



Organization of American States

**Caribbean Emergency Legislation Project (CELP)
Regional Workshop
Bay Gardens Beach Resort
Dophins Conference Room
Rodney Bay, Saint Lucia
May 21, 2010
9:00 a.m. – 4:30 p.m.**

BACKGROUND NOTE and COUNTRY BRIEFS

I. Introduction

The Department of Sustainable Development (DSD) of the General Secretariat of the Organization of American States (GS-OAS), with the support of the World Bank, is the executing agency for the Caribbean Emergency Legislation Project (CELP). The objective of the project is to build legislative capacity to enhance legal and institutional frameworks for state of emergency and budget appropriation in eleven CARICOM countries and the Dominican Republic. Further, the project aims to make recommendations on how to improve legislative channels and administrative procedures during, and immediately after, the occurrence of a natural disaster.

Pursuant to these objectives, the project has assessed current legal-institutional frameworks in the Caribbean applicable under a state of emergency, reviewed global best practices, and is promoting dialogue with national and regional stakeholders, in order to ascertain areas for improvement and make recommendations that are best suited for the Caribbean region.

II. Brief findings from the project

The country assessments have revealed that most of the project countries have operational legal and institutional mechanisms that are triggered once a state of emergency declaration is made. Some of the mechanisms do not vary greatly according to country, as for example, most national constitutions provide the framework for governmental action during emergencies. Also, most countries have enacted Emergency Powers Acts, and Disaster Management or Preparedness legislation and regulations, along with other instruments relating to finance, planning, national security, waste management, and public health given the cross-cutting nature of disaster or emergency response and management. Further, most have established National Disaster Committees,

and disaster and emergency management organizations; and the police, fire, defence, health and essential services institutions are all involved in disaster management activities in all the participating countries.

However, the assessments have found that these similarities in disaster response mechanisms also unfortunately illuminate and confirm on a grand scale, the challenges to effective disaster response plaguing countries of the region. These challenges are focused in the following areas: (i) financial resources available for preventing and mitigating disasters. In some countries there are either no or limited funds directly allocated for disasters and disaster prevention; (ii) disaster management and response infrastructures. Some countries do not have enough personnel, and effective coordination among concerned response agencies has proven challenging; (iii) consistency and clarity in the legal framework in terms of the vesting of responsibility for declaring a state of emergency. In some jurisdictions there is a clear potential for conflict between constitutional and subsequently enacted legislative provisions. Also, some laws do not elaborate sufficiently on the roles the various relevant bodies are expected to play in disaster management nor do they clearly indicate the action to be taken by empowered authorities in the event of a disaster; (iv) the absence of national building codes; and (v) specific information at the local level on disasters.

Based on the assessments, particularly the challenges identified, a number of lessons have been learned, including: (i) constitutional and other legislative instruments must be revised to address conflicts and establish clear and transparent procedures/mechanisms that are to be triggered in the event of a natural disaster. Thus, for example, the authority to make the necessary declarations should be clearly spelt out in legislation and the declaration and accompanying instruments should be specific regarding the powers to be exercised and the person or agency exercising those powers. This is essential as the identification of clear channels of responsibility ensures accountability and encourages transparency; (ii) governments need to establish a substantial and separate national fund specifically for disaster management and emergency response, or specifically identify in advance, a source of readily available funds. Moreover, the allocation of funds must be based on a realistic risk assessment of future disaster costs. Such funding mechanisms should be properly entrenched in national law with the adoption of appropriate regulations; and (iii) disaster funds should be supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste.

III. Country Briefs

Antigua and Barbuda

The Constitution provides the framework for governmental action during emergencies. According to Section 20 of the Constitution the Governor-General may declare, by Proclamation, a state of public emergency. A declaration of public emergency is required to be published in the Official Gazette. Section 20 also establishes the circumstances under which a declaration of public emergency may lapse, be extended, endure, cease to have effect or be revoked by the Governor-General or the House of Parliament. Once a

public emergency is declared it may invariably result in the infringement of the fundamental rights and freedoms of the citizens of Antigua and Barbuda. Further, the Emergency Powers Act (1992) gives life to the provisions of Section 20 of the Constitution. Section 3 of the Act empowers the Governor General to, by proclamation, to declare a state of emergency if it appears to him that conditions in the state are as such that is "... likely to endanger the maintenance of public order or the defence of Antigua and Barbuda or the maintenance of the public safety or the defence of the community or any substantial portion of the community or any supplies or services essential to the life of the community..." The exercise of the power by the Governor General must be on the advice of the Cabinet. Additionally, the Emergency Powers (Hurricane, Earthquake, Fire or Flood) Act (1992) supplements the aforementioned Emergency Powers Act and specifically allows the Cabinet to declare a State of Emergency where any hurricane, earthquake, fire or flood occurs. Another notable legal instrument is the Disaster Management Act (2002) which establishes the administrative frameworks to respond to disasters.

Regarding the institutional framework, the disaster preparedness structure comprises the National Office of Disaster Services (NODS) as the national agency, the National Emergency Operations Center (NEOC), and the Implementation of Standard Operations Procedures (SOPs). NODS is headed by a Director with a compliment of administrative staff according to the mandate of the Disaster Management Act. Section 5 of the Act gives the Director the authority, subject to the policy directives of the Prime Minister, the responsibility for coordinating the general policy of the unit relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda. The National Emergency Operations Committee is established under NODS and is equipped to execute the Disaster Management Plan. Members include the: protective services (police, coast guard, and fire services), essential services (health, public utilities, solid waste management, disaster preparedness), Red Cross, Office of National Drug Enforcement Policy, and Environment Division.

In terms of budget appropriation and execution, while the Finance Administration Act does not make any clear provision for emergency and disasters, Section 30 provides for emergency expenditure, special warrants and the Contingency Fund which may be deemed to apply to emergencies. NODS does not have at its disposal, funding for responding to disasters when they occur. As a matter of policy a line item is not created for emergency management in the annual budget nor is it provided for in the estimates. Disbursements are made out of the Contingency Fund pursuant to Section 30. When a disaster occurs and the National Emergency Operations Centre is activated, it is communicated to the Prime Minister who in turn contacts the Finance Minister and it is at that time that \$150,000.00 becomes immediately available to NODS. As the management of the disaster progresses a determination would be made as to whether more funds are needed. The amount disbursed must not however exceed 25% of the total national budget of that year. A special warrant showing the expenditure must be laid before the House as soon as reasonably possible after the date of the warrant.

While Antigua and Barbuda has an operational legal and institutional framework, there is a lack of cohesion among response agencies, and the committal of resources to be managed exclusively by NODS in the event of a disaster is another area for which provisions must be made in the Disaster Management Act of 2002, to include perhaps, penalties for non-compliance by response agencies. There is also a need for greater clarity in the frameworks in terms of the steps to be taken whenever a disaster occurs.

Barbados

Section 25 of the Constitution provides for the declaration of a state of emergency by the Governor General where a public emergency arises as a result of earthquake, hurricane, flood, fire, outbreak of pestilence, or outbreak of infectious disease. Such declaration may remain in force for a maximum of 6 months unless it is extended or revoked at any time by a majority of the members of the House of Assembly. The Constitution also provides for the protection from deprivation of private property. However, Section 16 of the Constitution allows for the confiscation of property in circumstances where the environment is threatened. Further, the Emergency Powers Act provides for the protection of the community in cases of emergency. The Act empowers the Governor General to declare a state of public emergency by proclamation. Once the declaration has been made the Governor General is mandated to communicate this fact to the Parliament and to summon both Houses. Once a declaration is in force the Cabinet of Barbados is authorised to make orders to provide for the supply of specified essentials such as food, water, light etc; for maintaining transportation; for taking possession or control of property other than land; and for paying compensation.

Additionally, the Disaster Management Act (2006) provides for the effective organization and management of disasters and other emergencies. Under the Act, the Governor General is empowered to declare a disaster or other emergency by proclamation after he has been advised by the Prime Minister after consultation with the Director of the Department of Emergency Management (DEMA). The Act establishes DEMA and secures the appointment of a Director to administer the Act. It also establishes an Emergency Management Advisory Council. DEMA is responsible, inter alia, for the development of the National Multi-hazard Disaster and Emergency Management Plan which must be prepared annually. The Act also sets out several procedures which must be contained in the Disaster Management Plan and they include: preparedness and response to disasters and emergencies; coordination and implementation of the Emergency Management Plan (EMP).

Regarding the institutional framework, DEMA was established to develop, promote and maintain a comprehensive National Disaster Plan to take account of both natural and man-made hazards. According to the Act under which the Department is established, its key functions are to: create mechanisms to promote and advance disaster management activities at all levels of society, and promote the development and maintenance of effective warning, response and recovery.

In terms of budget appropriation and execution, DEMA is supported by financing through budgetary allocations from the central government. These monies which are

disbursed from the Consolidated Fund are voted on by the Parliament of Barbados. The budgetary allocations for the last three financial years are as follows: 2007/2008 – US\$827,000; 2008/2009 – US\$930,000; 2009/2010 - \$US 918,000. In addition to allocations to DEMA, the sum of US \$5,000.00 per annum is to be divided among 30 District Emergency Management Centres, and US \$5,000.00 per annum for Roving Response. The sum of \$ 25,000.00 per annum is also allocated for contingencies.

While Barbados has an operational legal and institutional framework, there is a clear need to develop a few new pieces of legislation or amend some of the existing legislation to give effect to emerging issues like climate change policy and the proposed adaptation plan which have a direct link to hazard management in the island. For those that have been enacted however, there is a need to establish strong implementation strategies which should involve the provision of adequate resources (human, information, technological) to fully operationalize them. Further, there is a need to streamline agencies according to their competences and role at the point of the disaster and emergency event (i.e. whether it is prevention and mitigation, preparedness, or response and recovery).

Belize

In Belize the Constitutional framework is clear, as the Governor General, by Section 18 of the Constitution, has the authority to make a Proclamation declaring that a state of public emergency exists. A state of public emergency arises as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease, or other similar calamity. The Proclamation must contain a declaration that the Governor-General is satisfied that these conditions prevail. It may also be made to apply to a part of Belize only -"the emergency area". The Governor General may also make such regulations as are necessary or expedient for securing public safety, the defence of Belize, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community. Any such regulations may empower such authorities or persons as may be specified in the regulations to make

orders and rules for any of the purposes for which such regulations are authorised by this subsection to be made and may contain such incidental and supplementary provisions as are necessary or expedient for the purposes of the regulations. Further, the Disaster Preparedness and Response Act (2000) defines 'disaster emergency' as a public emergency declared under section 18(1)(b) of the Belize Constitution on account of the threat or occurrence of a disaster. Section 3 of the Act established the National Emergency Management Organisation as a Department of Government responsible the management of disasters in Belize. The section also appoints a National Emergency Coordinator to be responsible to the Minister for coordinating the general policy of the Government of Belize relating to the mitigation of, preparedness for, response to, and recovery from emergencies and disasters in Belize. Additionally, the Disaster Preparedness and Response (Threatened Disaster Alert Mobilisation) Regulations (2000) establish the procedure that the National Coordinator should adopt in the event of a threatened disaster alert under section 27 of the Disaster Preparedness and Response Act, 2000. According to regulations the National Coordinator shall for the duration of the

threatened disaster alert: provide the Prime Minister with current reports on the state of implementation of the National Disaster Preparedness Response Plan to meet the threatened disaster; and monitor the progress of the disaster threat so as to provide the Prime Minister with the earliest possible recommendation that the conditions have escalated to the point where a declaration of a disaster emergency was appropriate or that the alert should be ended as the case may be.

Regarding the institutional framework, the National Emergency Management Organization (NEMO) was established in response to the devastation left by Hurricane Mitch in 1998. Its key objective is to preserve life and property throughout the country of Belize in the event of an emergency, threatened or real, and to mitigate the impact on the country and its people. NEMO's membership comprises the Cabinet, with the Prime Minister as the Chairperson, the Cabinet Secretary, as Secretary, the NEMO Secretariat and the 10 Operational Committees (chaired by Permanent Secretaries). The ten Operational Committees are as follows: Education, Communication and Warning; Medical and Relief Measures; Housing and Shelter; Search, Rescue and Initial Clearance; Collection Control and Distribution of Food and Material; Assessment and Evaluation of Damage; Foreign Assistance; Transport; Environment and Utilities. The other permanent members are the: Belize Red Cross, Belize Teachers Union, the Chief Meteorological Officer, Commandant of the Belize Defense Force, and the Commissioner of Police. Integral to NEMO are its 9 District Emergency Committees (chaired by the senior Minister in each District) representing Belize, Corozal, Orange Walk, Cayo, Stann Creek, Toledo, Belmopan, San Pedro and Caye Caulker.

In terms of budget appropriation and execution, NEMO as the entity responsible for emergency management in Belize receives an annual sum of BZ. 250,000.00 allocated by the Ministry of Finance. The sum is to cover NEMO's general operating costs in a given year. A sum of no more than BZ. 300,000 is allocated for taking preventive measures regarding disasters. These measures refer to training, public awareness campaigns and equipment.

There is no allocation for disasters in the formal national budget. Should a disaster occur NEMO makes an assessment of damage and on this basis submits an application for an allocation to the Ministry of Finance. The allocation must be approved by the Prime Minister. The Ministry of Finance also makes grants or loans available to NEMO to cover expenses related to the occurrence of a disaster.

While Belize has an operational legal and institutional framework, there is an immediate need for the establishment of building codes and effective zoning regulations. Many inhabitants, generally the poor, tend to establish their homes in coastal areas where they make their livelihoods. Further, there is a need for reliable funding arrangements to include disaster prevention and mitigation.

Dominica

Section 14 of the Constitution of the Commonwealth of Dominica provides that the President may, by way of Proclamation, declare that a state of emergency exists if he is satisfied that, inter alia, that an earthquake, hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity has occurred. The Constitution defines a “period of public emergency” as, inter alia, a period during which there is in force a proclamation by the President declaring that a state of emergency exists. Additionally, the Emergency Powers Act provides for the security of the State in an emergency. Under this Act the President or a person duly authorised by him may put certain measures in place during a period of public emergency as are reasonably required for dealing with the situation. A number of subsidiary legislation has been made under the Act the most recent of which include the State of Emergency Proclamation, Emergency Powers Regulations, Emergency Powers (Curfew) Regulations, Emergency Powers Curfew Order. Further, the Emergency Powers (Disaster) Act provides for the welfare and safety of the community in cases of disaster and for matters related to disaster. A disaster for the purposes of the Act is defined at section 2 to include, ‘any grave abnormality such as hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave earth quake, volcanic eruption, landslide, drought, fire, explosion, epidemic, pollution, transportation accident, oil spill or any other catastrophe that warrants mobilisation and use of extraordinary human and economic resources to repair damages caused or to circumvent those that could arise during the situation or to generally confront and overcome such a severe and unusual situation’. The Act confers on the President the power to declare a state of emergency where Dominica or any part of Dominica is affected or is imminently likely to be affected by any disaster. He also has the power to make orders securing the essentials of life to the community and for the preservation of health, welfare and safety of the public. Parliament must be notified of the proclamation where proclamation of emergency has been made and while it is in force.

Regarding the institutional framework, the National Emergency Planning Organization (NEPO) is ‘the government organization that has responsibility for the planning and organization of counter-disaster measures at central level’. The Prime Minister is the chairman of the NEPO while the National Disaster Coordinator is the secretary to the NEPO. NEPO established a National Advisory Committee which develops and recommends policies, plans and guidelines for the prevention, mitigation, preparedness, response, and recovery measures for Dominica. According to the National Disaster Plan in the absence of the President, the line of succession for declaring a national disaster and authority is the Prime Minister, the Minister for Communications, Works and Housing, Cabinet Secretary and the Permanent Secretary of the Ministry of Communications, Works and Housing. The Office of Disaster Management (ODM) is another key institution although it does not have a separate status and personality in law. It was established in response to recent increases in the incidence of natural disasters particularly hurricanes. ODM is responsible for the management, coordination and response to disasters in response to which the Office is in the process of adopting a comprehensive Disaster Management framework that will include mitigation, response and recovery. ODM is required to monitor and supervise any activity which may have bearing on the level of preparedness, prevention and safety in the society. In

performance of its functions ODM coordinates with the various departments of government and other institutions.

In terms of budget appropriation and execution, the Parliament appropriates monies toward disaster management within the annual budgetary allocations to governmental entities. Funds are appropriated to the Ministry with responsibility for disaster under which ODM falls and then the necessary payments are made to ODM or purchases made to meet the needs of ODM. A contingency budget is also made available to ODM. Should a disaster actually occur, the Ministry of Finance issues funds to agencies based on the responsibilities they discharge. The amount of the actual disbursement takes into account the results of an assessment of the disaster. The Minister of Finance must authorize the disbursement.

While Dominica has an operational legal and institutional framework, the Emergency Powers (Disaster) Act does not adequately elaborate on the roles the various bodies are expected to play in disaster management nor do they clearly indicate the action to be taken by empowered authorities in the event of a disaster, a gap which carries with it serious consequences on the occasion of a disaster where time is of the essence. Further, to date the Disaster Preparedness and Emergency Management Act is made is still in draft. The process to finalize this draft Act should encompass provisions that fill the aforementioned gap.

Dominican Republic

Article 265 of the Constitution of the Republic Dominican Republic addresses the Declaration of State of Emergency. A state of emergency may be declared in the case of events disturbing or threatening to seriously and imminently disturb, the economic, social, or environmental order, or constitute a public calamity. Chapter IV of Law 147/02 regulates the applicable regime in disaster situations. The Declaration of a Disaster is made by the President of the Republic through a Presidential Decree based on the recommendation of the National Emergency Commission (Art.23 Law 147/02). The Declaration classifies the situation in terms of magnitude and effects as national, provincial or municipal, and indicates the rules for the particular classification. Additionally, Law 147/02 establishes the National System for Disaster Prevention, Mitigation and Response. The System provides a set of guidelines, policies, activities, resources, programs and institutions for the purpose of meeting the following four main objectives in terms of risk: risk reduction and disaster prevention; socialization of risk prevention and mitigation; effective response in case of emergency, and rapid and sustainable recovery of affected areas and populations.

Regarding the institutional framework, the National Council is the lead entity for guiding, managing, planning and coordination within the National System for Disaster Prevention, Mitigation and Response. The Council which meets at least twice a year is chaired by the President or a designated representative. The Council includes the: Secretary of State of the Armed Forces and National Police, Secretary of State for Environment and Natural Resources, Secretary of State for Public Works and Communications, Secretary of State

for Public Health and Social Assistance, Director of the National Meteorological Office, Director of the Dominican Red Cross; and three representatives from civil society who have been appointed by the President. Another key institution is the National Technical Committee on Risk Prevention and Mitigation which was established by the National Emergency Commission to implement the policies and decisions of the National Council. The Committee is sub-agency of the Commission which: works as an advisory and coordinating entity, and proposes and submits the periodically updated National Risk Management Plan and National Emergency Plan to the National Commission for their knowledge, and approval by the National Council.

In terms of budget and appropriation and execution, a National Fund for Disaster Prevention, Mitigation and Response was established to: receive and manage national budgetary allocations, and financial contributions of any title and source; take measures for risk reduction; and provide assistance and rehabilitation to the country in the event of a disaster. The Fund has administrative, technical and financial autonomy. The resources of the Fund are allocated in the National Budget and Public Expenditures. The State Law for Budget, No 423/06, establishes the amount to cover unexpected costs generated by public calamities or catastrophes, which must be approximately of 1 % of the budget and its use, is decided by the President in conformity with the measures adopted by National Emergency Commission. The National Emergency Commission receives budget allocations through the national Annual Budget of the country, to cover its operational activities in addition to those related to disaster prevention, mitigation and response. Finally, the law provides that the Fund must be vested with enough resources, not only to complement the institutional efforts of the national and local entities for disaster prevention, mitigation and response, but also to be an available economic reserve that the central government can tap into once the disaster occurs.

While the Dominican Republic has an operational legal and institutional framework, the Technical Committee should be strengthened by establishing a permanent unit on risk management for its coordination and to enable the effective implementation of the National Plan on Risk Management. Further, an implementing mechanism for the aforementioned Fund is needed to facilitate the financial support of risk reduction activities at all levels. Additionally, more provincial and municipal committees on disaster prevention, mitigation and response need to be established and each committee should have its own emergency and risk management plans. Finally, it is imperative to include risk management in the country's national development strategy.

Grenada

By virtue of section 17 (1) of the Constitution, the Governor General has Constitutional authority to declare a state of emergency by making a Proclamation to that effect. This power was exercised as recently as 2004, with the passing of Hurricane Ivan in Grenada (Statutory Rules and Orders No.20 of 2004). A proclamation of emergency must be approved by a resolution by both the Houses of Parliament. Further, the Emergency Powers Act contains nine provisions which in essence support Section 17 of the Constitution. Additionally, the National Disaster (Emergency Powers) Act provides

specifically for the maintenance of supplies and services essential to the life of the community upon the occurrence of a national disaster. Accordingly the Prime Minister has the authority to declare that a national disaster has occurred in Grenada when he is satisfied that supplies and services essential to the life of the community are likely to be endangered. A declaration of this nature shall remain in force until revoked by the Prime Minister by notice published in the Gazette.

Regarding the institutional framework, the National Disaster Management Agency (NADMA) is the body responsible for the overall management of disasters and emergency situations in Grenada. NADMA's mission is to reduce the loss of life and property within Grenada, Carriacou and Petite Martinique by ensuring that adequate preparedness, response and mitigation measures are in place to deal with the impact of the hazards.

NADMA's operations reflect the mandate of the Caribbean Disaster Emergency Management Agency in adopting a holistic approach that includes preparedness and response. NADMA is composed in the following way:

- 1) Executive Council
- 2) The National Emergency Advisory Council (NEAC)
- 3) Management Committees
- 4) District Committees
- 5) Village or Community Committees

Further, all government agencies and ministries are responsible for designing their own continuity of operations and emergency response plans. These plans must be submitted to the National Disaster coordinator of NADMA not later than 30th April of each year for submission to the National Emergency Disaster Management Council within one week of its receipt. As a general rule, Government agencies and officers will continue to exercise their normal functions during a disaster, but in some cases, special additional responsibilities will be assigned. Several government bodies are vested with powers and responsibilities during disaster and emergency situations. They include the Office of the Prime Minister as Chair of the National Disaster Management Council with responsibility to:

- Co-ordinate all response, relief and rehabilitation activities from the Emergency Operation Centre during emergencies and disasters.
- Declare a National Disaster when necessary.
- Co-ordinate all the reconstruction activities.

The police, fire services, and coast guard secure essential services and vulnerable points, provide crowd and traffic control, evacuation and fire and rescue.

Regarding budget appropriation, currently the national annual estimates of revenue and expenditure allocate resources to NADMA for disaster and emergency situations. However, monies are allocated for recurrent expenditure only. The Ministry of Finance, Planning & Development provides budgetary support for emergency expenditure to

design, update, test and evaluate the continuity of operations and emergency response plans and procedures. The Ministry provides estimates for the amounts of financial and other relief and rehabilitation requirements; collects, collates and maintains damage statistics and assists with co-ordination of supplies and other assistance received by government and non-governmental organizations.

While Grenada has an operational legal and institutional framework, it has been observed that there is no legislative authority for NADMA in Grenada. However, there is a current draft copy of legislation for the establishment of NADMA. Further, the National Disaster Preparedness Plan may require further review, particularly in terms of telecommunications and electrical systems. The conduct of inventories and training on how to operate some communications equipment may prove useful for response in the immediate days after the impact of a disaster.

Jamaica

In Jamaica the Constitutional framework is clear, as the Governor General is vested with the responsibility under guidance of the Executive, with making emergency Proclamations. A state of public emergency as defined in the Constitution expressly includes the types of disasters the island is known to be vulnerable to. The enactment of specific legislation by way of the Emergency Powers Act is also a progressive feature of the country's statutory framework, along with its Disaster Preparedness and Emergency Management Act.

Regarding its institutional arrangements, the disaster management and emergency framework in Jamaica consists of a multi-tiered framework involving various institutional entities which have different areas of primary responsibility. All such institutions are recognized in the National Disaster Plan which gives detailed breakdowns of levels and sublevels and roles and responsibilities both before and after a disaster. Additionally, many agencies such as the National Works Agency have their own internally produced documents outlining their roles, responsibilities and general position in disaster and emergency response.

At the Ministerial level, virtually all Ministries of Government have some place in disaster and emergency response. The Office of the Prime Minister (OPM), though not a Ministry per se, has the responsibility for several relevant portfolios including the environment. The Office of Disaster Preparedness and Emergency Management (ODPEM), a statutory body created by the Disaster Preparedness and Emergency Management Act 1993 (DPEMA), is a department of the OPM. Its principal objective is to advance disaster preparedness and emergency management measures in Jamaica by facilitating and co-coordinating the development and implementation of integrated disaster management. Jamaica also established a National Disaster Committee which plays a coordinating role in disaster and emergency responses. The security forces and statutory bodies such as the National Water Commission, Water Resources Authority and the Jamaica Public Service, along with non-governmental bodies such as the Earthquake

Unit at the University of the West Indies, and faith based institutions, are also apart of the natural disaster response framework.

While Jamaica has an operational legal and institutional framework, it has been observed that the design of a National Disaster Management Policy or a comprehensive revision of the National Disaster Plan may prove useful. Regarding the Plan financing for key elements of the plan have proven challenging and the roles of government agencies may require further examination. Further, there is a need to outline clearly in legislative framework, the necessary steps to be taken before and after a disaster declaration. Regarding the budget appropriation, it is clear that more sustainable and substantive sources of funding must be ascertained to enhance the effectiveness of Jamaica's response to natural disasters.

Saint Kitts and Nevis

Section 19 of the Constitution provides that the Governor-General may by proclamation declare that a state of emergency exists either in Saint Christopher or Nevis. Such a proclamation shall not be effective unless it includes a declaration that the Governor-General is satisfied that a public emergency has arisen because of, inter alia, the occurrence of any accident or natural calamity. In the exercise of his powers to make or revoke the declaration, the Governor General shall act in accordance with the advice of the Prime Minister but no such advice shall be given without the concurrence of the Premier. The declaration may be made in respect of all or part of either island. Additionally, the Emergency Powers Act (1967) addresses emergency powers in times of war, public calamity or public disturbance. Further, the National Disaster Management Act (1998) establishes the legal framework for disaster management. It established the National Emergency Management Agency and provides for the effective management and control of disasters, and related or incidental matters.

Regarding the institutional framework, the National Emergency Management Agency (NEMA) is the agency responsible for coordination in times of national emergency. It is a department in the Ministry of National Security, and is generally responsible for management, mitigation, control and recovery in times of national emergency. NEMA coordinates the various activities of the institutions with the necessary resources to deal with the national emergency. NEMA's points of contact within the Ministries and other organizations are the Permanent Secretaries of the various Ministries and the Heads of Departments or Heads of the organizations (specified in the St Kitts and Nevis National Disaster Plan). NEMA is also responsible for preparedness, coordination of training and educational exercises during non-emergency times. Another key institution is the Nevis Disaster Management Department (NDMD) which collaborates with NEMA to ensure that the island is in a state of preparedness at all times. The Department was set up by the Nevis Island Administration; thus, it is not a Federal Department as it was specifically established to deal with disasters/national emergencies in the island of Nevis. NDMD established a committee within the Department to coordinate with NEMA regarding emergencies affecting Nevis. Its area of planning includes collaboration with NEMA,

coordination with District Emergency Organizations (DEOs), and advising NEMA on the requirement for anticipatory orders under the Emergency Powers Act.

In terms of budget appropriation and execution, the Ministry of Finance is responsible for budget appropriation and “budget execution oversight” in times of national emergency. There is within the budget a Contingency Reserve Fund which may be accessed in the case of a national emergency. The Minister of Finance may issue an appropriation warrant in the case of a national emergency to disburse money from the Fund. Any appropriation warrant that is issued in the case of a national emergency has immediate effect but must eventually be validated by Parliament through the passage of a Supplementary Appropriation Bill. In Nevis, the Nevis Island Administration is also responsible for the disbursement of funds in case of a national emergency affecting the island of Nevis.

While Saint Kitts and Nevis has an operational legal and institutional framework, the Emergency Powers Act may require a few amendments, regarding, for example, the media used to publish the emergency/disaster proclamation. Further, the National Disaster Management Act requires corresponding regulations to be prepared to regulate on the ground operations between the island of St Kitts and the island of Nevis, especially in terms of accessing Federal and international funds for emergencies affecting Nevis

Saint Lucia

Section 17 of the Constitution provides that the Governor General may, by proclamation published in the Official Gazette, declare that a state of emergency exists. Such proclamation shall not be effective unless it contains a declaration that the Governor-General is satisfied that, *inter alia*, ‘a public emergency has arise [n] as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not’. The Governor-General is also authorised to impose regulations and make orders to deal with situations existing or likely to exist during a period of public emergency. Parliament has a similar right to enact laws during this period. However, the Governor General’s power supersedes any power exercised by Parliament during the relevant period. Further, the Emergency Powers (Disasters) Act (1995) empowers the Minister with responsibility for disaster preparedness and prevention to make orders during a public emergency, after the Governor General has proclaimed a public emergency under Section 17 of the Constitution. The orders should relate to, *inter alia*, the requisitioning of transport, food, clothing and other necessities. However, the Senate and House of Assembly must approve these orders by resolution. Additionally, the Disaster Management Act (2006) establishes and specifies the functions and operation of the National Emergency Management Organization (NEMO). It provides for a Director to head the organization, and a National Emergency Advisory Committee which is chaired by the Prime Minister. The Committee is responsible for, *inter alia*, establishing additional district committees to assist in carrying out the objectives and functions of the organization as stipulated in the Act and in accordance with the national plan of the country. The Act requires the Director to submit an annual report to the Advisory Committee. The report is adopted

after consultation with the Prime Minister and becomes part of the national plan of the country.

Regarding the institutional framework, NEMO is responsible for notifying the public of hazard or emergency or evacuation situations. NEMO also implements the National Emergency Management Plan (2007). Generally, the Plan consists of a number of very comprehensive practices, policies and plans for preparedness and response to emergency and disaster situations. The Plan provides for consultation with various groups including district committees, government ministries, the Advisory Committee, the private sector and NEMO. This collaborative effort is important to secure full participation and encourage a wide range of ideas to secure workable guidelines for disaster and emergency preparedness and administrative execution.

In terms of budget appropriation and execution, Section 81 of the Constitution indicates that Parliament is responsible for establishing a Contingency Fund to meet any financial requirements identified by the Minister of Finance who is satisfied that an urgent and unforeseen expenditure has arisen, for which no other provision exist. This may include a situation of public emergency. In these circumstances a supplementary estimate and bill must be approved by the House of Assembly as soon as possible for the purpose of replacing the amount advanced. Additionally, Section 80 of the Constitution authorises Parliament to make expenditures in advance of the Appropriation Bill at the behest of the Minister of Finance for expenditures necessary for government services provided that the appropriation law has not come into effect by the beginning of the financial year. This provision may be applied in an emergency situation which has taken place after the budget has been passed by the government and which requires essential governmental services.

While Saint Lucia has an operational legal and institutional framework, there is a need to maintain the support of committee volunteers and liaison officers by providing them with adequate compensation and essential tools to ensure proper administration.

Saint Vincent and the Grenadines

Section 17 of the Constitution of Saint Vincent and the Grenadines provide that the Governor General may, by proclamation which shall be published in the Official Gazette, declare that a state of emergency exists. According to the section a proclamation shall not be effective unless it contains a declaration that the Governor-General is satisfied, *inter alia*, 'that a public emergency has arisen as a result of the occurrence of any volcanic eruption, earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not'. The section also sets out the procedure regarding lapse, revocation and extension. Section 18(2) defines a period of public emergency to mean any period during which, *inter alia*, 'a declaration of emergency is in force under Section 17 of (the) Constitution.' Further, Emergency Powers Act is supplementary to Section 17 of the Constitution in that it speaks to the power to declare an emergency. Section 3 of the Act empowers the Governor General to make regulations touching and concerning several aspects of governance such as

communications and transport, utilities and the imposition of curfews. It clearly illustrates the far reaching power wielded by the Governor General and by extension the Executive during a formally declared period of emergency. Additionally, the National Emergency Management Organization Act (2006) established the National Emergency Management Organization (NEMO). It clearly specifies NEMO's role in disaster and emergency management. Among other things, it provides that the Director of NEMO shall upon consultation with the National Emergency Council prepare an annual report on the exercise NEMO's functions. The report, which is submitted to the Minister responsible for disaster management and then to the House of Assembly for approval, is required to include a Disaster Management Policy Review related to disaster management in the State. The Act also includes a comprehensive definition of disaster¹ and construes an 'emergency' on a smaller scale to a disaster and so much of the resources are directed to mitigating the impact of disaster or the risk thereof. Nonetheless, Section 3(2) of the NEMO Act underscores the linkage between the Governor General's Constitutional power to declare a state of Emergency and that of the Minister's power to declare a disaster. It provides that, 'where a period of emergency exists, the National Emergency Management Organization and any other person or body exercising powers and functions under this Act may, if it is required by the Governor-General, exercise such powers and functions as the Governor-General may permit'.

Regarding the institutional framework, NEMO is the statutory body with chief responsibility to coordinate disaster management in Saint Vincent and the Grenadines. It also prepares the National Response Plan. The National Emergency Council, the National Emergency Executive Committee and District Disaster Management Committees are the key organs of NEMO. These supplementary organs are indeed the hub through which all activities in response to disaster and disaster alerts are channeled. NEMO's mandate is comprehensive and its activities are all encompassing, integrating the input of both government and non-governmental agencies and department. NEMO operates as a local initiative enabling a degree of self sufficiency to address local concerns involving local individuals, organs and ministries, with financial support from the Government through funds appropriated annually.

Emergency budget appropriation and execution are primarily governed by the Finance Administrative Act (2004). The Act instructs the preparation of annual estimates of revenue and expenditure, current and capital, and the passage of Appropriations Bill after the estimates prepared by the Minister and submitted to the House of Assembly for approval at the beginning of each financial year. The Act regulates budget appropriation and execution not solely in the scope of day-to-day administration but also in emergency and disaster situations. NEMO is allocated over EC \$70,000 from the Consolidated Fund for its administrative expenses. Section 41(2) of the NEMO Act authorizes the Minister responsible for Finance to, by a contingencies warrant, 'make advances out of the Contingencies Fund if he is satisfied that there has arisen an urgent and unforeseen need

¹ Part 1 of the Act defines "disaster" as "an actual or imminent situation, whether natural or otherwise, which requires a significant and coordinated response and is caused by an occurrence such as volcanic eruption, earthquake, hurricane, flood, tidal wave, landslide, fire or epidemic and which causes or threatens to cause widespread loss or damage to property, widespread loss of human life, injury or illness to human beings, or damage to or degradation of the environment, but excluding events occasioned by war or military confrontation".

for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the State for the purposes of disaster management’.

While Saint Vincent and the Grenadines has an operational legal and institutional framework, there is a need for greater information sharing on the risks and vulnerabilities associated with disasters generally. Programmes directed towards local communities to increase their awareness and understanding, build capacity and knowledge to mitigate and prepare for emergencies, and implement action plans to reduce hazards and risks must be undertaken as important capacity building initiatives. Moreover, the importance of effective management of information is yet to be recognised as an important tool in the disaster management sector. The ability of administrators to make sound disaster management decisions, i.e. analyze risks and decide upon appropriate counter-measures, can be greatly enhanced by the cross-sectoral integration of information.

Trinidad and Tobago

Chapter 1, Part III, Section 7 of the Constitution of the Republic of Trinidad and Tobago provides that where any period of public emergency exists, the President may ‘make Regulations for the purpose of dealing with that situation and issue orders and instructions for the purpose of the exercise of any powers conferred on him...’ Section 8 provides that may make a Proclamation declaring that a state of emergency exists. In order to be effective, the Proclamation must set out specific grounds for its issuance included among which is as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not. Section 9 provides that within 3 days of making the initial Proclamation, the President must deliver to the Speaker for presentation to the House of Representatives, a statement detailing the basis for the declaration. Section 12 requires publication of the Proclamation, Notice, Regulation or Order, unless it is impracticable or inexpedient to publish in the Gazette, in which case, the President may cause the same to be published by notices affixed to public buildings or distributed amongst the public or by oral public announcements. Further, the Disaster Measures Act (1978) provides for the taking of prompt and expeditious measures for the alleviation of the effects of a disaster and for matters connected therewith. The Act authorizes the President to declare by Proclamation that a “disaster area” exists, where an area is affected or is imminently likely to be affected by any fire, flood, landslide, hurricane, earthquake, disease or other calamity. The Proclamation must define the disaster area and specify the circumstances giving rise to the declaration. Other key legislative instruments include the Defense Act and Telecommunications Act.

Regarding the institutional framework, the Office of Disaster Preparedness and Management (ODPM) was established by Cabinet in January, 2005, to replace the National Emergency Management Agency (NEMA). The ODPM is under the authority of the Ministry of National Security, which hosts such law enforcement agencies as the Trinidad and Tobago: Police Service (TTPS), Fire Service (TTFS) and Defense Force (TTDF). ODPM is responsible for implementing the Disaster/Emergency Standard Operating Procedures and Contingency Plan. ODPM is committed to a comprehensive,

all-hazard approach to disaster management, which focuses on the 4 major phases of the disaster management cycle: preparedness, response, mitigation and recovery. ODPM's key role, therefore, is to function as a coordinating entity, responsible for mobilizing all the key players and leading the national effort to protecting public health and safety, restoring essential government services and providing emergency relief to those affected by severe disasters. Another key institution is the Tobago National Emergency Management Agency (TEMA) which is involved in command and control, coordinating resources, communicating, and planning. TEMA engages in risk assessment, which includes an Impact Assessment Special Needs Survey, which is constantly updated to provide information on the most vulnerable on the island. Other key institutions include the Water and Sewage Authority and the Ministry of Health, both of which have disaster preparedness units

In terms of budget appropriation and execution, ODPM is afforded specific line items in the Ministry of National Security's Estimates of Expenditure as an agency under its purview. However, this allocation funds the normal, day-to-day activities of the ODPM, with no special provision for an emergency release of funds to the ODPM in the event of a disaster. There has been some consideration given to establishing a disaster management fund in the event that additional emergency funds are required. While theoretically there is no procedure for an emergency release of funds, the tacit process is that the agency generally receives what is necessary to perform the functions devolved to it in times of emergency. Further, a National Disaster Relief Fund (NDRF) was established by Cabinet in 1997, and is accessible by the Government upon declaring a national disaster. The Fund was established to release funds to another government unit or to home-owners, for the construction of homes. The administration of the Fund is managed by an established Coordinating Committee, which establishes the procedure/guidelines to determine the qualification of applicants. Regarding TEMA, in order for it to access funds it must present a strategic plan in preparation for the upcoming fiscal year to the Tobago House of Assembly. Further, TEMA is afforded a line item in the Assembly's Annual Estimates for Expenditure, and generally receives the amount requested. In the event of an emergency or disaster, TEMA utilizes Vote 36, which is devoted to 'Extraordinary Expenditure.' Much like the NDRF, these funds cover 'all materials and emergency items that are needed to aid victims during recovery and equipment purchased for emergency relief'.

While Trinidad and Tobago has an operational legal and institutional framework, a major challenge is the lack of legislative authority of the ODPM with clear specifications of its identified role as the coordinating agency of disaster management efforts. While there are many pieces of legislation that are germane to the management of disasters, including those that govern the responding agencies such as the TTPS, TTFS and TTDF, there is no cohesive spearheading legislation that purports to coordinate and direct the activities of these individual agencies, as is necessary for the 'all-hazard approach' of ODPM. Further, while the Disaster Measures Act deals with the declaration by the President that a "disaster area" exists, no specific regulations or subsidiary legislation have been prepared under the Act. Additionally, many supporting agencies do not possess any plan

or manual for disaster preparedness, response, recovery or mitigation. There is a clear need for comprehensive disaster mitigation at the national level.

IV. Conclusion

The findings from the CELP have proven useful in illuminating whether the current legal and institutional frameworks in the project countries are effective once triggered. The findings are as a result of extensive consultations with national and regional stakeholders, and given their significant engagement throughout the course of the project, the OAS-DSD will continue to seek their input regarding the final project recommendations for consideration of Member States in the Caribbean.