

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

Distr.: General
September 2016
Original: English

**CONFERENCE OF THE PARTIES
Sixth Meeting
... 2017, Baku, Azerbaijan**

**Protocol on Monitoring, Assessment and Information Exchange to the Framework
Convention for the Protection of the Marine environment of the Caspian Sea**

(Note by the Secretariat)

At its 5th Meeting, in Ashgabat, Turkmenistan, on 30 May 2014, the Conference of the Parties to the Tehran Convention (COP5) “welcomed the proposed Regional Framework and Network for the Tehran Convention and Protocol Compliance Monitoring and Assessment, contained in document TC/COP5/5”, and decided “to establish a Working group on monitoring and information exchange”

“Convinced of the usefulness of a legal framework for information sharing in support of the Tehran Convention and its Protocols”, COP5 furthermore invited the interim Secretariat (TCIS) “to initiate and service intergovernmental consultations related to the development of such a framework, in consultation with the Working Group on Monitoring and Information Exchange”.

At the 1st Preparatory Committee meeting for COP6 (PrepCom1), in Baku, Republic of Azerbaijan, 24 – 27 November 2014, the Parties reviewed the proposal of TCIS with possible components for a legal instrument on data and information sharing, and agreed that such an instrument should/could:

- Provide the framework for implementation of the Environmental Monitoring Programme (EMP) and the role of the Working Group on Monitoring and Assessment therein;
- Include a set of water quality objectives and standards;
- Include provisions regarding public access to information;
- Regulate national reporting on the implementation of the Tehran Convention and its Protocols, in accordance with the Unified Reporting Format; and
- Regulate State of the Caspian Sea Environment Reporting.

Consequently, PrepCom1 requested TCIS to coordinate the preparation and initiate the negotiation process of a legal instrument (Protocol) on Monitoring, Assessment and Information Exchange.

By letter of 27 February 2015, TCIS circulated a first draft of the Protocol for comments. Comments (dated 29 May 2015) were received from Russian Federation.

PrepCom2 for COP6, in Baku, 31 May – 3 June 2015, welcomed and provided general comments on the draft Protocol. Agreement was furthermore reached on the name and terms of reference of the Working Group on Monitoring and Assessment, to include

- Development of (sub)regional water quality standards and objectives
- Advice on the role and place of these standards and objectives in a legal instrument for monitoring and information exchange

By September 2015, additional comments on the draft protocol had been received from Azerbaijan and Kazakhstan.

By letter of 29 December 2015, TCIS invited the Contracting Parties to back to back meetings of the Working Group on Monitoring and Assessment and on the Draft of the Protocol on Monitoring, Assessment and Information Exchange, in Baku, 20 – 22 January 2016.

At its 1st meeting, in Baku, 20-21 January 2016, the Working Group on Monitoring and Assessment:

- decided to develop a set of Regional Marine Water, Sediment, and Biological Quality Standards (Criteria) taking into account existing national legislation
- nominated a sub-group to review Sediment Quality Criteria used in other regions of the world, and draft a set of criteria for basic pollutants in the sediments to serve as Regional Sediment Quality Criteria in the Caspian Sea.
- Suggested that the draft Protocol on Monitoring and Information Exchange should contain a direct reference to agreed procedures for validating data exchange, which may include raw data, required for a proper assessment of the state of the Caspian environment
- Suggested that the Protocol text, one of its Annexes or the implementation arrangements should include reference to:
 - The number and location of monitoring stations (sites)
 - The type of media (water; sediments; biota)
 - Minimum data quality control procedures applied at the national level
 - The frequency and timing of data submission
 - The formats for data submission
 - Information on certified Labs participating in the monitoring activities
 - Addressees for the submission of data (TC Secretariat, etc)
 - Designated responsible organizations for the accumulation, checking, compiling and managing of data
 - The rights of data owners and procedures for access to compiled data sets

Directly following the meeting of the Working Group on Monitoring and Assessment, on 21 and 22 January 2016, the Parties reviewed the draft text of the Protocol on Monitoring, Assessment and Information Exchange.

Based on the discussions at the meeting and the inputs and contributions by the Working Group on Monitoring and Assessment, TCIS revised the text of the Protocol and, by letter of 15 April 2016, circulated the new version (dated 21 February 2016) for comments.

The draft text of the Protocol, dated 21 February 2016 (ed.), is attached.

DRAFT, 21 February 2016 (ed.)

**PROTOCOL ON MONITORING, ASSESSMENT, AND INFORMATION
EXCHANGE TO THE FRAMEWORK CONVENTION FOR THE PROTECTION
OF THE MARINE ENVIRONMENT OF THE CASPIAN SEA**

Preamble

Caspian littoral States:

Republic of Azerbaijan

Islamic Republic of Iran

Republic of Kazakhstan

Russian Federation

Turkmenistan

hereinafter referred to as the Contracting Parties,

Being Contracting Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, done at Tehran on 4 November 2003 (hereinafter referred to as the Convention);

Recalling their decisions to adopt the Unified Reporting Format (TC/COP3/8) and to welcome the Environmental Monitoring Program (TC/COP4/7) and implementation Framework (TC/COP5/5 Annex II), and underlining the importance of a well- functioning web-based Caspian Environment Information Centre (TC/COP4/8);

Welcoming the Agreement on Cooperation in the Field of Hydrometeorology of the Caspian Sea signed by the Caspian littoral states in Astrakhan, Russian Federation, on 29 September 2014, and acknowledging its potential role in monitoring atmospheric conditions and climate change, sea level, and fresh water fluxes discharged into the Caspian Sea by rivers (*proposal AZ, KZ and RF*);

Welcoming furthermore the Agreement on Cooperation on Emergency Management in the Caspian Sea and the Agreement on the Conservation and Sustainable Use of Marine Biological Resources of the Caspian Sea (*proposal AZ and KZ*)

Reiterating the importance of the conservation and sustainable use of the oceans and seas and of their resources for sustainable development, including through the contributions to poverty eradication, sustained economic growth, food security, creation of sustainable livelihoods and decent work, while at the same time protecting biodiversity and the marine environment and addressing the impacts of climate change (para 158 of The Future We Want, Rio de Janeiro, 22 June 2012) (*proposal IR Iran*);

Noting the importance of public participation and confirming their intention to facilitate stakeholder engagement in the protection of the marine environment of the Caspian Sea through National Strategies for Civil Society Engagement in the Protection of the Marine Environment of the Caspian Sea being part of National Convention Action Plans (*para 11 COP3 Ministerial Statement*)(*proposal AZ and RF*);

Determined to implement the provisions of the articles on monitoring (article 19), exchange of and access to information (article 21) and reports (article 27) of the Convention as well as of the articles related to monitoring, assessment an information exchange of its Protocols;

HAVE AGREED as follows:

I. GENERAL PROVISIONS AND OBLIGATIONS

Article 1. Use of Terms

For the purpose of this Protocol:

- (a) “Conference of the Parties” means the body referred to in Article 22 of the Convention;
- (b) "Secretariat" means the body referred to in article 23 of the Convention;
- (c) [“Competent Authority” means the authority(ies) designated by a Contracting Party as responsible for the fulfillment of the obligations specified in this Protocol] [“Public Authority ” means a natural or legal person performing public administrative functions under national law] (*see article 9.1*)
- (d) “Environmental Monitoring Programme“ means the structure/framework for enabling the measurement of and reporting on the quality and its trends in the marine environment of the Caspian Sea for the purpose of national and regional policy and decision making related to the implementation of the Convention and its Protocols, taking into account and building upon the available national monitoring structures and institutions and introducing, where relevant complementary remote sensing options (TC/COP4/7/ed. Annex I);
- (e) “Working Group on Environmental Monitoring and Assessment” means the Working group of the Secretariat established for keeping under review and advising on monitoring, assessment and information exchange in support of the implementation of the Convention and its Protocols (see Annex 2 for terms of reference)
- (f) "The Public" means one or more natural or legal persons (*text from EIA Protocol*);
- (g) “Marine Environment” means the complex of elements, comprising marine waters, influx of fresh waters, bottom sediments and air adjacent to the sea surface as well as natural or genetically modified biological organisms inhabiting marine waters, bottom sediments and adjacent air and coastal areas.
- (h) “Environmental assessment” means assessment of the state of the Caspian environment, including the marine environment of the Caspian Sea and the effectiveness of measures taken to prevent, control and reduce pollution and secure sustainable development
- (i) “Environmental information” means any information in written, visual, aural, electronic or any other material form on the environmental conditions including the marine environment of the Caspian Sea as well as the drivers and effects of changes in these conditions;

(j) “State of the Caspian Sea Environment (SOE) report” means a report on an agreed set of indicators that show the conditions of and trends in the marine environment of the Caspian Sea;

(k) “Caspian Environment Information Centre (CEIC)” means [the virtual web-based (centralized) data base and information management system to function as a repository of all relevant data, serve as the basis for decision-making and as a general source of information and education for specialists, administrators and the general public (*text from art. 19 Convention*)] [the thesaurus of data and information submitted and collected in the context of the implementation of the Tehran Convention and its Protocols (*proposal RF, text from para 15 COP4 Ministerial Statement*)];

(l) “Environmental quality objective (EQO)” means a goal, which specifies a desirable target for environmental quality that should be met in some particular environment, such as a river beach or industrial site (*text from LBSA Protocol*);

(m) “Environmental quality standard (EQS)” means the concentration of a particular substance or group of substances in water, sediment or biota which should not be exceeded in order to protect human health and the environment (*text from LBSA Protocol*);

(n) “Genetically modified organisms” means any organisms whose genetic material has been altered using gene technology (*RF proposes deletion of this sub para.*);

Article 2. Objectives

The objective of this Protocol is to regulate and secure environmental monitoring, assessment and information exchange related to the protection of the marine environment of the Caspian Sea in support of the implementation of the Convention and its Protocols.

(RF: The provisions of the protocol should regulate the procedure and mechanism for data exchange within the framework of the EMP, the order of data transfer to the CEIC and use of these data for the preparation of national reports. The purpose of this protocol shall be to develop a network of observation and assessment of the marine environment of the Caspian Sea within the framework of the EMP)

Article 3. Scope of Application

In accordance with Articles 3 and 15 of the Convention this Protocol shall be applied to the marine environment of the Caspian Sea taking into account its water level fluctuations and pollution from land-based sources as well as the land affected by proximity to the sea.

Article 4. General Provisions

The Contracting Parties shall individually and jointly take all appropriate measures (to comply with the provisions of this protocol)*(RF: consistent with the principles of the Convention, to ensure the completion and maintenance of an information database for the protection of the marine environment of the Caspian Sea from pollution and to ensure that all stakeholders are involved)*, and to this end:

(a) Establish a base and framework for monitoring and original data exchange related to the environment of the Caspian Sea;

(b) Regularly assess and review the environmental conditions of the Caspian Sea as well as the causes and effects of changes in these conditions;

- (c) Report and exchange information in accordance with the requirements of the Convention and its Protocols;
- (d) Report on the State of the Caspian Sea environment on a regular basis;
- (e) Promote and ensure public access to information on the state of the Caspian Sea environment;
- (f) Ensure regular input and updating of the information in the virtual CEIC.

II. MONITORING, ASSESSMENT, REPORTING, INFORMATION EXCHANGE

Article 5. Setting the Baseline for Environmental Monitoring and Assessment

1. The Contracting Parties shall, individually and jointly develop and implement monitoring programmes, conduct environmental assessments, and report and exchange information with the view to meet the Environmental Quality Standards and Objectives contained in Annex I;
2. The Contracting Parties shall oversee, guide and support the work of the Working Group on Environmental Monitoring and Assessment, including its cooperation with CASPCOM;
3. The Contracting Parties acknowledge and commit to implement, regularly review and update the Environmental Monitoring Program as the basic framework for monitoring and data management and exchange in support of the implementation of the Convention and its Protocols;

Article 6. Environmental Monitoring and Original Data Exchange

1. The Contracting Parties shall develop and implement (individual) (national) and (joint) (regional) programmes for monitoring marine environment elements (marine waters, influx of fresh waters, sediments, biological organisms);
2. The joint environmental monitoring programmes shall, inter alia, provide for:
 - (a) Institutional arrangements for their implementation, including the establishment of (a) network(s) of monitoring institutions and national focal points;
 - (b) Agreed sets of marine environmental parameters and geographical location of the monitoring sites serviced by each of the Contracting Parties
 - (c) Harmonizing procedures for the operation of the monitoring programmes, measurement systems, analytical techniques, data processing and evaluation procedures for data quality
 - (d) Arrangements for submission of evaluated (quality controlled) original data, resulting from monitoring, to the Secretariat, including:
 - i) Number and location of the monitoring stations;
 - ii) Type of media (water, sediments, biota);
 - iii) Frequency, timing and submission formats;
 - iv) Information on participating certified analytical laboratories;

- v) Designation of the organization(s) responsible for accumulating, checking, compiling and managing the data;
- vi) Information on the rights of data owners and access to compiled data sets.

Article 7. Environmental Assessment

The Contracting Parties shall, at regular intervals, and against the regional Environmental Quality Standards and Objectives, carry out (individual) (national) or (joint) (regional) assessments of the status and effectiveness of the measures taken for the prevention, control and reduction of pollution of the marine environment of the Caspian Sea

Article 8. Reporting

1. Each Contracting Party shall, at regular intervals not exceeding three or four years, and in accordance with a Unified Reporting Format, publish and disseminate a report on the implementation of the Convention and its Protocols in its country;
2. The data and information collected and produced in accordance with articles 6 and 7 above will once every 5 years be summarized and included in a State of the Caspian Sea Environment report

Article 9. Access to and Exchange of Environmental Information

1. Each Contracting Party shall ensure that the (competent) (public) authorities, in response to a request for environmental information, make such information available and easily accessible to the public, within the framework of national legislation.
2. Each Contracting Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks.
3. The Contracting Parties will through designated focal points ensure that all relevant information collected and provided in accordance with section II of this Protocol will be stored and regularly updated in the Caspian Environment Information Centre, managed under the auspices of the Secretariat.

III. INSTITUTIONAL AND FINANCIAL PROVISIONS

Article 10. Institutional Provisions

1. For the purposes of this Protocol and in accordance with Article 22, paragraph 10 of the Convention, the Conference of the Parties shall, *inter alia*:
 - (a) Keep under review the implementation of this Protocol;
 - (b) Oversee the work of the Secretariat and provide guidance for its activities;

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- (c) Keep under review the content of this Protocol and its annexes;
 - (d) Consider and adopt any amendments to this Protocol or its annexes;
 - (e) Consider reports submitted by the Secretariat on matters related to the implementation of this Protocol;
 - (f) Establish such subsidiary bodies as may be deemed necessary for the implementation of this Protocol;
 - (g) Consider, adopt and regularly review, as appropriate, the arrangements, programs and procedures related to the implementation of articles 5 and 6 of this Protocol;
 - (h) Consider and review, as appropriate, assessments and reports submitted under article 7 of this Protocol;
 - (i) Regularly review and provide guidance on the legislative, administrative and other measures taken by the Contracting Parties related to the implementation of Section II of this Protocol
 - (j) Consider and decide on the financial and budgetary matters related to the implementation of this Protocol;
 - (k) Consider and undertake any additional actions that may be required for the achievement of the objectives of this Protocol;
 - (l) Seek, where appropriate, the technical and financial services of relevant international bodies and scientific institutions for the purposes of the objectives of this Protocol.
 - (m) Perform such other functions as may be required for the implementation of this Protocol
2. For the purposes of this Protocol, in accordance with Article 23, paragraph 4 of the Convention, the Secretariat shall *inter alia*:
- (a) Provide upon request by any Contracting Party legal, scientific and technical assistance and advice for the effective implementation of this Protocol;
 - (b) Communicate with Competent Authorities in the Contracting Parties on the application of this Protocol;
 - (c) Promote and facilitate legal, scientific and technical cooperation;
 - (d) Oversee and regularly report on the work and activities of the Working Group on Environmental Monitoring and Assessment;
 - (e) Oversee the management of the CEIC and coordinate the preparation of Caspian State of the Environment Reports and related environmental assessments
 - (f) Assist the Contracting Parties, in cooperation with the relevant international, intergovernmental and non-governmental organizations, in the implementation of this Protocol.
 - (g) Prepare and submit reports and technical studies that may be required for the implementation of this Protocol to the Conference of Parties;
 - (h) Carry out the functions assigned to it in the programmes and action plans adopted by the Conference of the Parties in the framework of this Protocol;

(i) Perform such other functions as may be determined by the Conference of the Parties.

Article 11. Funding of the Protocol

1. To achieve the objectives of this Protocol, the Contracting Parties, shall as far as possible:

(a) Consider and ensure the availability of financial resources for the formulation and implementation of related domestic, bilateral and multilateral programmes, projects and measures;

(b) Promote the mobilization of financial resources from bilateral and multilateral funding sources and mechanisms, including grants and loans;

(c) Explore innovative methods and incentives for mobilizing and channeling resources, including those of foundations, governmental agencies of other countries, international organizations, nongovernmental organizations and private sector entities.

2. The Financial Rules of the Convention shall apply *mutatis mutandis* to this Protocol, unless otherwise decided by the Conference of the Parties.

IV. FINAL CLAUSES

Article 12. Settlement of Disputes

Any dispute between the Contracting Parties concerning the application or interpretation of the provisions of this Protocol shall be settled in accordance with Article 30 of the Convention.

Article 13. Adoption and Entry into Force of the Protocol

1. This Protocol shall be adopted by unanimous decision of the Contracting Parties by a Meeting of the Conference of the Parties.

2. This Protocol shall be open for signature only by Caspian littoral States, in the city of from to

3. This Protocol shall be subject to ratification, acceptance or approval by the Caspian littoral States and shall be open for accession by any Caspian littoral State from the date on which the Protocol is closed for signature.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository of the Convention.

5. This Protocol shall enter into force on the ninetieth day after the date of deposit of the instrument of ratification, acceptance, approval or accession by all Caspian littoral States.

Article 14. Adoption of Amendments to the Protocol, Annexes to it and Amendments to the Annexes

Any Contracting Party may propose amendments and annexes to this Protocol, as well as amendments to its annexes. These amendments and annexes shall be adopted by the Contracting Parties and enter into force in accordance with Articles 24 and 25 of the Convention.

Article 15. Relationship with Other International Treaties

Nothing in this Protocol shall prejudice the rights and obligations of the Contracting Parties under other international treaties to which they are parties.

Article 16. Effect of the Protocol on National Legislation

The provision of this Protocol shall not affect the right of the Parties to adopt stricter national measures relevant for the implementation of this Protocol.

Article 17. Reservation

No reservations may be made to this Protocol.

Article 18. Depository

The Depository of the Protocol is the Depository of the Convention.

Article 19. Authentic Texts

The Azerbaijani, English, Farsi, Kazakh, Russian and Turkmen texts of this Protocol are equally authentic. In case of dispute arising as to the interpretation or application of this Protocol the English text shall be authoritative.

Article 20. Relationship with the Negotiation of the Legal Status of the Caspian Sea

Nothing in this Protocol shall be interpreted as to prejudge the outcome of the negotiation on the final legal status of the Caspian Sea.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

Done at the city of on theday of of