

**Framework Convention
for the Protection of the Marine
Environment of the Caspian Sea**

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**CONFERENCE OF THE PARTIES
Sixth Meeting
... 2018, Baku, Azerbaijan**

**Protocol Concerning Regional Preparedness, Response and Cooperation in Combating Oil Pollution
Incidents (Aktau Protocol)**

(Note by the interim Secretariat)

Introduction:

The Aktau Protocol entered into force on 26 July 2016.

The Contracting Parties, at the fourth preparatory meeting for the 6th Meeting of the Conference of Parties to the Tehran Convention (PrepCom4 of COP6) in Geneva, November 2016 agreed that the implementation of the Aktau Protocol should be fully integrated in the Tehran Convention process and arrangements.

In Bandar Anzali, April 2017, Iran hosted a meeting of the Caspian countries to finalize the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency (Aktau Protocol Implementation Plan), which had been prepared with the assistance of the International Maritime Organization (IMO) and the Oil Spill Preparedness Regional Initiative (OSPRI). The meeting reviewed and agreed on the text of the Aktau Protocol Implementation Plan, with the understanding that:

- Further elaboration of the nature of the Regional Mechanism would be required
- Azerbaijan and Turkmenistan would provide filled and updated annexes

At PrepCom5 of COP6 in Geneva, November 2017, the Parties agreed that the Regional Mechanism under the Aktau Protocol should take the form of a "light Secretariat", meaning that its functions will be taken over by the Tehran Convention Secretariat paying due regard to the fact that many functions under Article 13 of the Aktau Protocol overlap with those under Art. 12 (2) of the Tehran Convention. The Parties furthermore requested the interim Secretariat to carry out a comparative analysis of the Aktau Protocol and the Agreement on Cooperation in Emergency Prevention and Response in the Caspian Sea (Astrakhan Agreement).

The text of the Aktau Protocol Implementation Plan is agreed upon with the exception of three comments of Azerbaijan and the (updated) Annexes of Azerbaijan and Turkmenistan. The latest version is attached in Annex 1.

From 18 to 20 June 2018 in Baku, Azerbaijan the Caspian countries held the first workshop on the implementation of the Aktau Protocol, supported by IMO and OSPRI. Participants carried out a table top exercise to test the effectiveness of the Aktau Protocol Implementation Plan, developed a regional training and exercise program to enhance regional cooperation in oil pollution preparedness and response, discussed a comparative analysis of the Aktau Protocol in relation to the Astrakhan Agreement, and considered the potential integration of international resources into oil pollution response in the Caspian Sea, such as by Oil Spill Response Ltd.

The meeting agreed on recommendations for the future implementation of the Aktau Protocol attached in Annex 2. Countries are to:

- consider the draft training and exercise program on oil pollution preparedness and response for the Caspian Sea region in Annex 3
- internally review the potential integration of and collaboration with the Astrakhan Agreement, based on the Analysis and Comparison of the Aktau Protocol and the Astrakhan Agreement in Annex 4
- consider the enhancement of the National Contingency Plans of the Caspian countries in relation to the Aktau Protocol Implementation Plan

In the implementation of the Aktau Protocol, due attention should be paid to the "proposals on the provision of ecological safety under the implementation of the energy resources capacity of the Caspian, including the environmental risks, as consistent with the Tehran Convention" agreed by the participants of the Tehran Convention Stakeholders meeting in Astrakhan, Russian Federation, 12-13 August 2015 (see TC/COP6/12).

This Meeting will also be informed about the follow-up projects considered for the implementation of the Aktau Protocol (see TC/PrepCom6/Info2).

Suggested action.

The Meeting is requested to:

- Agree on the Aktau Protocol Implementation Plan (Annex 1)
- Consider and endorse the recommendations of the Baku Workshop on the Aktau Protocol (Annex 2)
- Agree and endorse the Guidelines for Oil Spill Exercises under the Aktau Protocol Implementation Plan (Annex 3)
- Endorse the designation of the Competent National Authorities and the national operational contact points, as well as task the Secretariat to develop respective ToRs
- Agree to seek collaboration with the Astrakhan Agreement and decide on measures to that effect
- Agree on the Aktau Protocol related section in the Programme of Work (TC/COP6/8) and the related paragraphs in the Ministerial Statement and Decisions (TC/COP6/10)
- Consider and agree on the Budget of the Aktau Protocol Implementation Activities (Annex 5).

**Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of
Emergency**

April 2017

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1. INTRODUCTION

1.1. Background

The Caspian Sea is an enclosed body of water that is undergoing a rapid increase in oil and gas exploration and production activities.

Several thousand ships per annum cross the Caspian Sea, many of which are oil tankers and it is estimated that millions of tonnes of oil are transported annually. The shipping traffic is expected to increase substantially in the near future with the growth of the oil industry in the Caspian Sea region. The permanent presence of risk associated with this industry calls for co-ordination of all emergency response resources at both national and regional level.

The Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran Convention) and its Protocol concerning Regional Preparedness, Response and Co-operation in Combating Oil Pollution Incidents (Aktau Protocol) provides the legal framework for actions concerning regional co-operation in combating accidental marine pollution. These legal instruments oblige the Contracting Parties to initiate, both individually and jointly, the actions required in order to effectively prepare for and respond to marine oil pollution incidents.

According to the Aktau Protocol, the littoral States agree upon certain obligations which primarily concern: the development of their national contingency plans and pollution response capabilities; the distribution of information to the other Parties regarding the national organisation and competent national authorities; informing the other Parties of all oil pollution incidents, their subsequent development and the actions taken; and the provision of assistance to a Party which so requests. Furthermore, every coastal State shall endeavour to maintain and promote, either individually or through bilateral or multilateral co-operation, their contingency plans and means for combating pollution of the sea by oil. These means shall include, in particular, equipment, ships, aircraft and manpower prepared for operations in cases of emergency.

In order to comply with their obligations the States must be prepared for the intervention of their authorities and strike teams both at national and regional level. National arrangements for preparedness and response are essential for quick and efficient action. They include clear responsibilities of the various authorities for taking actions and co-ordinating the follow-up of such actions. Also essential is the existence of the pollution response equipment that allows the threatened Party to initiate response operations and to protect the most sensitive sites during the crucial first hours. Meanwhile, pooling of resources and expertise provides a cost-effective and efficient way of combating a major spill that can not immediately be dealt with by the existing resources of a single country. Organising such co-operation requires detailed planning and can only be achieved through operational arrangements adopted at the regional level. The arrangements in this Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency (the Plan) are intended to facilitate the development of joint response operations and to co-ordinate the use of the available resources in the region. They also outline in advance the financial conditions and administrative clauses of the actions, thus permitting rapid intervention in case of emergency by removing the need for lengthy negotiations during the course of the event.

The Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan agree to adopt, aimed at the implementation of the Aktau Protocol to the Tehran Convention, this Plan for responding promptly and effectively to major marine oil pollution incidents affecting or likely to affect the Caspian Sea, its coasts and the related interests of any of the five countries concerned.

1.2. Definitions, Acronyms and Abbreviations

For the purpose of this Plan:

Oil means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

Maritime casualty means a collision of ships, stranding or incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo.

Ship means a vessel of any type, operating in the marine environment, and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, and fixed or floating platforms (MARPOL Convention).

Oil pollution incident means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response.

Related interests means the interests of a Caspian Sea littoral State directly affected or threatened by an oil pollution incident including, among others:

- a) the health of the coastal population;
- b) the conservation of biological diversity and the sustainable use of marine and coastal biological resources;
- c) maritime activities in coastal waters, in ports or estuaries, including fishing activities;
- d) the cultural, aesthetic, scientific and educational value of the area;
- e) the historical and touristic appeal of the area in question, including water sports and recreation;
- f) industrial activities which rely on the intake of seawater, including desalination plants and power plants.

The Protocol means the Protocol concerning Regional Preparedness, Response and Co-operation in Combating Oil Pollution Incidents, hereinafter referred to as the Aktau Protocol.

The Plan means the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency.

Parties means the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan.

Territory means the geographic area covered by the procedures in the Parties' National Contingency Plans.

Lead State means the Party in whose territory a maritime casualty or an oil pollution incident has occurred and which has activated the Plan and/or asked for assistance within the framework of the Plan, or the Party to whom the lead role has been transferred. The Lead State exercises the Operational Command of the Joint Response Operations and designates the Supreme On-Scene Commander (SOSC).

Lead Authority means the Operational Authority of the Lead State.

Governmental Authority means the competent national authority having the governmental responsibility for dealing with marine oil pollution incidents as specified in Article 5 (1) (a) and 5 (1) (c) of the Aktau Protocol. This authority may be shared between different Ministries or departments.

Operational Authority means the national entity designated by the Government, having the operational responsibility for dealing with marine oil pollution incidents. This entity may fulfil the role of national operational contact point as specified in Article 5 (1) (b) of the Aktau Protocol.

Operational Command means overall co-ordination and control of joint response operations, including both national resources and strike teams, equipment and other resources (aircraft, vessels) rendered as assistance by other Parties. It is exerted by the Operational Authority of the Lead State, through the Supreme On-Scene Commander (SOSC).

Operational Control means direct control over personnel, means and units taking part in the joint response operations, including giving orders and supplying information necessary for the execution of response operations. It is exerted by the National On-Scene Commanders (NOSC) of the Parties taking part in the operations, or by officers designated by them.

Tactical Command means directing and supervising the execution of specific tasks by teams and/or units on the scene of operations. It is exerted by the leaders of such teams and/or commanders of units.

Supreme On-Scene Commander (SOSC) means a designated officer of the Lead State, having the overall operational command of all joint response operations undertaken within the framework of the Plan.

National On-Scene Commander (NOSC) means an officer, designated by the Operational Authority, having operational control of all national pollution response resources which might, if so requested, participate in joint response operations. (Note: NOSC is preferably, but not necessarily, the same officer who performs the duty of Supreme On-Scene Commander under the National Contingency Plan) Following the activation of the Plan, the NOSC of the Lead State assumes the role of SOSC, while NOSCs of the assisting countries, operating under the operational command of the SOSC, nevertheless retain the operational control over their respective strike teams and self-contained response units (vessels, aircraft).

Liaison Officer means an officer from an assisting Party participating in the joint response operations, who is integrated in the staff of the SOSC with a view to providing necessary information on national resources rendered as assistance to the Lead State and to facilitate communications with his/her respective NOSC.

Public Relations Officer means an officer in charge of informing the public and the media on the course of events and advising the SOSC on public reaction.

Emergency Response Centre means an office, manned 24 hours a day and equipped with appropriate communications equipment, which has been set up, for the purpose of the Plan, by each Party and which will serve as the operations room of the NOSC or SOSC respectively, whenever the Plan is activated.

Joint Emergency Response Centre (JERC) means the Emergency Response Centre of the Lead State during joint response operations.

Strike team means a group of personnel sent as assistance from one Party to another in order to take part as an independent unit in joint response operations. It may include personnel on board vessels, aircraft or other self-contained units or personnel assisting in shore clean-up operations. During joint response operations, strike teams work under the tactical command of their leaders, the operational control of their respective NOSCs, and under the overall operational command of the SOSC.

Operations at sea means any measures, including intervention on the source of pollution, aerial surveillance, containment of the pollutant, recovery of the pollutant, application of treatment agents from vessels and aircraft, or any other action taken in the open sea (off shore) in order to respond to an

oil pollution incident, restrict the spreading and facilitate the removal of the oil and mitigate the consequences of the incident.

Operations on shore (shore clean-up operations) means any action taken on shore, or in the sea immediately adjacent to the shore, in order to recover, remove or destroy the oil and reduce its impact or effects.

Pollution Report (POLREP) means the incident report by which one Party warns the other Parties of a spill and through which it notifies the other Parties of the activation of the Plan and requests assistance.

Situation Report (SITREP) means the report by which the Lead State keeps the other Parties informed about the situation.

[Regional Mechanism means the procedures decided by the Conference of the Parties to the Tehran Convention to assist the Parties in reacting promptly and effectively to oil pollution incidents, with functions as described in Article 13 of the Aktau Protocol.]

The following are the main **Abbreviations** used in this document:

| | |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------|
| ERC | Emergency Response Centre |
| IMO | International Maritime Organization |
| IOPC FUND | International Oil Pollution Compensation Fund |
| JERC | Joint Emergency Response Centre |
| NCP | National Contingency Plan |
| NOSC | National On-Scene Commander |
| OPRC | International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 and its Protocol on Hazardous and Noxious Substances |
| POLREP | Pollution Report |
| PRO | Public Relations Officer |
| SITREP | Situation Report |
| SOSC | Supreme On-Scene Commander |

1.3. Purpose and Objectives

The purpose of this Plan is to establish, in order to implement Articles 4 (4) and 8 (1) (d) of the Aktau Protocol to the Tehran Convention, a mechanism for mutual assistance, under which the competent state authorities will co-operate in order to co-ordinate and integrate their response to marine oil

pollution incidents affecting or likely to affect the territory and related interests of one or more of these authorities, or to incidents exceeding the available response capacity of each of these countries individually.

The general objective of the Plan is to organise a prompt and effective response to major oil spills affecting, or likely to affect, the territory of one or more of the countries concerned and to facilitate co-operation in the field of preparedness and response for pollution by oil.

For this purpose the following specific objectives are defined:

- a) to define the extent of co-operation for the implementation of the Plan between the responsible authorities at the operational level;
- b) to divide the responsibilities and to anticipate the transfer of responsibility from one Party to another;
- c) to establish the principles of command and liaison, and to define the corresponding structures;
- d) to provide arrangements concerning the operation of ships and aircraft of one of the Parties within the territory of the other Parties;
- e) to specify the type of assistance which might be provided and the conditions under which it will be provided;
- f) to determine in advance the financial conditions and administrative modalities related to co-operative actions in case of emergency.

In order to achieve these objectives, the following actions are intended to be taken through the implementation of the Plan:

- developing appropriate preparedness measures and effective systems for detecting and reporting oil pollution incidents affecting or likely to affect the responsibility zone of the Parties;
- promoting and implementing regional co-operation in marine pollution contingency planning, prevention, control and clean-up operations;
- establishing the necessary measures to restrict spreading and to minimize the hazard posed by oil spills;
- developing and implementing a programme of training courses and practical exercises for different levels of personnel involved in oil pollution prevention and combating;
- developing procedures to increase regional co-operation.

Nevertheless, the Parties agree that response operations in case of a marine oil pollution incident which occurs within the territory of one of the Parties will be conducted in accordance with the provisions of the National Contingency Plan of the Party concerned.

1.4. Scope and Geographical Coverage

This Plan applies to oil pollution incidents in the Caspian Sea. It will apply to oil spills which cause or could cause damage to the environment in countries neighbouring the source of the incident. It will also apply when only one country is affected but the magnitude of the spill is such that the incident requires assistance upon request from another country.

This Plan is intended to be a regional co-operation arrangement for the implementation of the Aktau Protocol between the following countries:

The Republic of Azerbaijan

The Islamic Republic of Iran

The Republic of Kazakhstan

The Russian Federation

Turkmenistan

This Plan organises the activities of responsible authorities in each country, prescribes a response structure and establishes a method of operation for personnel responding to an incident.

2. POLICY AND RESPONSIBILITIES

2.1. Basis for the Plan

The essence of the oil spill response planning framework of the Caspian Sea is that each Party shall have its own National Contingency Plan (NCP) and resources to respond to marine oil spills in its territory. The purpose of this Plan is to provide the framework and describe the procedures for giving effect to joint response operations. Such operations may occur when a Party whose coasts and related interests are threatened by a spill and its own resources are inadequate or inappropriate to deal with it effectively. In such cases, the Party at risk may call for assistance from the other Parties and will normally be responsible for organising the joint response operation.

2.2. Exchange of information

Article 5 of the Aktau Protocol obliges each Party to establish a national system for responding promptly to oil pollution incidents including the designation of competent authorities with specific functions, and to inform the other Parties of these arrangements. Thus, in order to implement this Plan, each Party shall inform the other Parties, either directly or through the Regional Mechanism, of:

- a) the competent Governmental Authority with overall responsibility for preparedness and response to oil pollution incidents including responsibility for the implementation of this Plan and, where appropriate, the names of the responsible officers within these authorities (Annex 1). Unless otherwise determined, the Governmental Authority will be the authority entitled to act on behalf of the State to request assistance or to decide to render assistance when requested;
- b) the National Operational Authorities, responsible at the operational level for the implementation of this Plan and in particular for exercising Operational Command in case of Joint Response Operations and, where appropriate, the names of the responsible officers within these Authorities (Annex 1);
- c) the national operational contact points responsible for receiving and transmitting reports on oil pollution incidents on a 24 hour basis (Annex 1);
- d) the designated national Emergency Response Centres (Annex 1);
- e) the designated National On-Scene Commanders (Annex 1);
- f) the designated competent customs authorities and immigration authorities (Annex 1);
- g) at least those parts of their respective National Contingency Plan which might be relevant in cases of conducting joint response operations and, in particular, a description of the administrative organization and the responsibilities of each of the constituent authorities in preparing for and combating oil pollution incidents (Annex 2);
- h) inventories of pollution response equipment and products, as well as other means (for example, vessels and aircraft) in each country, which may be available for use in joint response operations (Annex 3);
- i) directories of experts, trained personnel and strike teams designated by each Party to take part in joint response operations (Annex 3).

The information listed above is attached to this Plan in **Annexes 1, 2 and 3**.

Parties shall inform each other of any changes in the information listed above as soon as these occur, using routine communication channels and supplying relevant changes to the applicable annexes.

Each Operational Authority is responsible for the accuracy of information pertaining to its Party.

Each Operational Authority shall acknowledge receipt of any changes and/or modifications regarding the above information and is responsible for updating its respective copy/copies of the Plan accordingly.

Official versions of this Plan will be made available in the official working languages of the Convention. The English language shall be used in all communications related to the Plan (see section 3.7).

2.3. Meetings of Operational Authorities responsible for the implementation of the Plan

The Operational Authorities shall meet regularly, and as a minimum once a year, in order to discuss questions related to the implementation of the Plan, to share information on the response to actual incidents, and to organize training courses and/or exercises and other relevant matters.

Regular meetings shall be hosted in turn by each Party in alphabetical order of the names of the Parties in the English language.

The final report of each meeting shall be prepared [by the Party organizing the meeting in agreement with the other Parties] Regional Mechanism. The Operational Authority of the host Party shall provide the necessary logistic support for the smooth running of such meetings.

2.4. Joint training and exercises

The Parties shall conduct as agreed (at least once in three years) joint training courses and/or joint exercises. The main objectives of these training courses and exercises shall be:

- to improve the level of co-operation and co-ordination among operational personnel and, in particular, the strike teams of the different Parties;
- to test the command structure of the Plan;
- to achieve a satisfactory level of communication among personnel and, in particular, the strike teams designated to take part in joint response operations;
- to acquire knowledge in handling equipment, products and other means which might be used in joint response operations;
- to enable the personnel from different Parties to gain experience in working together.

The Parties shall host such joint training courses and exercises alternately. The Regional Mechanism shall organise the joint training course or exercise and provide necessary logistic support. The expenses of the participants and means deployed in joint exercises shall be borne by the respective Parties. Scheduling the joint training and exercise programmes, their duration and other relevant details shall be decided at the biennial Conference of the Parties of the Aktau Protocol.

The Regional Mechanism may also assist Parties to organise national training courses and exercises.

Training courses and exercises carried out in accordance with this Plan shall be based on the IMO OPRC Model Training Courses. **Annex 9** provides example guidelines for the development of oil spill exercises under the Black Sea Contingency Plan.

2.5. Revision and amendment of the Plan

a) Final provisions

- (i) If the need arises for changes in the provisions of the Plan, the Governmental Authority of the Party proposing such changes shall request the Regional Mechanism to place the matter on the agenda of the next annual meeting of the Operational Authorities.
- (ii) The draft proposal of a Party for any revision of or amendment to the Plan shall be circulated by the Tehran Convention Secretariat to the other Parties at least two months before the annual meeting of the Operational Authorities.
- (iii) All changes between the Parties shall be made by agreement of the competent national Governmental and Operational Authorities of the Parties and shall be confirmed by unanimous decision of all Parties at a meeting of the Contracting Parties.
- (iv) The changes to the Plan shall come into effect immediately following unanimous approval or at such other date as the Conference of the Parties to the Protocol decides.
- (v) If an unanimous decision concerning the revision and amendment of the Plan cannot be reached, the Parties agree to observe and retain its original provisions.

b) **Operational provisions**

The accuracy of the information concerning the operational provisions of the Plan pertaining to each Party is the sole responsibility of the respective Party.

Changing, modifying and updating of such information shall be done, as necessary, by the Operational Authority of the Party concerned, who shall ensure that other Parties and the Regional Mechanism are duly informed of such changes as soon as these are made.

c) **Annexes**

Information contained in the Annexes to the Plan shall be updated as necessary by the Operational Authorities of the Parties.

The Parties shall inform each other and the Regional Mechanism of any changes in the Annexes as soon as these are made.

It shall be the responsibility of the Operational Authorities to distribute copies of this Plan to appropriate officials and organizations within their country. It will be the responsibility of each plan holder to incorporate amendments to it in loose-leaf folders and to keep his copy of the Plan up to date.

3. RESPONSE ELEMENTS AND PLANNING

3.1. Mechanism for Activating the Plan

The Plan shall be activated by the Operational Authority of one of the Parties in the following cases:

- occurrence, within the territory of the Party who activates the Plan, of an oil pollution incident which threatens to affect or has already affected the territory of another Party;
- occurrence, within the territory of the Party who activates the Plan, of an incident which severity surpasses the response capabilities of the Party concerned alone.

When, in the opinion of the Operational Authority of one of the Parties, its interests are threatened by an oil pollution incident which has occurred within the territory of another Party, and when the other Party/ies have not taken appropriate action to respond to it, that Party may, after **consulting/agreeing** with the affected Party/ies and other Parties concerned, activate the Plan.

The Operational Authority of the Party who has activated the Plan shall immediately inform the Operational Authorities of the other Parties that the Plan has been activated. Notification, which shall be formulated in accordance with the provisions of section 5.2, shall be transmitted to the Operational Authorities of the other Parties through the designated national contact points listed in Annex 1.

3.2. Assumption of the Role of the Lead State

The lead role in the implementation of the Plan shall be assumed by the Operational Authority of the Party whose territory or related interests have been affected, or are likely to be affected, by an oil pollution incident and who has activated the Plan.

The Lead State shall be responsible for:

- initiating the response to the spill;
- activating the Plan;
- surveillance of the pollution;
- assessment of the situation;
- spill movement forecasting;
- reporting regularly on the situation to the other Parties, particularly those whose interests may be threatened by the oil pollution incident;
- exercising Operational Command over joint response operations.

The lead role shall be transferred from one Party to another, when the major part of the pollutant has moved from the territory of the Party initially affected and who has activated the Plan, to the territory of another Party, and/or when the main response activities have moved to such other Party.

When the oil pollution incident which has occurred in the territory of one of the Parties directly (imminently) threatens the interests of another Party, the Parties may also agree, in direct contacts between their Operational Authorities, that the threatened Party will assume the lead role.

3.3. National On-Scene Commander (NOSC) / Supreme On-Scene Commander (SOSC)

For the purpose of the Plan, the Operational Authority of each Party shall nominate an officer who will exercise operational control over all response activities of that Party, including control over personnel

(strike teams), equipment and self-contained units (vessels, aircraft). These officers shall be called National On-Scene Commanders (NOSC).

After the activation of the Plan and commencement of the joint response operations, the NOSC of the Lead State shall assume the role of the Supreme On-Scene Commander (SOSC). The SOSC shall have the overall responsibility for all decisions and actions taken in order to combat the pollution and to mitigate its consequences and as well as for the co-ordination of joint response operations. The SOSC, working in liaison with his/her Lead Authority, exerts Operational Command over joint response operations.

The NOSCs of the assisting Parties shall operate under the overall Operational Command of the SOSC, but shall nevertheless retain operational control over personnel, equipment and self-contained units of their respective Parties.

In order to relieve the SOSC of a part of his/her duties concerning operational control of national resources, the Lead Authority may, at the time of the activation of the Plan, designate another officer who will have direct operational control of the national resources taking part in the joint response operations and who will act as the NOSC of the Lead State.

In exercising his/her functions, the SOSC shall be assisted by a support team (see section 3.5).

Relevant information concerning NOSCs is given in **Annex 1**. It is the responsibility of the Operational Authority of each Party to keep this information up-to-date at all times.

3.4. Emergency Response Centres/Joint Emergency Response Centre

For the purpose of this Plan, each Party shall set up/designate an Emergency Response Centre (ERC) manned 24 hours a day, which will be equipped with an appropriate communications system and have the necessary facilities to be used as the operations room of the Operational Command during joint response operations.

If deemed necessary, each Party may decide to establish more than one ERC.

In cases of activation of the Plan, the ERC of the Lead State shall serve as the Joint Emergency Response Centre (JERC). The JERC shall serve as the base of the Supreme On-Scene Commander (SOSC) and the main communications centre for all communications related to the implementation of the Plan.

Alternative sites for the JERC, closer to the scene of the incident, may be specified if appropriate at the discretion of the Lead State.

When the lead role is transferred from one Party to another, the ERC of the Party assuming the lead role shall automatically become the JERC.

Relevant information concerning ERC(s) of each Party is given in **Annex 1**. It is the responsibility of the Operational Authority of each Party to keep this information up to date at all times.

3.5. Support Teams

With a view to assisting NOSC and/or SOSC, each Party shall set up its national support team composed of the representatives of various relevant public authorities, national services and industry including, in particular, the oil and shipping industries.

In cases of activation of the Plan, support teams shall operate from their respective national Emergency Response Centres.

The role of the support teams is advisory, and their functions include:

- a) providing assistance to the NOSC/SOSC in cases of activation of the Plan;
- b) providing advice to the NOSC/SOSC concerning, in particular, methods and techniques for combating pollution by oil, safety of navigation and salvage, knowledge of the marine environment (especially the potential biological impact) and fisheries, (radio) communications, public information and compensation for oil pollution damage;
- c) providing support in co-ordinating the activities of national public authorities, services and industry which might take part in joint response operations, concerning in particular the provision of personnel, equipment and other resources, logistic support, immigration and customs formalities;
- d) monitoring incoming reports and assessing the situation;
- e) co-ordinating all reporting on the status of the oil pollution incident to their respective national authorities.

After the termination of response operations, the support team shall, together with their respective NOSC:

- review post-incident reports from the NOSC/SOSC on the handling of the oil pollution incident for the purpose of analysing and introducing recommendations and improvements needed in the Plan and in their respective National Contingency Plans;
- forward to their respective national authorities relevant reports and recommendations, including NOSC/SOSC post-incident reports, support team debriefing reports and recommendations concerning amendments to the Plan or its Annexes.

3.6. Command Structure

The Command Structure for Joint Response Operations is shown in **Diagram 1**.

The Command Structure consists of 3 components:

- a) **Operational Command** which consists of taking decisions concerning the response strategy, defining the tasks of various groups of teams and units and having overall command and co-ordination over all resources taking part in the Joint Response Operations. Following the activation of the Plan, Operational Command over joint response operations is exercised by the Lead Authority through its NOSC who, once the Plan has been activated, assumes the role of SOSC.
- b) **Operational Control** which consists of giving orders to specific groups of teams and units, in accordance with the strategy and the tasks defined by the Operational Command. Operational Control over national resources is exercised by the NOSCs of the respective Parties. Operational Control over the resources of the Lead State is exercised by an officer designated to act as NOSC in lieu of the officer who has assumed the role of SOSC.
- c) **Tactical Command** which consists of directing and supervising the actions of each team or unit. Tactical Command is exercised by the Leader of each team or the Commander of each unit taking part in the response operations.

Liaison between the Lead Authority and the assisting Parties shall be maintained, according to the circumstances and to the type and importance of the assistance rendered, in one of the following ways:

- a) by direct telex, telefax, telephone and/or radio contacts between the Lead Authority (SOSC) and Operational Authorities (NOSCs) of the assisting Parties;
- b) by a Liaison Officer, sent to the Lead State by the Operational Authority of the Assisting Party with a view to being integrated in the staff of the SOSC. His/her duties shall be to provide necessary information on resources rendered as assistance and to facilitate communication with his/her respective NOSC, ERC and/or Strike Teams and self-contained units taking part in the operations;
- c) by the NOSC of the assisting Party who personally attends at the spill site and participates in the joint response operations.

3.7. Communications arrangements

The communications network established by the Parties in accordance with section 5.1 shall be used for all exchanges of information pertinent to the implementation of the Plan.

- a) **Telex, telefax or electronic communications** shall be used for all communications between the Operational Authorities, SOSC, NOSCs and their respective Support Teams, particularly in cases of emergency.
Telephone and radio communications could also be used; however, all decisions, information relevant to the situation at the site of operations and, in particular, **requests for assistance and replies to such requests shall be confirmed by either telex or telefax.**
- b) **Operational communications** between JERC, SOSC, NOSCs, team and unit leaders and other participants in response operations shall be made by using pre-selected VHF channels (see **Annex 4**), mobile telephones and other appropriate means.
Lines of communication to be used in cases of Joint Response Operations are shown in **Diagram 2**.
- c) The English language shall be used in all communications related to the implementation of the Plan.

3.8. Response Planning

The response to an oil pollution incident within the territory of each Party shall be conducted in accordance with the provisions of the NCP of the Lead State under the overall Operational Command of the Lead Authority exercised through the SOSC.

In order to facilitate the smooth proceeding of joint response operations, the Parties shall inform each other on the relevant parts of their NCPs and, in particular, those parts describing the national response organisation.

Copies of these parts of NCPs are attached to the Plan in **Annex 2**.

Maps showing possible sources of pollution, environmentally sensitive areas (see IMO Resolution A.927(22) "Guidelines for the Designation of Special Areas under MARPOL 73/78 and Guidelines for the Identification and Designation of Particularly Sensitive Sea Areas", adopted on 29 November 2001), priorities for protection and areas where the use of dispersants is allowed, restricted or forbidden, within the territory of each Party, are given in **Annex 5**.

Deciding upon the response strategy to be applied in each particular oil pollution incident and the planning of specific operations shall be the responsibility of the SOSC. In taking such decisions, the SOSC shall follow the outline given in section 3.9.

3.9. Response strategy

The main outline of the strategy which shall be applied by the Operational Authorities of the Parties in responding to marine oil pollution incidents within the framework of the Plan shall be as follows:

- assessment of the severity of the incident, taking into consideration, at least, the following criteria:
 - position at which the incident occurred;
 - type of oil;
 - amount of oil which has been released and/or is likely to be released;
 - the movement of the oil slick ;
 - the degree of risk to human life and/or potential health hazard;
 - the fire/explosion hazard;
 - the toxicity of the released oil;
 - the potential to damage fisheries and natural resources, especially internationally protected sites such as those under the Ramsar Convention and the Protocol on the Conservation of Biological Diversity;
 - the potential to damage valuable property and/or to have serious economic consequences;
- activation of the National Contingency Plan and notification of other Parties;
- evaluation of available and required response resources;
- selection of appropriate response methods;
- activation of the Plan and request for assistance;
- implementation of selected response methods, making use of national resources and resources from assisting Parties;
- re-assessment of the situation and making necessary modifications (if necessary) of response actions;
- termination of response operations;
- de-activation of the Plan;
- the return to the country of origin of personnel, equipment and other means rendered as assistance by the other Parties.

Diagram 1: COMMAND STRUCTURE

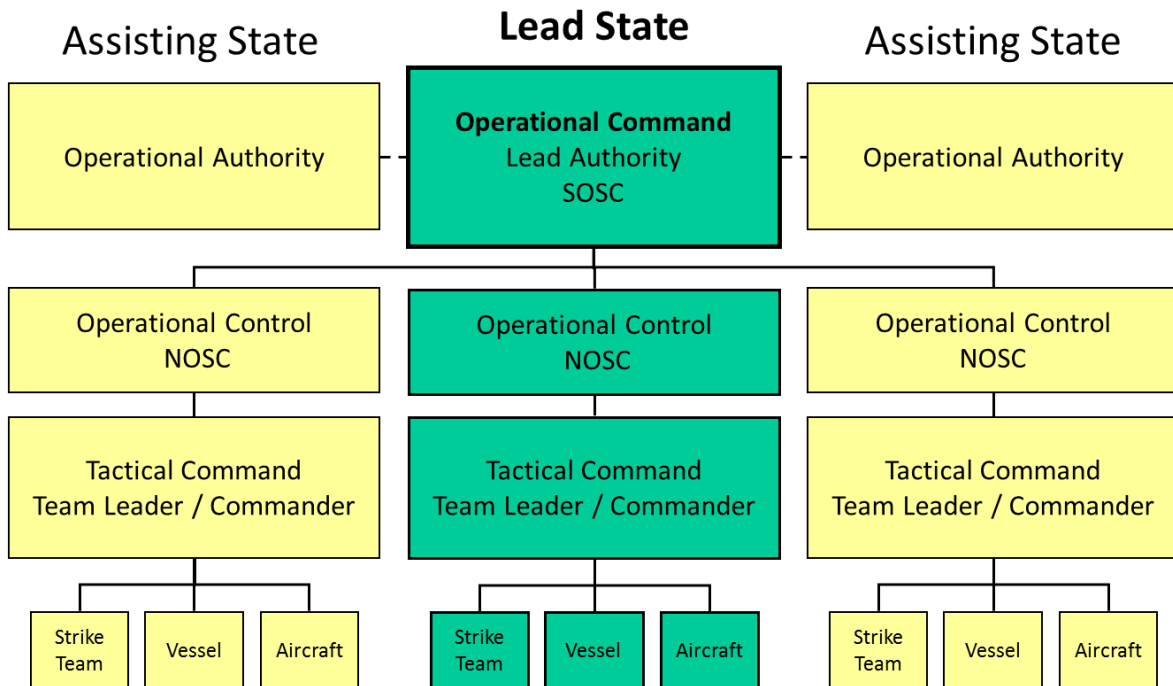
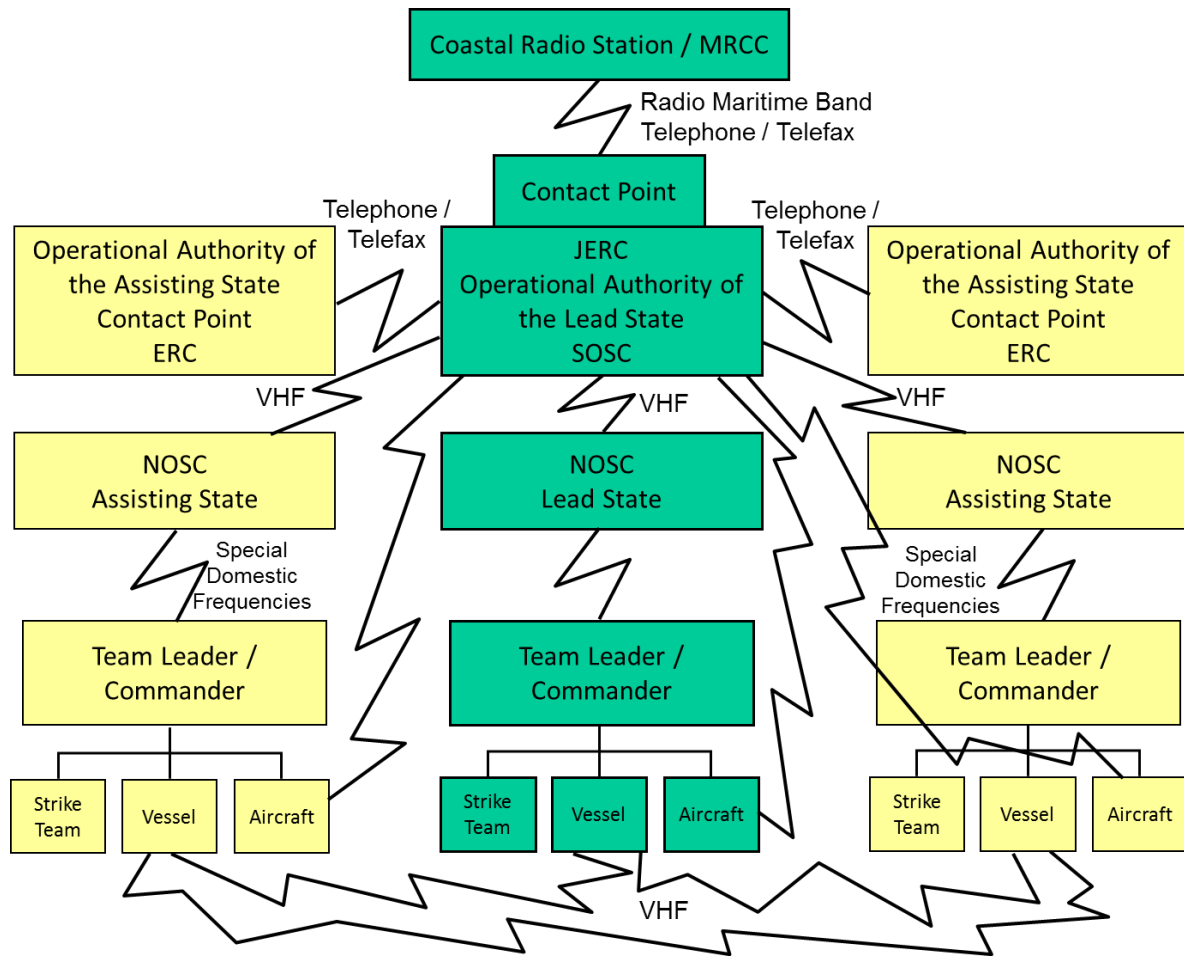


Diagram 2: LINES OF COMMUNICATION



4. RESPONSE OPERATIONS

4.1. Response Phases

For the purpose of the Plan, pollution response operations have been divided into six distinct phases:

Pre-activation of the Plan

Phase I Evaluation

Phase II Notification and consultation

Activation of the Plan

Phase III Activation of the Plan

Phase IV Request for assistance

Phase V Joint response operations at sea

Phase VI Joint response operations on shore

It is understood that, according to circumstances, entire phases or parts thereof may take place concurrently with one or more other phases.

4.2. Response Procedure

4.2.1 Pre-activation of the Plan

Phase I: Evaluation

Notification and verification of **the initial** information concerning oil pollution incidents shall be done, at the national level, in accordance with the provisions of the NCP.

Before activating the Plan, the Operational Authority of the Party concerned shall activate its NCP and alert other relevant authorities in its own country, including the NOSC.

Phase II: Notification and consultation

Regardless of the need for the activation of the Plan, the Operational Authority of the Party in whose territory the oil pollution incident has occurred shall, after receiving and verifying the incident report, immediately inform the Operational Authorities of the other Parties through their National Contact Points. It shall also alert the Regional Mechanism.

If the Operational Authority of the Party concerned considers that it might be necessary to activate the Plan, it shall immediately consult the Operational Authorities of the other Parties, clearly indicating the extent of the planned response measures and of the assistance which might be required.

4.2.2 Activation of the Plan

Phase III: Activation of the Plan

The decision to activate the Plan shall be taken by the Operational Authority of the Party affected by the incident or likely to be affected first, in accordance with the principles outlined in section 3.9.

After taking the decision to activate the Plan, the Operational Authority of the Party concerned shall assume the role of Lead Authority and shall:

- a) notify the Operational Authorities of the other Parties, through their designated National Contact Points and in accordance with the procedure described in section 5.2, that the Plan has been activated;
- b) activate its own ERC which shall assume the role of JERC;
- c) activate its own support team;
- d) appoint the SOSC who shall, in liaison with the Lead Authority and his/her support team, formulate the strategy for dealing with the incident and evaluate the need for assistance from other Parties. The SOSC shall initiate phases IV, V and VI of the response respectively.

Phase IV: Request for assistance

The request for assistance, on the basis of the SOSC's requirements and advice, shall be sent following the activation of the Plan by the Governmental Authority of the Lead State (designated in accordance with Article 5 (1)(c) of the Aktau Protocol) to the Governmental Authority of the other Parties in accordance with the procedure outlined in **Annex 6** and taking into consideration the previous consultations (if any) with the Operational Authorities of the other Parties.

Phase V: Joint response operations at sea

The main objectives of the **joint response operations at sea** are to stop the spillage of the pollutant from the source, to restrict its spreading and movement and to remove as much pollutants as possible from the sea surface before it reaches the shores of one of the Parties.

Joint response operations at sea shall be conducted in accordance with the procedures described in the NCP of the Lead State. Operational Command over the joint response operations shall be exercised by the Lead Authority through the SOSC. Use shall primarily be made of the national resources of the Party concerned, which shall be supplemented as necessary by the personnel and means of the other Parties rendered as assistance upon the request of the Lead Authority. The personnel and means of the assisting Parties shall work under direct Operational Control and Tactical Command of their respective NOSCs and unit commanders or team leaders.

During the joint response operations, the ERC of the Lead State, which has assumed the role of JERC, shall serve as the main communications centre and headquarters of the SOSC.

Phase VI: Joint response operations on shore

The main objectives of **joint response operations on shore** are to protect environmentally sensitive coastal areas and other vulnerable resources, including islands, from the impact of the pollutant and to remove the pollutant which has reached the shore in order to prevent recontamination of other coastal areas.

This phase also includes treatment and final disposal of collected pollutant and/or contaminated beach material.

The principles of command outlined under Phase V shall also apply for the entire duration of Phase VI.

In order to increase the effectiveness of joint response operations on shore, JERC may be transferred, at the discretion of the Lead Authority, to adequate alternative premises closer to the site of operations (see section 3.4). In such cases, the Lead Authority shall duly inform the Operational Authorities of the assisting Parties of the move.

4.3. Spill Surveillance

For the surveillance of spill movement and behaviour, priority shall be given to aerial surveillance, although any other suitable means (ships, vessels) might also be used if the aircraft are not immediately available.

The surveillance of the spill and its movement, and the transmission of relevant reports to the other Parties, prior to the activation of the Plan, is the responsibility of the Party in whose territory the oil pollution incident has occurred. Following the activation of the Plan this responsibility rests with the SOSOC, who shall take all necessary measures to ensure regular surveillance of the spill and its movement and behaviour, in order to properly assess the situation and decide on adequate response measures. For this purpose, the SOSOC may request assistance from other Parties.

When deemed necessary, Parties agree to undertake measures to obtain urgent permission for flights over their territory by aircraft of the other Parties for the purpose of surveillance of spills within the framework of the Plan and following the specific request put forward by the Party in whose territory the oil pollution incident has occurred. In its request, the Lead Authority shall define precisely the aim of the mission and flight plan.

Information concerning aircraft suitable for spill surveillance (including their technical characteristics and specialised equipment), to which each Party has access, is given in **Annex 3**.

Airports within the territory of the Lead State, which might be used by surveillance aircraft of assisting Parties operating upon request in the air space of the Lead State, are listed together with relevant navigational and technical information, in **Annex 3**.

Guidelines for spill assessment and aerial surveillance are given in **Annex 7**.

4.4. Requests for Assistance within the Framework of the Plan

Following the activation of the Plan, the Party who has activated it may request assistance from the other Parties in any of the cases described in section 3.1.

Assistance might be requested in the form of:

- a) trained response personnel and, in particular, strike teams;
- b) specialised oil pollution combating equipment;
- c) oil pollution treatment products;
- d) other means, including, in particular, self-contained units such as vessels and aircraft;

and/or any combination thereof.

The request for assistance shall be formulated in a clear and precise manner, using the standard form defined in the POLFAC section of the POLREP in **Annex 6**. It shall contain a detailed description of the kind of assistance required and the purpose for which personnel, equipment, products and/or other means will be used.

The Party receiving a request for assistance shall immediately acknowledge receipt.

It is the duty of the Party or Parties receiving a request for assistance to offer it to the requesting Party with the shortest possible delay, taking into consideration that it should not deplete its own national resources beyond a reasonable level of preparedness.

With a view to being able to respond promptly to requests for assistance, Parties shall have part of their national response equipment, products and other means ready for transportation, at short notice, to the other Parties, except for *force majeure* situations, other emergencies and repair/maintenance situations.

Any response personnel and/or means, rendered as assistance within the framework of the Plan, will act under the overall Operational Command of the SOSOC and the Lead Authority. However, their respective NOSCs shall retain operational control over them.

Following a decision to render assistance, liaison between the Lead State and the assisting Parties shall be maintained, according to the circumstances and to the type and importance of such assistance, in one of the ways described in section 3.6.

4.5. Joint Response Operations

For the purpose of the Plan, joint response operations are all oil pollution response operations in which personnel, equipment, products and/or other means of at least two Parties are involved.

Joint response operations can be carried out at sea and on shore, and include specific operations described in section 4.1.

The Lead State shall be in full charge of joint response operations. The command structure of the joint response operations is described in section 3.6 and **Diagram 1**.

Personnel, equipment and other means rendered as assistance by the other Parties within the framework of the Plan, shall execute their tasks and duties following the decisions of the SOSOC, under the direct operational control of their NOSCs and the tactical command of their respective team leaders and unit commanders (see section 3.6). If strike teams or self-contained units are put at the disposal of the Lead State, the assisting Party will issue instructions to their respective team leaders and unit commanders who will then exercise tactical command over the details of the operations.

During joint response operations the SOSOC shall, in addition to assuming overall Operational Command, be specifically responsible for co-ordinating the actions taken by national means (strike teams, vessels, aircraft) of the Lead State with those taken by the means of the assisting Parties.

The liaison between the assisting Party and the Lead State during joint response operations shall be maintained, according to the circumstances, either through direct contacts, through the Liaison Officer of the assisting Party integrated in the staff of the SOSOC, or through NOSCs if these are personally taking part in the operations (see section 3.6).

The Lead Authority shall appoint an officer responsible for receiving the personnel, equipment, products and/or other means from the assisting Parties and for facilitating their participation in joint response operations from the moment of their arrival in the country to the moment of their departure. This officer shall work closely with the Liaison Officer of the assisting Party.

4.6. Use of Dispersants

Each Party shall define its policy regarding the use of dispersants in combating oil pollution and describe it in its NCP. For this purpose the Parties shall take account of the "IMO Dispersant Guidelines in three parts: I Basic information on dispersants and their application; II Outline for a national policy on the use of dispersants: Proposed template for national policy for the use of dispersants; III Operational and technical sheets for surface application of dispersants" and other suitable international guidelines (e.g. IPIECA and IOGP Good Practice Guidelines for Dispersants, available at the official website of IPIECA).

Each Party shall inform the other Parties (see section 3.8) on its policy regarding the use of dispersants. The information shall include the list of dispersants approved for use in the territory of the Party and an indication of the zones where the use of dispersants is allowed, restricted or prohibited.

The Parties shall develop and agree upon a list of dispersants for use in case of an oil pollution incident.

In case of joint response operations, the Parties shall observe the principle of **prior authorization** for the use of dispersants. This authorization can be given only by the SOSC or by a person designated by him/her.

In the territory of each particular Party, dispersants shall always be used in accordance with the provisions of the NCP of the Party concerned.

If a Party has prohibited the use of dispersants in its waters, other Parties participating in joint response operations shall observe this decision.

4.7. Request for Additional Assistance from Other Parties

In the case of an oil pollution incident of such magnitude and nature that, in the opinion of the Lead Authority, the joint capabilities and resources of the Parties are not adequate to deal with it, the Lead State may request additional assistance from other States or other resources of equipment and strike teams outside the Caspian Sea region.

In such circumstances, and after consultations with the Lead Authority, other Parties may also request, in accordance with their needs, such additional assistance.

If more than one Party requests assistance from other States or other resources of equipment and strike teams, co-ordination of these actions between the Parties shall be made at the level of their Operational Authorities.

For this purpose, the Parties shall take account of the IMO "Guidelines on International Offers of Assistance (IOA) in Response to a Marine Oil Pollution Incident" and take note of the lexicon in section 11 and Appendix 5 of the guidelines.

4.8. Termination of Joint Response Operations and Deactivation of the Plan

The SOSC shall terminate the joint response operations when:

- a) pollution response measures have been finalised and the pollutant no longer threatens the interests of any of the Parties; or when
- b) pollution response measures have been completed to a point where response capabilities and resources of the Lead State are sufficient for successfully finalising the response activities.

When considering the termination of joint response operations, the SOSC shall take into account, in particular, the financial consequences of the continuation and whether continued action would be reasonable.

After taking the decision to terminate joint response operations, the SOSC shall immediately inform the NOSCs of the other Parties and their respective Operational Authorities of this decision and of the deactivation of the Plan.

Following the deactivation of the Plan, all personnel, equipment, unused products and other means which were involved in the joint response operations shall return or be returned to their respective countries of origin.

The Party who requested assistance shall take the necessary measures for the prompt repatriation of the **personnel** of the assisting Parties, although the co-ordination and preparation of the necessary arrangements for their repatriation remains the responsibility of their respective Operational Authorities.

Unless otherwise agreed, the Party who requested assistance shall be responsible for returning to the country of origin all **equipment**, rendered as assistance and all unused treatment **products**. All equipment and other means shall be returned **clean** and in the **best possible working order**.

The Operational Authorities of the Parties concerned may decide, in direct contacts between them, that unused treatment products remain in the country that requested the assistance.

Self-contained units (vessels, aircraft) shall return to their country of origin using their own power. The Party who requested assistance is responsible for facilitating formalities related to leaving its territory/airspace, for all units rendered as assistance.

The Party who requested assistance shall prepare a report on the effectiveness of the personnel, equipment, products and other means received as assistance. These reports shall be circulated to the other Parties.

5. COMMUNICATIONS AND REPORTING

5.1. Communications System

Each Party shall establish and maintain an efficient communications system, operational 24 hours a day, which shall serve for:

- a) receiving reports on oil pollution incidents and transmitting these reports to the Operational Authorities and to other interested parties within the country;
- b) activation of the Plan, requesting assistance and the exchange of operational messages during joint response operations.

The system shall comprise national ERCs together with the National Contact Points for receiving reports on oil pollution incidents, if these are different from the ERCs.

Elements of this communications system which each Party shall establish, including telephone, telefax and telex numbers, e-mail addresses and websites, and the allocated radio frequencies and channels pertinent to each Party, are given in **Annex 4**.

5.2. Pollution Reporting System (POLREP)

For the exchange of information concerning oil pollution incidents, the Parties shall use the pollution reporting system (POLREP) which has been agreed for use within the framework of this Plan. The POLREP is divided into three parts:

- | | |
|-------------------|-----------------------------------------------------------------------------------------------------------------------|
| Part I (POLWARN) | is an initial notice (first information or a warning) of an oil pollution incident. |
| Part II (POLINF) | is a detailed supplementary report to Part I. |
| Part III (POLFAC) | is used for requesting assistance from other Parties and for defining operational matters related to this assistance. |

A detailed description of all three Parts of the POLREP is given in **Annex 6**. In situations where the type and extent of the required assistance have not yet been determined, the Party who takes the decision to activate the Plan shall utilize line 53 of the POLINF part of the POLREP message to inform the other Parties that the Plan has been activated.

5.3. Situation Reports (SITREPs)

During the entire period between the activation of the Plan and its deactivation, the Lead State keeps the other Parties informed on:

- a) the development of the situation regarding the oil pollution incident;
- b) the actions taken to combat pollution;
- c) the progress of the joint response operations;
- d) any decisions regarding future response activities;

- e) all other relevant information including, in particular, information concerning environmental impact, effects on marine and coastal resources, and the economic consequences of the oil pollution incident; and
- f) any other incidents occurring during or related to the response operation.

Such information shall be transmitted by the SOSC to the Operational Authorities of the Parties and to the Regional Mechanism either in the form of POLINF (see Annex 6) or as a text in the form of a situation report (SITREP).

The Lead Authority shall endeavour to transmit a POLINF and thereafter a SITREP at least once a day.

Before dissemination, each report shall be verified by the SOSC.

If pollution combating operations continue at the national level after the deactivation of the Plan, the Party affected by the incident shall continue to inform the other Parties and the Regional Mechanism of the situation until the final termination of all pollution response operations.

It is the responsibility of the Operational Authority of each Party to ensure that the situation reports are transmitted to all interested parties within its respective country.

5.4. Post Incident Reports

Following the termination of pollution response operations, taken at both national level and within the framework of the Plan, the NOSC and/or the SOSC respectively shall prepare a final report including:

- a) a description of the oil pollution incident and development of the situation;
- b) a description of the response measures taken;
- c) a description of the assistance rendered by the other Parties;
- d) an assessment of the complete response operation;
- e) an assessment of the assistance rendered by the other Parties;
- f) a description and analysis of the problems encountered in responding to the oil pollution incident;
- g) recommendations regarding the possible improvement of existing arrangements and, in particular, of the provisions of the Plan.

The final report may also include:

- a) an account of the costs incurred during the response by each Party;
- b) an estimate of environmental and economic damage.

Copies of the post-incident reports shall be sent to all Parties and to the Regional Mechanism.

The reports shall be analysed at the national level by the members of each support team and their respective NOSCs, who shall prepare recommendations concerning amendments and improvements of the Plan, and if necessary, of their NCPs (see sections 2.5 and 3.5).

The conduct of joint response operations and other questions of common interest shall be reviewed during the biennial Conference of the Parties of the Aktau Protocol.

6. ADMINISTRATION, LOGISTICS AND FUNDING

6.1. Logistics

The Lead Authority is responsible for providing all the logistic support necessary for conducting joint response operations.

The Lead Authority shall, in particular:

- a) make the necessary arrangements for accommodation and transportation, within the assisted country, of all assisting personnel;
- b) when equipment and other means are received from the assisting Parties, take the necessary measures to provide:
 - safe storage or parking places, as appropriate, including cranes, fork-lifts and other handling equipment, as necessary;
 - fuel, lubricants, basic repair and maintenance facilities.

As regards the stay in the territory of the Lead State of vessels and aircraft rendered as assistance by other Parties, the Lead Authority shall take the necessary measures to ensure assistance to the crews at airports and in ports, as appropriate, and to provide security services for ships, aircraft and related equipment, while these are in ports or at airports of the Lead State.

6.2. Financial Procedures

The Parties shall observe the general principles as laid down in Article 11 of the Protocol concerning the reimbursement of costs related to mutual assistance as follows:

- a) The Party who has requested assistance shall reimburse to the assisting Party all expenses incurred in rendering such assistance, according to the invoice submitted by the assisting Party unless otherwise decided on a case by case basis.
- b) At the time of incident, the assisting Party shall provide information on the wages of personnel, the rental rates for equipment and other means and the cost of treatment products, which might be rendered as assistance.
The Parties shall endeavour to harmonise their rates and discuss all relevant questions during the meetings of the Operational Authorities.
- c) The assisting Party shall, immediately following receipt of a request for assistance, submit to the requesting Party an offer of the personnel, equipment and other means which can be provided and an estimate of the costs of such assistance.
- d) If the Party who requested assistance decides to withdraw the request for whatever reason, it shall nevertheless pay to the assisting Party all the expenses incurred up to the moment when the request was withdrawn or the personnel and equipment return to their country of origin, as appropriate.
- e) In the event of the transfer of responsibility of Lead State from one Party to another, the costs incurred by requests for assistance by the Lead State shall remain that State's responsibility up to the time of transfer of Operational Command. Any continuation of assistance provided at the confirmed request of the Party taking over responsibility as Lead State shall also take over responsibility for the reimbursement of the costs of assistance from the time of transfer of Operational Command. Such transfer of responsibility shall be realized through an official request, including the date of transfer and description of the financial considerations before and after that.
- f) The Parties shall resolve all questions related to financial matters after the termination of joint response operations.

The provisions of this paragraph shall not prejudice the resolution of any dispute involving third parties that may arise regarding liability and compensation for damages resulting from any oil pollution incident.

In the case of joint response operations, the Lead State (the Party who has requested assistance) shall directly cover the following expenses related to the stay in its territory of personnel, equipment and means (including vessels and aircraft) of the assisting Party:

- a) board and lodging and/or daily subsistence allowance as appropriate, of all response personnel other than the crews of ships and vessels;
- b) any port dues for vessels and ships rendered as assistance;
- c) any airport dues for aircraft rendered as assistance;
- d) necessary fuel for all equipment and means including, in particular, vessels and aircraft, engaged in joint response operations;
- e) medical services provided to injured and ill personnel of the assisting Party;
- f) costs related to repatriation of any personnel who died, were injured or taken ill during joint response operations;
- g) maintenance costs for any piece of equipment, vessel and aircraft engaged in joint response operations;
- h) repair costs for any piece of equipment, vessel or aircraft damaged in its territory during and due to the joint response operations, if such repair needs to be made prior to returning to the country of origin of such equipment and means;
- i) costs of communications related to the joint response operations that have been incurred by the personnel of the assisting Party in the territory of the Lead State.

The assisting Party shall directly cover the following expenses related to the sending to the country that requested the assistance of its personnel, equipment, products or other means including, in particular, vessels and aircraft:

- a) the mobilization of personnel, equipment, products or other means;
- b) the costs of transport of personnel, equipment and products to and from the country where joint response operations are taking place ;
- c) fuel for self-contained units (vessels, aircraft) which travel to the scene of joint response operations using their own power;
- d) costs of communications related to joint response operations that are originating from the territory of the assisting Party;
- e) insurance of the personnel of the strike teams;
- f) medical services rendered, following their return to their country of origin, to response personnel who were injured or taken ill during joint response operations;
- g) maintenance and repair costs for equipment and means engaged in joint response operations which were incurred after the return of such equipment and means to the country of origin.

Following the termination of the joint response operations and the return of all personnel, equipment and other means which were engaged in the joint response operations, each assisting Party shall prepare a detailed invoice including the costs of assistance rendered to the Lead State and other expenses related to this assistance. The following items shall be included in the invoice:

- a) wages of personnel engaged in the joint response operations, calculated on the basis of the prices given to the Lead State when assistance was requested, and the daily work logs approved by the SOSOC or another responsible officer of the Lead State;

- b) costs of rental of equipment and means calculated on the basis of the prices given to the Lead State when assistance was requested, and the daily work logs approved by the SOSOC or another responsible officer of the Lead State;
- c) cost of treatment products used during joint response operations calculated on the basis of the prices given to the Lead State when assistance was requested, and the daily work logs approved by the SOSOC or another responsible officer of the Lead State;
- d) all expenses incurred by the assisting Party as listed above;
- e) costs for replacement of equipment damaged beyond repair during joint response operations.

Upon receipt of such an invoice, the Party who had activated the Plan and requested assistance shall reimburse the expenses incurred by the assisting Parties in relation to the pollution response measures undertaken by these Parties following the activation of the Plan. The Party who activated the Plan shall subsequently include such invoices in its own claim for reimbursement of pollution response related costs, submitted to the party liable for the oil pollution incident, its insurers or an international system for compensation for pollution damages, as appropriate.

Alternatively, the Parties may agree that the claims for reimbursement of such expenses shall be submitted directly to the party liable for the oil pollution incident, its insurers or an international system for compensation for pollution damages, by each Party separately.

Regardless of the party to whom such claims are submitted, they shall be prepared in accordance with the guidelines provided by the IOPC Fund in its "Claims Manual" and attached to the Plan as **Annex 8**. An updated version of the IOPC Fund "Claims Manual" can be found on the IOPC Fund official website.

6.3. Transboundary Movement of Response Personnel, Equipment, Products and Self-Contained Units

In order to facilitate the movement of response personnel, equipment and other means to the place where the assistance is required, the requesting Party will:

- make arrangements for the rapid entry of equipment, products and personnel prior to their arrival and ensure that customs formalities are facilitated to the maximum extent. Equipment and products should be admitted on a temporary basis in accordance with the national law on customs duties of the requesting Party. Such equipment and products should be admitted free of excise and duties wherever possible.
- ensure that, should ships and aircraft be provided, ships are granted all necessary authorisations and aircraft cleared to fly in the national air space. A flight plan or a flight notification will be filed and accepted as an authorization for aircraft to take off, land ashore or at sea outside regular customs airfields.

6.3.1. Immigration and customs formalities

Each Party shall endeavour to make, at the national level, special arrangements applicable in emergency situations, concerning provisions for rapid granting of entry visas and work permits for personnel, as well as permits necessary for the transit or temporary importation of the requested equipment and material.

Details of such arrangements shall be included in the National Contingency Plan of each Party, and are reproduced in **Annex 2** to the Plan. This refers, in particular, to information which the assisting Party

has to provide to the appropriate national authorities of the requesting Party in order to facilitate the implementation of these special arrangements.

The Parties shall designate **competent customs authorities**, responsible for the prompt clearing of customs formalities related to transboundary movement of response personnel and means in cases of activation of the Plan. The Parties shall keep each other permanently informed on such customs authorities, and this information (name of the office and of the responsible officer, address, telephone, telex and telefax number) shall be included in **Annex 1**.

Prior to sending assistance to the Party who so requests, the Operational Authority of the assisting Party shall establish direct contact with the competent customs authority of the requesting Party in order to obtain the necessary clearance for the entry of equipment, products and other means into the country.

6.3.2. Overflight procedures

Within the framework of the Plan and upon a specific request of the Lead State, aircraft of the other Parties might be allowed to enter and operate in the airspace of the Lead State for one or more of the following purposes:

- search and rescue;
- surveillance flights;
- transportation of response personnel, equipment and products;
- spraying of dispersants or other treatment products;
- other flights related to pollution response operations.

Each Party shall make, in advance, necessary arrangements concerning rapid granting of permits and clearances for civil aircraft (fixed wing or helicopters) of other Parties, who might be requested to take part in response operations within its airspace. Similar arrangements shall be made for the use of airport facilities by civilian fixed wing aircraft and helicopters engaged in joint response operations.

Overflight for the above-mentioned purposes, of the territory of one of the Parties, by military and state-owned aircraft of the other Parties, shall be decided on a case by case basis by the **Concerned Parties over the territories of which the overflight would occur**.

6.3.3. Navigation procedures

Within the framework of the Plan and upon the request of the Lead State, vessels of the other Parties might enter and operate in the territory of the Lead State for one or more of the following purposes:

- search and rescue;
- salvage operations;
- pollution response operations, including containment and recovery of spilled products, spraying of dispersants or other treatment products, storage and transportation of recovered pollutant;
- transportation of response personnel, equipment and products;
- any other voyage related to pollution response operations.

Each Party shall make, in advance, the necessary arrangements concerning the rapid granting of permits and clearances for the navigation of civil vessels (ships, boats, specialised anti-pollution vessels) of the other Parties who might be requested to take part in response operations within its

territory. Similar arrangements shall be made for the use of port facilities by civilian vessels engaged in joint response operations.

Navigation for the above-mentioned purposes, in the territory of one of the Parties, by naval and state owned vessels of the other Parties, shall be decided on a case by case basis by the Parties concerned.

In all cases the provisions of the International Convention on Facilitation of International Maritime Traffic, as amended, shall be observed by the Parties concerned.

Each Party shall exercise state border crossing and sojourn of foreign vessels, aircrafts and other transports means involved in combating oil pollution incidents, as well as personnel cargos, materials and equipment required to deal with such incidents pursuant to the regulations of the Party.

6.4. Health and Safety, Medical Insurance and Medical Assistance

Each Party shall ensure that proper health and safety procedures, including the wearing of protective clothing and safety equipment, are followed by its personnel at all times.

Each Party shall take the necessary measures to insure against death, illness and injury, its personnel who might participate in joint response operations, joint exercises and joint training courses.

The Lead State shall endeavour to offer the best possible initial medical care and services to any person from another Party who was injured or taken ill during his/her participation in joint response operations.

The Lead State shall facilitate the repatriation of assisting personnel who are injured or taken ill during joint response operations.

The costs of hospitalization and medical assistance rendered within the territory of the Lead State to injured or ill personnel of the assisting Party shall be borne by the Lead State. The Lead State might decide to claim the reimbursement of all such costs from the party responsible for the oil pollution incident, its insurer or an international system for compensation of pollution damages, as appropriate.

The Parties shall waive the right to make claims against each other for the reimbursement of costs of medical care rendered to persons injured and taken ill during joint response operations.

6.5. Responsibility for Injury and Damage

If assisting strike teams cause any damages to third parties at the time when they are going to or leaving the site of operations, or when they are engaged in oil spill combating and clean-up, the responsibility for such damages shall rest with the respective authority of the assisting Party.

Each Party shall be responsible for damages caused to third parties by its national strike teams during joint exercises.

6.6. Documentation of Response Operations and Related Costs

Full documentation of response activities is vital to facilitate the subsequent pursuance of claims for compensation.

The SOSOC shall take all necessary measures to ensure that detailed records of all actions taken in order to respond to an oil pollution incident, within the framework of the Plan, are accurately kept. For this purpose, the SOSOC will include a record keeping officer/financial controller in his/her support team.

As a minimum, the following records shall be regularly kept:

- a) Description of the situation (including photographs and video records where available), decisions taken and the response measures implemented;
- b) Daily work log giving details of:
 - operations in progress (place, time, purpose);
 - equipment and other means in use (place, time, purpose);
 - personnel employed (place, number, time);
 - response products and other material (e.g. fuel) consumed (type, quantity, purpose).
- c) Records of all expenditures made in relation to the pollution response operations.

Following the termination of the response operations, such records shall be made available to the national authority responsible for the submission of claims for compensation.

In cases where the Parties have agreed that the assisting Party will submit a separate claim for compensation, the authorities of the Lead State shall make available to the authorities of the assisting Parties copies of relevant records.

7. PUBLIC INFORMATION

7.1. Public Relations Officer (PRO)

After the activation of the Plan, the Lead Authority shall designate a Public Relations Officer (PRO) who shall be seconded to the SOSC's support team.

The PRO shall be responsible for:

- a) maintaining contacts with the press and other media including radio and TV;
- b) preparing press releases on behalf of the SOSC and the Lead Authority;
- c) following the information released by the press and the media and clarifying any possible misunderstandings.

7.2. Press Releases

Press releases shall be prepared and distributed to the press at least once a day during the entire period between the activation and the deactivation of the Plan.

Press releases shall be prepared by the PRO on the basis of accurate facts provided by the SOSC and/or his/her support team. They shall contain information concerning:

- the oil pollution incident and the development of the situation;
- technical data on vessels involved, type and characteristics of the pollutants, etc.;
- the measures taken to combat pollution;
- the progress of the response measures;
- injuries of personnel and damage to vessels, equipment, etc.

The following guidelines shall be observed when preparing press releases:

- prepare titles/headlines;
- give priority to the most recent and important information;
- use simple sentences and give only one idea per sentence;
- avoid quoting estimates, conjectures and suppositions;
- avoid giving opinions on environmental or other unquantifiable damages;
- draft final wordings very carefully.

Maps showing the area of incident, the evolution of the spill and the sites of the response operations should accompany press releases whenever possible.

All press releases shall be vetted and approved by the SOSC before distribution to the press.

7.3. Press Conferences

After the activation of the Plan, the Lead Authority may decide, in consultation with the SOSC, to organise one or more press conferences for briefing the media.

The following persons may take part in such press conferences:

- SOSC

- specially designated expert members of the support team
- PRO
- representative(s) of the Lead Authority
- representative(s) of the other Parties (e.g. Liaison Officers or NOSCs)
- representative(s) of ship and cargo owners and/or their insurers.

Written information on the main facts concerning the oil pollution incident and the joint response operations, maps and photographs may be prepared in advance by the PRO and approved by the SOSC for use during the press conference.

The guidelines concerning the preparation of press releases (section 7.2) are also applicable to participants in press conferences.

List of Annexes

Annex 1:

Directory of Competent National Authorities, Contact Points, Emergency Response Centres, National On-Scene-Commanders and Other Relevant Addresses

Annex 2:

Extracts of Relevant Sections of the National Contingency Plans

Annex 3:

Directory of Response Personnel and Inventory of Response Equipment, Products and Other Means which Each Party Might Offer as Assistance in the Event of Activation of the Plan

Annex 4:

Communication System

Annex 5:

National Maps

Annex 6:

Pollution Reporting System (POLREP)

Annex 7:

Spill Assessment and Aerial Surveillance

Annex 8:

Claims Manual – International Oil Pollution Compensation Fund

Annex 9:

~~Example Guidelines for Oil Spill Exercises~~ **Guidelines for Oil Spill Exercises under the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency**

RECOMMENDATIONS
Aktau Protocol Workshop, 18-20 June 2018, Baku, Azerbaijan

The meeting participants express their gratitude to IMO for the organization of the workshop and further request IMO as well as the private sector to support future activities under the Aktau Protocol.

The workshop on the implementation of the Aktau Protocol Concerning Regional Preparedness, Response and Co-operation in Combating Oil Pollution Incidents agreed on the following recommendations:

In relation to the development of an oil pollution preparedness and response training and exercise program for the Caspian Sea region

- to seek agreement from the National Competent Authorities under the Aktau Protocol on the attached draft Guidelines for Oil Spill Exercises under the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency (the Plan) by end August 2018
- to use the commonly utilized types of exercises as follows:
 - ALPHA:** Synthetic or table-top exercises
 - BRAVO:** Alert/Notification exercises
 - CHARLIE:** Equipment deployment exercises
 - DELTA:** Full-scale operational exercises
 - ECHO:** State-of-the-art exercises
- to conduct Alpha exercises annually in conjunction with the meetings of the National Operational Authorities as provided for in chapter 2.3 of the Plan and where feasible to seek initial support from IMO and other partners, acknowledging that this is a regional commitment under the Plan
- to conduct Bravo exercises four times a year initially. Frequency is to be revised once the communication process is well understood
- to conduct Delta exercises at least once every three years as provided for in chapter 2.4 of the Plan. Delta exercises may be carried out in conjunction with existing national training and exercise activities
- to where feasible National Operation Authorities invite observers from Operational Authorities of other Caspian littoral states to attend national trainings and observe exercises

In relation to the areas of alignment, potential integration and collaboration with the Agreement on Cooperation in Emergency Prevention and Response in the Caspian Sea (Astrakhan Agreement)

recognizing the close alignment between the Aktau Protocol and the Astrakhan Agreement and acknowledging that the meeting did not discuss the legal aspects of these treaties, focusing only on their practical implementation;

- to request the Tehran Convention national focal points to investigate the nature of coordination between the implementation of the Aktau Protocol and the Astrakhan Agreement, as it relates to oil pollution preparedness and response, within each of the Caspian littoral States and report on the outcome of this investigation to the Tehran Convention Interim Secretariat, along with recommendations on their effective and coordinated implementation by end September 2018

- to request the National Competent Authority under the Aktau Protocol to raise awareness and communicate with all the focal points of the Astrakhan Agreement the provisions of the Aktau Protocol and the procedures of the Plan at the national level
- to add a discussion of the coordination of the Aktau Protocol and Astrakhan Agreement to the agenda of the next appropriate intergovernmental meeting of the Caspian Sea littoral states within the framework of the Tehran Convention
- to promote active exchange and coordination between those responsible for the implementation of activities regarding oil pollution preparedness and response of the Aktau Protocol and Astrakhan Agreement processes, for example by holding the next meeting of the National Operational Authorities of the Aktau Protocol in conjunction with the next meeting of the Astrakhan Agreement National Competent Authorities. Further, to extend an invitation to attend the next relevant exercise held under the Astrakhan Agreement to the National Operational Authorities under the Aktau Protocol.

In relation to future Aktau Protocol implementation activities:

- to discuss the enhancement of the National Contingency Plans of the Caspian countries in relation to the regional implementation of the Aktau Protocol, possibly in conjunction with the holding of future table-top exercises
- OOO LUKOIL-Nizhnevolzhskneft and the Oil Spill Preparedness Regional Initiative (OSPRI) stand ready to provide expert support to the implementation of the Aktau Protocol
- Under the implementation of the national contingency plan of the Russian Federation as well as the regional Plan, LUKOIL-Nizhnevolzhskneft, in the event of an emergency and with the aim of integrating the resources of the private sector into the implementation of the Aktau Protocol and assisting in combating the incidents, stands ready to provide the available forces and resources to respond to a specific incident causing pollution of the sea

The Meeting participants agreed to present this list of recommendations to their National Competent Authorities under the Aktau Protocol and the national focal points of the Tehran Convention and any other relevant administration within their national government for their review and further action and subsequent approval in writing to the Interim Secretariat of the Tehran Convention.

**Draft GUIDELINES FOR OIL SPILL EXERCISES UNDER
THE CASPIAN SEA PLAN CONCERNING REGIONAL COOPERATION IN COMBATING OIL POLLUTION IN
CASES OF EMERGENCY
'AKTAU PROTOCOL IMPLEMENTATION PLAN'**

Background

1. In developing the draft Guidelines it was recognized that there is extensive experience of regional oil spill exercising around the world and that in drawing up the draft Guidelines the working group should utilize this experience. Three highly relevant references were:

- HELCOM Manual on Co-operation in Combating Marine Pollution, Volume I, Chapter 10, *Exercises and Related Guidelines*
- IMO/IPIECA Report Series Volume 2: *Guide to Oil Spill Exercise Planning*.
- Guidelines for oil spill exercises under the Black Sea Contingency Plan

2. In addition, as the Russian Federation is participating in the Black Sea, the Baltic Sea and the Caspian Sea regional arrangements it was felt that the HELCOM guidelines would be particularly valuable. Also, Russian Federation's contribution and experiences in connection with the development on exercise guidelines for the NOWPAP (Northwest Pacific Action Plan) Region could be useful for the Caspian Sea and the experiences of the I.R. of Iran for the ROPME Sea Area.

3. For this reason, much of the text and terminology used by HELCOM has been adopted in the Caspian Sea draft Guidelines for consistency.

Guidelines for Oil Spill Exercises under the Aktau Protocol Implementation Plan

Introduction

The Guidelines are to be used in the development and implementation of regional cooperation under the Caspian Sea Plan in conformance with its Section 2.4 on Joint Training and Exercises.

In designing, developing and executing oil spill exercises the following eight guiding principles have been agreed by the International Maritime Organization (IMO) and IPIECA (the global oil and gas industry association for environmental and social issues). The same guiding principles have been adopted for use in connection with all exercises carried out under the framework of the Tehran Convention as follows:

1. Ensure that management from the top down supports the exercise activity.
2. Set clear, realistic and measurable objectives for an exercise.
3. The thrust of exercising is to improve—not to impress.
4. Simpler, more frequent exercises lead to faster improvements initially.
5. Do not tackle complex exercises until personnel are experienced and competent.
6. Too many activities, locations and participants can overcomplicate an exercise.
7. Evaluating the exercise successfully is as important as conducting it successfully.
8. Planning and conducting a successful exercise is a significant accomplishment.

The activities under the Astrakhan Agreement may be taken into account when developing the long-term exercise schedule as per Annex 1.

Types of Exercises

Under the framework of the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency the following types of combating exercises have been agreed upon:

CASPIAN SEA ALPHA: Synthetic or Table-top Exercise

CASPIAN SEA BRAVO: Alarm or Communication Exercise

CASPIAN SEA CHARLIE: Equipment Deployment Exercise

CASPIAN SEA DELTA: Operational Exercise

CASPIAN SEA ECHO: State-of-the-art Exercise

Decisions on the exercise programme including the types of exercises, aims and goals for the exercises, time for the execution and appointment of Lead Countries are taken during the meetings of the National Operational Authorities. CASPIAN SEA BRAVO, CHARLIE, DELTA and ECHO exercises can be executed independently or in combination with each other.

A proposed Long-Term Plan of Exercises in the Caspian Sea region has been attached as Annex 1 to the present Guidelines.

Synthetic or Table-top Exercise (CASPIAN SEA ALPHA)

This exercise type is a 'paper exercise', the aim of which is to create a base for discussion on matters relating to organization, communication, logistics, etc. in combating actions involving two or more Contracting Parties.

The exercise will normally take place during meetings of the National Operational Authorities.

The outline of the exercise is pre-planned in such a way that the players will be presented with a scenario of a pollution incident giving such facts of the incident that most probably would be at hand in the initial phase.

The situation in the initial phase will be followed by presentations of the situation as it has developed at certain chosen later stages.

After each presentation, the players are given the necessary time to consider their national follow-up action in relation to the incident situation.

The national follow-up actions are then presented and discussed.

Alarm or Communication Exercise (CASPIAN SEA BRAVO)

The aim of this exercise type is to test the agreed procedures and lines of communication for reporting, requesting and providing assistance, and to get a picture of the current response readiness of the Contracting Parties when called to assist.

The exercise further aims at familiarizing the personnel with the use and national handling of the adopted POLREP reporting form.

It is not the intention with this exercise that combating equipment and its handling personnel should be activated.

When receiving an exercise POLREP (POLWARN) the participating Contracting Parties should record the time of receipt, time of transmission to the responsible national authority and time of the receipt of POLREP (POLWARN) by the person responsible for initiating further national action.

When receiving an exercise POLREP (POLINF/POLFAC) in addition to the times recorded as for POLREP (POLWARN) the participating Contracting Parties should make a realistic evaluation of the types and the amount of equipment and personnel at their disposal for rendering assistance called for, as well as the time for its arrival at the scene of the accident.

After the termination of each exercise the participating Contracting Parties shall submit a report containing the above-mentioned times and evaluations to the Lead State. The Lead State should compile this information in a report, which should be sent to the [Regional Mechanism] for further circulation to other Contracting Parties in order to have the report presented and discussed at the following meeting of the National Operational Authorities.

CASPIAN SEA BRAVO Exercises are executed without notice but within a specified period of time (normally within a calendar week).

CASPIAN SEA BRAVO Exercises can be carried out in turn between two or more Contracting Parties, and the arrangement and the initiation of the exercise are undertaken by representatives of the Parties involved and assisted by the Regional Mechanism, if needed.

The Initiating Party shall develop a realistic exercise scenario, on which the CASPIAN SEA BRAVO Exercise is based.

CASPIAN SEA BRAVO Exercises shall be initiated with a POLREP (POLWARN) message submitted by the Initiating Party to National Contact Points of participating Parties and identified in Annex 1 of the Caspian Sea Plan.

The initial POLREP (POLWARN) and subsequent messages related to the present CASPIAN SEA BRAVO Exercise shall be submitted in writing by a relevant electronic means of communication to the National Contact Point(s) identified in Annex 1 of the Caspian Sea Plan or any other address identified during the present CASPIAN SEA BRAVO Exercise.

In cases where e-mails are used as means of communication an "Automatic confirmation of receipt" could be used. However, a request for "acknowledge" should always be responded to.

The Competent National Operational Authorities of the Parties shall ensure that all operational duty personnel are familiar with these Exercise Guidelines, and the communication procedures set out in the Caspian Sea Plan.

Equipment Deployment Exercise (CASPIAN SEA CHARLIE)

The purpose of this exercise is to test the co-operation between the combating units of the Contracting Parties with respect to both communication and equipment. Involvement of personnel - except those needed for running the equipment - should be very restricted.

CASPIAN SEA CHARLIE Exercises are carried out between two or more Contracting Parties with bordering Areas of Responsibility.

Notice as to the time and event is to be given well in advance of the exercise, and the Contracting Parties not taking part in the exercise and the Regional Mechanism shall be invited to send observers to the exercise.

When planning the date for the execution of the exercise a back-up date should be held in reserve. The participating Contracting Parties must be informed as soon as possible and at least three days in advance if the exercise has to be executed on the back-up date or altogether cancelled.

Reports on the exercise should be sent from the Lead State to the Regional Mechanism for further circulation to other Contracting Parties in order to have the report presented and discussed at the following meeting of the National Operational Authorities.

CASPIAN SEA CHARLIE Exercises are arranged and executed after direct consultation between the Contracting Parties involved.

Operational Exercise (CASPIAN SEA DELTA)

The aim of this exercise type is partly to test the alarm and communication procedures, the response capability, and the response time of the Contracting Parties, partly to test and train the staff functions and the co-operation between response units (including the response equipment) of the Contracting Parties.

CASPIAN SEA DELTA Exercises are carried out every three years, with the execution of exercises rotating between the Contracting Parties. The meetings of the National Operational Authorities will develop and agree to an Exercise Programme covering three years or more ahead, as appropriate. The Exercise Programme will state who should arrange and host the coming exercises and what should be the aims of these exercises.

The Long-term Exercise Plan is set out in Annex 1 of the present Guidelines.

The agreed Lead State has the overall responsibility to plan and execute the exercise. At the discretion of the Lead State other relevant and realistic elements of an accident at sea may be included in the Exercise CASPIAN SEA DELTA scenario, i.e.: Search and Rescue (SAR), fire fighting, emergency transfer of cargo, claims and compensation, shore-line clean-up, wild life protection and restoration etc.

Also custom and immigration procedures in connection with import and export of emergency response personnel and equipment might be considered as exercise elements.

Further, the application of dispersants might be considered as a response option during a CASPIAN SEA DELTA Exercise. If this option is used, national procedures of approval and spraying limitations should be included as incidents in the exercise planning.

Taking into consideration that different Time Zones apply to the Caspian Sea region the "Exercise Time" in use should be clarified. The use of UTC-time as "Exercise Time" should be considered as an option.

Custom and Immigration clearance for participating units of other Parties could be time consuming, why it is recommended to allow one extra day for foreign units prior to the execution day of the CASPIAN SEA DELTA Exercise.

A report, evaluating the results of the exercise and making recommendations for improvements to the Caspian Sea Regional plan, as appropriate, should be distributed to the Contracting Parties in order to have the report presented and discussed at the following meeting of the National Operational Authorities (see further section on *Planning and Evaluation of CASPIAN SEA DELTA Exercises*).

While participation in the exercise is voluntary, it is recommended that at least the neighboring countries participate.

State-of-the-art Exercise (CASPIAN SEA ECHO)

The aim of this exercise is to demonstrate the state-of-the-art of a specific topic, e.g. a type of equipment, a response method, and means of communication or scientific tests. Traditional operational response activities will not form a part of this type of exercise.

As the aim of CASPIAN SEA ECHO Exercises is to demonstrate the-state-of-the-art, great emphasis should be given to inviting relevant observers from the Contracting Parties and relevant international organizations, as appropriate.

The exercise should be followed by an immediate exercise briefing in order to benefit from the remarks from the observers. The Lead State should send a report of the exercise to the Contracting Parties in order to have the report presented and discussed at the following meeting of the National Operational Authorities.

Procedures for the Exercises

To identify exercise traffic and to avoid conflict with exercises undertaken within other agreements, the text of all messages (both to and from the Lead State) shall begin with the words:

"EXERCISE CASPIAN SEA"

All messages shall end with the words:

"EXERCISE-EXERCISE-EXERCISE"

At the end of each exercise the Lead State shall send a final "End of exercise" message to all Parties concerned.

In cases where e-mails are used as means of communication an "Automatic confirmation of receipt" could be used. However, a request for "acknowledge" shall always be responded to.

Exercises Reports

After an exercise the Lead State shall prepare a brief report for submission the other Contracting Parties and to the National Operational Authorities for consideration at its next meeting. The final report, including comments by the National Operational Authorities shall be submitted to the next Meeting of the Contracting Parties for information and approval/adoption, as appropriate. (for reports from CASPIAN SEA DELTA Exercises, see further section on *Planning and Evaluation of CASPIAN SEA DELTA Exercises*).

The report should, as a minimum, cover the following items:

1. Preparation of the exercise
 - a short description of how the exercise was prepared and relevant references
2. Implementation of the exercise
 - date and period of exercise,
 - a brief description of how the exercise was initiated
3. Participating Contracting Parties
 - names of participating Parties with a description of participating units, equipment items and personnel
4. Running and finalization of exercise
 - Under this heading a brief description of following items (if applicable) should be given:
 - scenario
 - command
 - communications
 - finalization of exercise
5. Comments of the participating Contracting Parties

A brief summary of comments received from each participating Parties. Only comments on important matters should be mentioned.

6. Conclusion

- a general conclusion from the Lead State's point of view on lessons learned
- suggestions and recommendations on how to improve exercises in the future.
- suggestions and recommendations for improvements or amendments to the Caspian Sea Regional Plan.

Tables, statistics, figures or pictures can be added as necessary under each item as annexes at the end of the heading.

APPENDIX 1

Checklist of Administrative and Organizational Problems, which could arise in an Operational Exercise (CASPIAN SEA CHARLIE or DELTA)

In general, it is up to each littoral State to take care of all formalities itself. But it is advisable that the Lead State undertakes to make precautions in order to facilitate the granting of all clearance and permissions required.

This checklist is to help the Lead State arranging an operational exercise and the participating Parties not to forget issues of importance:

- diplomatic clearance
- customs questions
- general health and safety issues
- conditions of work
- insurance of personnel
- civil liability for injuries or damage
- accommodation and meals
- medical treatment
- equipment and repairs
- report to the meeting of the National Operational Authorities
- General Programme well in advance, including:

- | | | |
|-----------------------|-------------------------------------------------|------------------------------|
| * Exercise condition | * exercise command | * <i>hotel reservation</i> |
| * briefing/debriefing | * liaison officer | * <i>transports</i> |
| * operational command | * communication | * <i>observers</i> |
| * participating units | * recommended charts | * <i>social events</i> |
| * timetable | * required diplomatic clearance | * <i>information service</i> |
| * pilot regulation | * Applicable custom and immigration regulations | * <i>moorage</i> |
| * <i>time zone</i> | * <i>Supplies</i> | * <i>First Aid</i> |

APPENDIX 2

Planning and Evaluation of CASPIAN SEA DELTA Exercises

Planning

First announcement and invitation to participation should be sent to the Contracting Parties six months in advance of the exercise. This first announcement should:

- inform on the aim, the date, including a back-up date, and place of the exercise; and
- call for participation of ships and observers.

Announcements of participation should be made to the Lead State four months in advance of the exercise.

Having received the announcements of participation the Lead State should send out practical information about the exercise. Examples of such information are given in the preceding section. This information should not include details of the exercise scenario.

In general, it is up to the Lead State to plan the exercise scenario.

Although the aim of a CASPIAN SEA DELTA Exercise is to check and train the operational system as a whole, efforts should also be made to change the tasks of the participating units during the exercise, in order for personnel to gain as much experience as possible from the exercise.

The participating Parties must be informed as soon as possible and at least three days in advance if the exercise has to be executed on the back-up date or altogether cancelled

Recognizing that most Parties have in place special national custom and immigration procedures for use in case of any real civil emergency, it is however recommended that the Lead State allocate a day Zero minus one (Day 0 ÷1), allowing ample time for necessary custom and immigration procedures applicable to non-real emergency situations

Exercise Evaluation

An Exercise Evaluation Team (EET) shall, be established, to enable beforehand comments on the exercise scenario, and thus ensure the best benefits of the scheduled exercise. The exercise scenario shall be send in due time to the members of the EET to enable them to comment thereupon.

The EET normally consists of three members, of which one is from the Lead State, one from the Contracting Party who arranged the previous exercise, and one from the Contracting Party who will arrange the next exercise.

The EET shall, in order to strengthen the operational co-operation between the Contracting Parties, do an unbiased evaluation of the exercise.

This evaluation is to be conducted in two steps; as an intermediate evaluation and as a final evaluation.

For the intermediate evaluation the tasks of the EET are:

- to be present during the exercise; and
- to give an oral presentation of the findings and a preliminary evaluation of the exercise to the participants immediately after the exercise (at the Exercise debriefing).

For the final evaluation the task of the EET is:

- to make a written report of the final evaluation including lessons learnt and proposals for future similar activities. The report should be submitted by the Lead State for further circulation to other Contracting Parties in order to have the report presented and discussed at the following meeting of the National Operational Authorities.

The members of the EET agree between themselves on the designation of a Team Leader or Spokes Person and decide between themselves their individual tasks and their geographical location(s) during the execution of the exercise.

APPENDIX 3

**FINANCIAL CONSIDERATIONS
IN CONNECTION WITH EXERCISE PLANNING**

Planning and implementation of regional exercises might have substantial financial impact on the Lead and Host Country as external funding is not considered as an option. The provision and approval of adequate funding is to be considered as an internal national issue, which will require approval from national fiscal authorities well in advance of the exercise and prior to accepting the role as Host/Lead Country

The following is a non-exhaustive list of expenditures for consideration in connection with planning and implementation of a Regional Exercise.

| ITEM | COST ITEM |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exercise planning | <p>Personnel costs:</p> <ul style="list-style-type: none"> ○ Salary ○ Travel ○ Accommodation ○ DSA ○ Local transportation <p>Meeting facilities</p> <ul style="list-style-type: none"> ○ Food & refreshments ○ Secretariat support <p>Necessary Trainings and Workshops</p> <p>Planning meetings with national and local authorities</p> <p>Printing of exercise documents</p> <p>New documentation, charts, maps etc.</p> |
| Exercise execution | <p>Personnel costs:</p> <ul style="list-style-type: none"> ○ Salary ○ Travel, international/national ○ Accommodation ○ DSA ○ Local transportation <p>Ships :</p> <ul style="list-style-type: none"> - Participating units ○ Boats ○ Observer vessel ○ Fuel, bunkers, water etc. ○ Port fees ○ Pilotage ○ Charts & maps |

| | |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <ul style="list-style-type: none"> ○ Loading & unloading equipment ○ Food and Refreshments <p>Exercise Control Room</p> <ul style="list-style-type: none"> - Personnel costs ○ Photo copying ○ Printing ○ Security guards ○ Charts, maps, black boards etc. ○ Food and refreshments ○ Local transportation ○ Equipment rent <p>Other Government Agencies</p> <p>Observers and guests</p> <ul style="list-style-type: none"> ○ Accommodation ○ Local transportation ○ Food and refreshment ○ Exercise dinner or reception ○ Briefing facilities ○ Travel, national and international ○ Information and assistance <p>Response equipment rent</p> <p>Lifting, transportation and equipment handling, trucks</p> <p>First Aide</p> <p>Shore line response equipment handling and transportation</p> <p>Air planes and helicopters</p> <p>Press/Public information</p> <ul style="list-style-type: none"> ○ Briefing facilities ○ Food and refreshments ○ Phone and Internet <p>Private contractors</p> <p>Logo, Certificates, Exercise memorables</p> <ul style="list-style-type: none"> ○ Carrier bags ○ T-shirts, caps etc. |
| <p>Post Exercise</p> | <p>Personnel costs</p> <p>Travels</p> <p>Local transportation</p> <p>De-briefing facilities</p> <p>Dinner / Reception</p> |

| | |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p><i>Reporting and Printing</i></p> <p><i>Photograph and video recording of exercise events</i></p> <p><i>Gifts</i></p> <p><i>De-commissioning, cleaning, repair and conservation of equipment</i></p> |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Annex 1

Long-term Plan for Oil Spill Preparedness Exercises in the Caspian Sea

(The Long-term Plan will be inserted as Annex 9 to the Aktau Regional Implementation Plan in connection with the next revision of the latter)

The responsibility for the planning of the exercises will generally rotate among the Parties in alphabetical order. However, if a Party is unable to plan and host a scheduled exercise (i.e. due to financial constraints), a volunteer will be sought.

Long-term Exercise Schedule

| States/Exercise | AZ | IR | KZ | RU | TK |
|-----------------|-------------------------------------------------------------------------------------------------|--------------|--------------|--------------|--------------|
| Alpha | To be undertaken annually in conjunction with a meeting of the National Operational Authorities | | | | |
| Bravo | | Oct-Dec 2018 | Jan-Mar 2019 | Apr-Jun 2019 | Jul-Sep 2019 |
| | Oct-Dec 2020 | Jan-Mar 2020 | Apr-Jun 2020 | Jul-Sep 2021 | Oct-Dec 2021 |
| | Jan-Mar 2021 | Apr-Jun 2022 | Jul-Sep 2022 | Oct-Dec 2022 | Jan-Mar 2023 |
| | Apr-Jun 2023 | Jul-Sep 2023 | Oct-Dec 2024 | Jan-Mar 2024 | Apr-Jun 2024 |
| Delta | 20.. | 20.. | 20.. | 20.. | 20.. |

Analysis and Comparison of the Protocol Concerning Regional Preparedness, Response and Cooperation in Combating Oil Pollution Incidents and the Agreement on Cooperation in Emergency Prevention and Response in the Caspian Sea

Introduction

The Protocol Concerning Regional Preparedness, Response and Cooperation in Combating Oil Pollution Incidents was developed under the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, the “Tehran Convention”. It was signed in 2011 by the five littoral states of the Caspian Sea, the Parties to the Tehran Convention in Aktau, Kazakhstan which gave it the name “Aktau Protocol” and entered into force in 2016. As its name suggests the Protocol provides for a set of regulations for regional cooperation to prepare for and respond to oil pollution of any kind affecting the Caspian Sea.

The Agreement on Cooperation in Emergency Prevention and Response in the Caspian Sea was signed in 2014 at the Caspian Summit of the presidents of the Caspian littoral states in Astrakhan, Russia naming it the “Astrakhan Agreement”. It entered into force in 2017 and regulates how countries shall cooperate to prevent and respond to natural and man-made emergencies with a transboundary dimension.

Since both international treaties have entered into force, activities for their implementation are already underway. While they each have their specific scope of application and purpose, there is potential overlap in cases of preparedness and response for oil pollution incidents covered by the Aktau Protocol which may also signify as transboundary emergencies covered by the Astrakhan Agreement. In order to avoid duplication, use synergies and enhance the effectiveness of the implementation of both treaties, it is the purpose of this paper to analyze and compare both documents, to identify discrepancies and overlaps and suggest possible activities for coordination between the implementation processes. In that regard this paper should not be seen as an exhaustive in-depth legal analysis of the Aktau Protocol and the Astrakhan Agreement, but as a practical document with the aim to facilitate their implementation.

With that in mind, for the implementation of the Aktau Protocol, as provided for in its Article 4 (4), a “Caspian Sea Plan concerning Regional Cooperation in Combating Oil Pollution in Cases of Emergency” was developed, hereinafter called the draft regional implementation plan. At the time of writing, the draft plan is in an advanced stage of negotiation between the Caspian countries. Although it does not have the same legal standing as the two international treaties, this paper will take the draft plan into consideration in order to form a complete picture of the needs for implementation.

Comparative Analysis

It is evident that there’s a common subject and relationship between the two treaties. The Aktau Protocol was signed even before the development of the Astrakhan Agreement began.

Consequently, the preamble of the Astrakhan Agreement (paras. (6) and (7)) makes due reference to the Tehran Convention under which the Aktau Protocol was negotiated and also stresses the responsibility to protect the environment of the Caspian Sea.

Scope of application, objective and legal basis

The designated Articles on the scope of application in both treaties take different approaches. Whereas the Aktau Protocol in its Article 2 specifies the geographic scope similar to the Tehran Convention text, the Astrakhan Agreement defines the scope in terms of subject matter. Article 3 of the Aktau Protocol clearly cites Articles 7, 8 and 9 of the Tehran Convention dealing with pollution from land-based sources, from seabed activities and from vessels as legal basis. This highlights the environmental focus of the Aktau Protocol on the prevention, reduction and control of pollution involving oil in the Caspian Sea. Therefore, in more practical terms it can be said that the Aktau Protocol specifically addresses the issue of oil pollution originating from different sources. Its objective is to provide regional measures for preparedness, response and cooperation to that effect (Article 3).

The Astrakhan Agreement on the other hand more generically addresses regional cooperation to prevent and respond to all kinds of natural and man-made emergencies in the Caspian Sea when those cannot be managed by one country alone. It does not specify a legal basis explicitly. But considering the reference to the Tehran Convention in its preamble, Article 13 of the Tehran Convention on environmental emergencies may be considered as legal basis. The Tehran Convention defines “environmental emergency” as “a situation that causes damage or poses an imminent threat of pollution or other harm to the marine environment of the Caspian Sea and that result from natural or man-made disasters”. It obviously is focused on the effects on the marine environment. The definition of “emergency” in the Astrakhan Agreement is broader and applying to all types of emergencies stating it’s “a situation resulting from an accident, disaster or catastrophe of a natural or man-made origin which has caused, or may cause, casualties, damage to human health or the environment and industrial and social infrastructure facilities, considerable material loss and disruption of everyday life” (Article 1). Hence, Article 13 can be considered partly as legal basis of the Astrakhan Agreement. However, it is important to note here that the definition in the Astrakhan Agreement clearly covers oil spills as an emergency. Thus, when it comes to the prevention and response to oil pollution incidents in the Caspian Sea, both the Aktau Protocol and the Astrakhan Agreement in principle overlap in their applied scope, making the Astrakhan Agreement equally applicable.

Obligations and measures

Article 4 of the Astrakhan Agreement lists the measures the Caspian countries shall cooperate on to prevent and respond to emergencies. They include the creation and improvement of a cooperation system, early-warning and monitoring, exchange of information and experience, joint trainings and workshops as well as assistance in emergency response. The Astrakhan Agreement clearly lays its focus on assistance in emergency response which is treated in detail in its Articles 6 to 15 and will be analyzed below. However, the other measures are only mentioned in a very generic way and are not further specified. By contrast, the corresponding obligations and measures under the Aktau Protocol are more concrete and specifically geared towards oil pollution preparedness and response. Article 4 (3) of the Aktau Protocol requires the establishment of a regional cooperation mechanism as regional coordinating entity with

the functions described in Article 13 and Article 5 lays out principle requirements for the Caspian countries' national pollution response systems and contingency plans. This way the Protocol substantiates the functions and procedures of the cooperation system on oil pollution. In the same way, the Aktau Protocol specifies measures on the exchange of information (Article 6), pollution reporting (Article 7), trainings and exercises as well as operational measures (Articles 8 and 9). As mentioned earlier, these measures are then even further specified in the draft regional implementation plan required under Article 4 (4). Therefore, it can be summarized that the bulk of the measures listed in Article 4 of the Astrakhan Agreement are not in contradiction with the Aktau Protocol provisions. Instead the Aktau Protocol and its draft regional implementation plan put these measures in concrete terms with regard to oil pollution.

Both treaties deal with the issue of assistance by another Party in cases of emergencies that cannot be handled by one country alone. However, as mentioned earlier, for the Astrakhan Agreement this constitutes the center purpose, which is clearly stated in its Article 2 (2) and then handled by its Articles 6 to 15. The Aktau Protocol treats the issue of assistance in its Articles 10 and 11. In general, contrary to the measures described above, here the Aktau Protocol as such remains rather generic whereas the Astrakhan Agreement goes into more detail about how assistance shall be rendered. Yet, the Aktau Protocol provisions are specified by its draft implementation plan and the following paragraphs will take a closer look at the concerned assistance provisions.

Article 6 of the Astrakhan Agreement lays down how a request for assistance shall be made and which information shall be exchanged. The Aktau Protocol in Article 10 and its draft regional plan in chapter 4.4 add requirements here, for example the information which type of assistance is requested and what further formalities shall be respected. Hereby, the Aktau Protocol does not contradict the regulations of the Astrakhan Agreement, but rather complements them. One discrepancy between the treaties exists in the form how assistance can be requested. The Aktau Protocol and its implementation plan requires that assistance can only be requested in writing (Article 11 (2)) whereas the Astrakhan Agreement allows for an oral request in exceptional cases (Article 6 (1)). This item will need to be aligned and to be discussed what "exceptional cases" are and which practical implications this may have.

Article 7 of the Astrakhan Agreement sets out general rules on the coordination, responsibilities and interaction between countries in case of an emergency incident. While those have not been specified in the Aktau Protocol itself, they are treated in detail in the draft regional implementation plan (chapters 3 and 4.4). Although different terminology is used, the draft plan is in line with the provisions of the Astrakhan Agreement and substantiates the latter with regard to oil pollution emergency cases.

The Astrakhan Agreement, furthermore, includes provisions related to assistance dealing with the entry, exit and transit of personnel (Articles 8 and 9), the import, export and transit of equipment (Articles 8 and 12) as well as air and water transport (Articles 10 and 11). The Aktau Protocol only generically treats those regulations (Article 10 (2)) and leaves the concrete terms to its draft implementation plan (chapter 6).

The transit regulations in the Astrakhan Agreement (Article 8) and the draft regional plan (chapter 6.3.1) are not contradicting each other. Since the Astrakhan Agreement, however,

has legal prerogative over the draft plan and includes more detailed provisions with regard to entry, exit and transit of personnel and cargo, the plan should be extended and aligned with the Astrakhan Agreement. The same is true for the provisions of entry, exit and stay of personnel in the territory of the requesting party which are far more detailed in the Astrakhan Agreement than in the draft regional implementation plan (chapter 6.3). Examples are the provision that personnel should pass through agreed check points (Article 9 (3)) or that the assistance units should be ready to operate autonomously for 72 hours (Article 9 (8)) which should be included in the draft regional plan.

The Articles 10 and 11 of the Astrakhan Agreement for the use of air and water transport and the corresponding regulations in chapters 6.3.2 and 6.3.3 of the draft regional implementation plan, for the most part complement each other. Yet, they too, need to be further aligned. Article 10 (3) of the Astrakhan Agreement for example regulates that for air transport the rules of the Civil Aviation Organization shall apply, which is not mentioned in the draft plan, whereas the draft plan in chapter 6.3.3 regulates that the provisions of the International Convention on Facilitation of International Maritime Traffic shall be observed, which is not mentioned in the Astrakhan Agreement. The draft plan also stipulates that the overflight and navigation of military and state-owned aircrafts and vessels of other parties shall be decided by the concerned Parties on a case by case basis which is not mentioned in the Astrakhan Agreement. Furthermore, there is a discrepancy between the draft plan which regulates that fuel costs of aircrafts and vessels shall be covered by the requesting party for their stay in the emergency country, but by the assisting party for their travel to the emergency site (chapter 6.2). The Astrakhan Agreement, however, regulates that the reimbursement of the fuel costs shall simply be agreed upon by the concerned Parties (Article 10 (5)).

The regulations for import and export of equipment in cases of emergency in Article 12 of the Astrakhan Agreement and in chapter 6.3 of the draft regional implementation plan do not contradict, but the draft plan should be brought in line with the Astrakhan Agreement where its regulations are more detailed. Notably, where the draft plan provides that assisting equipment should be admitted free of excise and duties wherever possible, whereas the Astrakhan Agreement provides that equipment shall be exempt from all customs duties, taxes and charges without exception.

The reimbursement of the costs of assistance is regulated in a detailed way in Article 11 of the Aktau Protocol with the default rule that the receiving party shall reimburse the assisting party except for if otherwise agreed on an individual basis or if the assisting party acted on its own initiative. These regulations are then repeated and even further specified in chapter 6.2 of the draft regional implementation plan. The Astrakhan Agreement covers this issue in its Article 14 which is not contradicting the provision of the Aktau Protocol per se, but which instead starts from the assumption that the parties have agreed whether the assistance was provided on a reimbursable or non-reimbursable way. It can be argued that in case such agreement on the reimbursement between the Parties is lacking in an oil pollution emergency, the Aktau Protocol as the more targeted treaty is to be applied assuming a reimbursable assistance. However, common agreement on the interpretation of such a case would be beneficial. Furthermore, Article 14 of the Astrakhan Agreement adds certain regulations which should be aligned with the draft regional implementation plan, for example that the assisting party shall inform the requesting party of the volume of the emergency

operations within a week after their completion or that requesting and assisting party shall draft a bilateral act on relief expenditures within a month of completion of the emergency operations.

Article 15 of the Astrakhan Agreement deals with the reparation of damage caused during the assisting operation and regulates that the requesting party shall repair any damage caused by the assistance units in its territory except when caused intentionally or in gross negligence in which case parties shall negotiate. The Aktau Protocol does not contain any provision to that effect. However, the draft regional implementation plan in chapter 6.5 provides that the responsibility for damage caused to third parties during the assisting operation rests with the assisting party. This appears to contradict with the Astrakhan Agreement and should be clarified and aligned accordingly.

The analysis of the regulations on assistance in the Astrakhan Agreement and the Aktau Protocol show that they complement each other for the most part. There are, however, two issues where the text of both treaties are not completely consistent and require clarification: The written and/or oral request for assistance and the default scenario for reimbursement of the assistance operation. Where the draft regional implementation plan of the Aktau Protocol omits provisions made in the Astrakhan Agreement or is inconsistent with those, it should be aligned accordingly so that the Parties respect their international legal commitments.

Competent authorities

The competent authorities for the implementation of the Astrakhan Agreement are clearly specified in its Article 5 itself. They are:

- Ministry of Emergency Situations of the Republic of Azerbaijan
- Ministry of Interior of the Islamic Republic of Iran (National Disaster Management Organization)
- Ministry of Interior and Ministry of Investments and Development of the Republic of Kazakhstan
- Ministry for Civil Defense, Emergencies and Elimination of Consequences of Natural Disasters and Ministry of Transport of the Russian Federation
- Ministry of Defense of Turkmenistan (Emergency Situations and Rescue Operations Department of the Main Civil Protection and Rescue Operations Department)

The competent national authorities designated in accordance with Article 5 (1) (a) of the Aktau Protocol are specified in Annex 1 of its draft regional implementation plan (latest update April 2017). They are:

- Ministry of Emergency Situations of the Republic of Azerbaijan
- Ports and Maritime Organization of the Islamic Republic of Iran
- Ministry of Energy of the Republic of Kazakhstan
- Ministry of Transport of the Russian Federation
- Not designated by Turkmenistan yet

This shows, that in Azerbaijan and the Russian Federation, the same Ministries are responsible for the implementation of the Astrakhan Agreement as well as the Aktau Protocol which should simplify coordination. In Iran and Kazakhstan as well as in Turkmenistan which at the time of writing has not designated a national competent authority for the Aktau

Protocol yet, it would be beneficial to clarify the relationships between the different competent authorities in terms of emergency response in cases of oil pollution and to inform the other Parties about it in order to ensure effective implementation of both treaties.

Ongoing implementation activities with regard to oil pollution emergencies

As mentioned in the introduction, with both the Aktau Protocol and the Astrakhan Agreement in force, activities have already been undertaken for their implementation.

In November 2017, Azerbaijan hosted a regional exercise under the Astrakhan Agreement that included oil pollution within its scenario. Personnel and equipment of all Caspian littoral states was present and applied as well as related private companies involved. The exercise incorporated aspects of command and coordination which also fall well within the purview of the Aktau Protocol implementation. A follow-up activity under the Astrakhan Agreement called "Teniz 2018" is already planned and to be hosted by Kazakhstan end July 2018. The Aktau Protocol will host its kick-off implementation workshop in June 2018 in Azerbaijan.

In light of the overlapping scope of application of the Aktau Protocol and the Astrakhan Agreement, it is important that these events and processes are well coordinated in the future so that implementation is aligned and can be carried out effectively and efficiently.

Summary and suggested action

Summary

This analysis and comparison of the Aktau Protocol and the Astrakhan Agreement shows that with regard to preparing and responding to emergencies involving oil pollution in the Caspian Sea, the treaties overlap in their scope of application, making the Astrakhan Agreement equally applicable. It reveals that in principle both treaties complement each other in their regulations, with the Aktau Protocol specifying oil pollution related provisions in particular concerning preparedness and the setup of an effective cooperation system, and with the Astrakhan Agreement adding to and specifying provisions related to assistance in emergency situations. However, on the two issues of written and/or oral request for assistance and on the default scenario for reimbursement of the assistance operation further clarification is needed.

As international treaties both texts have equal legal standing which is also expressed in Article 20 of the Aktau Protocol and in Article 16 of the Astrakhan Agreement, stating that nothing in the respective documents shall prejudice the rights and obligations of the parties under other international treaties they are party to. Therefore, provisions with regard to emergency cases under the Astrakhan Agreement which were not made in the Aktau Protocol shall be respected by the Caspian countries. These provisions, where opportune, may be included in the draft regional implementation plan of the Aktau Protocol. The draft plan which specifies the provisions of the Aktau Protocol does not have the same legal standing as the treaties. Its regulations for the large part complement the provisions of the Astrakhan Agreement. However, this analysis identified that there are a number of discrepancies and inconsistency for which the draft plan will need to be further aligned with the Astrakhan Agreement.

The analysis also shows that competent national authorities responsible for the implementation of the treaties partly overlap, namely in Azerbaijan and the Russian Federation. The designation process of the Aktau Protocol appears not to be completely finalized yet, which provides for a good opportunity to further align responsibilities and coordinate implementation activities of the competent authorities with regard to oil pollution preparedness and response.

Implementation activities for both treaties are already ongoing and should be coordinated in the future so that the implementation processes are aligned and measures can be carried out effectively and efficiently.

Suggested action

- Discussion at intergovernmental meeting of the Caspian Sea littoral states, for example within the framework of the Tehran Convention, to align the Aktau Protocol and its regional implementation plan with the Astrakhan Agreement.
- Caspian Sea littoral states provide information about the coordination of their designated competent authorities under the Aktau Protocol and Astrakhan Agreement with regard to oil pollution preparedness and response.
- Active exchange and coordination between the people responsible for implementation activities regarding oil pollution preparedness and response of the Aktau Protocol and Astrakhan Agreement processes, for example in training exercises, intergovernmental meetings and the institutional setup under the Aktau Protocol.

Aktau Protocol Implementation**Budget 2019-2020**

| Activity | Cost in USD |
|---------------------------------------------------------------------------------------------|-----------------------|
| Regional Aktau Protocol meeting back-to-back with Tehran Convention meeting (once per year) | 40,000 |
| Update and alignment of National Contingency Plans with Aktau Protocol Implementation Plan | 40,000 |
| Meetings of Operational Authorities in conjunction with Alpha exercises (once per year) | 70,000 |
| Bravo exercises (four per year) | 10,000 |
| Delta exercise in cooperation with Astrakhan Agreement implementation (September 2020) | 60,000 (+ in kind) |
| TOTAL: | 220,000 |