiled the International Directory of National Structures of Civil Defence, Civil Protection, Civil Safety, and Emergency Management which lists, in particular, those national structures which are responsible for risk prevention and the protection of life, property and the environment. In fact, the multiplicity of «agencies» involved at the national and international levels can be either a boon or a source of relative confusion. In a context which is increasingly oriented towards an international approach to dealing with disasters, it is important to clarify the organization and the scope of those entities' responsibilities, in particular of those whose mission is to co-ordinate the management of emergency situations, whether in the framework of bilateral or multilateral operations, by making available to them information that is as clear and complete as possible on the national partners with whom they may be called upon to collaborate.

In order to meet this dual objective, the ICDO has chosen to promote a strategy of trust between States by proposing to them a legal tool, the Framework Convention, which, through a series of principles and simple rules that are universal and acceptable to all, allows some of the obstacles which stand in the way of collaboration to be removed.

## ARTICLE 3

The above-mentioned principles are contained under article 3 of the Convention. There are five major principles which govern all inter-State collaboration on assistance in Civil Defence.



Item (a) only ratifies an already widely applied practice. International aid operations are in fact either the result of a specific request by the State affected or threatened by a disaster or an offer of assistance from a third party State or States and accepted by the Beneficiary State.

However, this principle should also be interpreted as the logical consequence of the need for co-operation between States. Indeed, only regular exchanges between State Civil Defence Services will enable the request for and offer of aid to be aligned as far as possible to the potential and needs of each party.

In the same way, such prior co-operation would allow States to reduce their reaction time when requesting or offering assistance (item (e)). The ICDO has deliberately chosen not to lay down a precise time limit for examining these offers and requests and has confined itself to inviting States to reply «within the shortest possible time». It was proposed in this connection that the time limit be fixed at one week. However, although this time limit may appear to be acceptable in certain cases, such as risk prevention and associated matters, it is not suitable when rescue operations are undertaken<sup>9</sup>.

Item (b) makes a fundamental principle of the fact that offers of assistance must, *a priori*, be considered as humanitarian and solidarity gestures (point (d)) made by a Supporting State towards a Beneficiary State and that they should not be tainted by any political considerations.

It is sad indeed that some assistance operations fail because, for many reasons, the Beneficiary State interprets the offer of help as interference in its internal affairs.

On the other hand the Supporting State undertakes to respect the sovereignty, independence and territorial integrity of the Beneficiary State, to respect the legislation in place in the country and in no case to base offers of aid on discriminatory clauses and criteria (item (c)).

Finally, the ICDO did not deem it within its remit to determine whether the assistance costs involved should be for free or reimbursable. It thus appeared more advisable to consider that this question should be dealt with according to the modalities laid out under article 4) (b) of the Framework Convention.

## ARTICLE 4

Where Article 3 defines the general principles on the basis of which a strategy of trust should be founded, Article 4, for its part, lists the rules of behaviour which should govern all collaboration in the field of Civil Defence between Supporting and Beneficiary States.

---

<sup>9</sup> According to a report by the World Health Organization (WHO), following the earthquake in Izmit (Turkey) on 17 August 1999, «The request for health services arises in the first 24 hours following a disaster. Most of the wounded appear in medical establishments in the course of the first 3 to 5 days».



These rules should be laid out clearly here and prior to any disaster requiring international collaboration for the following reasons: such rules are difficult to draw up because by definition they relate to the sovereignty and territorial integrity of State, and therefore cannot be drawn up in haste when disaster strikes.

This Article is divided into two parts. The first deals with the general conditions applying to the Convention (item (a)), the second invites all States Parties to establish, if necessary, particular conditions regarding the implementation conditions of the Convention (item (b)).

### **General conditions**

In order to enable an offer of Assistance that is adapted to the situation in hand, and to ensure the smooth running of aid operations it is the Beneficiary State's duty to supply other States with as complete an overview of the situation as possible.

Of course, this refers to «necessary» information only, that is to say information which is directly relevant to the co-operation project.

Moreover, under the Convention the obligation only applies to «available» information. Indeed, it is difficult for the authorities to have a global and realistic picture of the situation in the hours immediately following a disaster, mainly because of damage to communication and transmission networks.

In most cases the Assistance will lead Civil Defence Units from the Supporting State into the territory of the Beneficiary State<sup>10</sup>. This raises a number of legal questions linked to the State's national legislation (administrative and customs' procedures, right of abode, etc.) that could slow, stop or abort all Assistance projects. This is why, in order to ensure the efficiency of the Assistance, the Convention invites the Beneficiary State to reduce and simplify to the barest minimum the formalities for entry into the country.

In the same way, once *in situ*, the Civil Defence Units of the Supporting State, must, in conformity with the national legislation of the Beneficiary State, be exempted from the rule of common law (privileges, immunities) so as to allow them to carry out their mission in the best possible conditions.

These and the operational framework in which they fall will be defined jointly between the parties (item (4)). In this regard States may be inspired by current most common practices. It may be acceptable that, in order to preserve unity of command, the Civil Defence Units of the Supporting State operate under the authority of the Beneficiary State.

---

<sup>10</sup> Subject to prior request from or acceptance by the Beneficiary State.



Once the mission to which they were assigned is over, or at the request of the Beneficiary State, or by decision of the Supporting State, the latter will organise the return of its Civil Defence Units.

Finally, States Parties should facilitate transit of the Civil Defence Units of the Supporting State to the Beneficiary State where the Civil Defence Units need to transit through their territory.

### ***Special Conditions***

The ICDO, well aware of the special conditions surrounding collaboration in this field, through this clause would like to encourage all States Parties to define precisely through agreements or understandings all the provisions of the Framework Convention that they judge to be necessary. This relates in particular to material and technical questions, inherent to assistance operations at an international level, such as the modalities for border crossings, co-ordination and operational management, of expenses relating to interventions, compensation (in case of damage to personnel and/or equipment), etc.

Such negotiations should be greatly facilitated by the various principles that govern Assistance (Article 3).

## **ARTICLE 5**

This Article makes a provision which is usually laid down in all international instruments.

## **ARTICLE 6**

A State may, when signing, ratifying, accepting or approving the present Convention, or acceding to it, express reservations on condition that these are not incompatible with the object and aim of the treaty<sup>11</sup>.

Such reservations do not have to be subsequently accepted by the other States Parties.

## **ARTICLE 7**

### **Signature**

Article 7 (a) envisages signature subject to ratification, acceptance or approval. Thus, signature does not definitely bind States under the Convention. Only ratification, acceptance, approval or accession does this. In other words, by signing, the States only commit themselves to study the possibility of introducing the Convention into their domestic legal framework.

---

<sup>11</sup> Article 19, Vienna Convention on The Law of Treaties, 23 May 1969.



Because of its universal nature the Convention is open to signature by all States without distinction.

### **Ratification, acceptance or approval**

Ratification, acceptance or approval are the natural and indispensable judicial acts which follow all signatures. Only these different modes of expressing consent to be bound, which depend on the legal procedures of each signatory State, can conclusively bind States Parties under the Framework Convention.

This double act (signature and then ratification, acceptance or approval) can be replaced by the single act of accession.

### **Accession**

Accession is a single act which expresses a State's firm agreement to be bound by the Framework Convention. Therefore, as with ratification, acceptance and approval, it pre-supposes an in-depth study of the different provisions.

In practice, treaties are only open to accession after the end of the period during which they are open to signature or after the entry into force of the treaty which depends on the number of, but particularly on the time taken by States to ratify, accept or approve it. In conformity with current tendencies in Treaty Law, and so as not to delay States willing to be bound under the treaty, the ICDO has chosen to give them the possibility of accessing to the Convention before it comes into force and as soon as it is open for signature.

### **Forms of ratification, acceptance, approval or accession**

The deposit of the instrument of ratification, acceptance, approval or accession with the Depository is done by the representatives of the State to the Depository or by correspondence.

## **ARTICLE 8**

### **Entry into force**

Article 8 (a) determines when the Framework Convention becomes part of the international judicial order. The entry into force also signifies that it commences to have legal effect with respect to the first two parts.

Item (b) specifies the date the Framework Convention, other than the first two parts, comes into force with regard to States which ratify, accept, approve or accede to it at a later date.



The sixty days between the deposit of the instrument of ratification, acceptance, approval or accession and the entry into force of the Framework Convention must be used by States Parties to take all legislative and regulatory measures needed to ensure respect of their commitment.

#### **ARTICLE 9**

The organization of an international conference every two years is intended to review progress made and the difficulties met in implementing the present convention and, more generally, to examine the evolution of international co-operation in the field of Civil Defence.

#### **ARTICLE 10**

The present Convention may be amended by agreement between States Parties. All proposals to amend the Convention will be notified to all contracting States and will be the subject of a debate during the next biennial Conference mentioned in Article 9 of the Convention.

#### **ARTICLE 11**

Any denunciation will be made, as in the case of ratification, acceptance, approval or accession, by notifying the Depository who will inform the States Parties and non-Parties and the Secretariat of the United Nations.

Denunciation only affects the State concerned, that is to say relations between that State and other States Parties. Relations between the other States Parties remain unchanged.

#### **ARTICLE 12**

The Depository must notify all States and the Secretariat of the United Nations of all deposits of an instrument of ratification, acceptance, approval or accession and of any reservations and declarations that may accompany them (Article 9 (1)).

Similarly and according to the same stipulations the Depository will give notice of all denunciations of the Framework Convention.

#### **REGISTRATION**

In conformity with Article 102 of the United Nations Charter, the Depository will transmit the present Framework Convention to the Secretary-General of the United Nations for registration and publication, and will advise him of all ratifications, acceptances, approvals, accessions and denunciations received.



## **ORIGINAL TEXTS**

The safekeeping of the original text of the Framework Convention is the responsibility of the Depository office, which will provide certified copies to States Parties to the Convention.

The present Convention is drawn up in six languages: Arabic, Chinese, English, French, Russian and Spanish, which are all equally valid, that is to say they faithfully represent the provisions adopted during the negotiations.