

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

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**INTERRELATIONSHIP BETWEEN THE FISHERIES AND THE
PROTECTION OF THE MARINE ENVIRONMENT OF THE CASPIAN SEA**

(Note by the interim Secretariat)

Introduction

1. The Statement of Ministers at the first Meeting of the Conference of the Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, 25 May 2007, Baku, Republic of Azerbaijan requested the interim Secretariat to prepare a scoping paper on the interrelationship between the fisheries and the protection of the marine environment of the Caspian Sea.

2. The scoping paper is contained in Annex 1. The preparatory meeting for the second meeting of the Conference of the Parties, 8-10 September 2008, Almaty, Republic of Kazakhstan, preliminarily discussed the paper, together with the “Elements on Regional Cooperation on Fisheries Issues”, prepared by the Islamic Republic of Iran for consideration of the Conference of the Parties at their 2nd meeting, and contained in Annex 2.

Suggested action:

3. The Conference of the Parties may wish to consider the scoping paper on the interrelationship between the fisheries and the protection of the marine environment of the Caspian Sea, as well as the “Elements on Regional Cooperation on Fisheries Issues”, and take a decision on follow-up.

*Scoping paper***on the interrelationship between the fisheries and
the protection of the marine environment of the Caspian Sea****1. Introduction and methodology**

This scoping paper considers the interrelationship between the fisheries and the protection of the marine environment of the Caspian Sea. It has been prepared in response to the request of the Parties to the Convention on the Protection of the Marine Environment of the Caspian Sea, during the first meeting of Conference of the Parties in May 2007 in Baku.¹ The aim of the scoping paper is to support the Parties in their efforts to intensify their regional dialogue and to build their regional partnership for safeguarding the marine environment of the Caspian Sea for the benefit of present and future generations. The paper:

- Considers current fisheries conservation issues in the Caspian Sea region;
- Analyses the Convention's Article 14;
- Reviews best practices concerning regional cooperation on conservation of marine bioresources in other parts of the world;
- Reports on issues identified by stakeholders as well as points of common agreement; and
- Provides suggestions for how the Parties might move forward on setting in place a sound legal framework for regional cooperation on conservation and sustainable use of the marine bioresources of the Caspian Sea.

In the course of preparing this paper, all available documentation on the Caspian Sea fisheries was reviewed, and missions carried out to Moscow, Baku, Tehran, Astana and Ashgabat to gather the views of officials in fisheries agencies, ministries of environment, and ministries of foreign affairs.²

2. Current situation with respect to the conservation of the Caspian's marine bioresources

¹ Statement of Ministers at the first Meeting of the Conference of the Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, 25 May 2007, Baku, Republic of Azerbaijan.

² This Scoping Paper was prepared for the interim Secretariat of the Tehran Convention by Gretta Goldenman and Claire Dupont of Milieu Ltd, with the support of the UNEP Regional Office for Europe and the World Bank.

There is agreement, both within the Caspian countries and internationally, that the marine bioresources of the Caspian Sea are in crisis. All of the commercial fish populations including sturgeon and kilka are in decline. Other non-commercial fisheries are also threatened and these declines are having major environmental as well as economic impacts.

The reasons for these declines in commercial fisheries are varied. Overexploitation including from illegal, unreported and unregistered catches is one of the core reasons the populations of sturgeon has dropped significantly in recent years. Other impacts on Caspian fisheries identified to date include loss of breeding areas due to the damming of the Volga and other rivers, influx of invasive species (in particular the impact of the jellyfish *Mnemiopsis leidyi* on the zooplankton at the bottom of the Caspian fisheries food chain), land-based pollution entering the Caspian from the industries along the Volga and other rivers, and various impacts from the hydrocarbon industry, including shipping. While the problem of overexploitation is clearly a problem directly related to fisheries management, the other problems are broader in nature, and cannot be dealt with by fisheries officials acting in isolation from counterparts in other sectors.

The 40-fold drop in sturgeon populations since 1990 is a particular concern given that sturgeon are one of the oldest species still alive, occupying a special place in the biological heritage of the earth. They are also among the most economically valuable of animal species. The high value market for unfertilised roe, *i.e.*, caviar, has made sturgeon a target for organised illegal fishing and trade, and contributed to their over-exploitation.

It is said that one way to measure the effectiveness of a regional fisheries conservation regime is the status of the commercial fish populations. The decline in the Caspian's commercial and other fish populations indicates that the current system for regional cooperation on conservation of the Caspian marine bioresources is not efficient.

Before the collapse of the former Soviet Union in 1991, some measures for conservation and management of the Caspian's highly migratory fisheries were in place. For example, declines in sturgeon populations due to impacts from the damming of the Volga were addressed through large-scale hatchery programmes and state monopolies on harvesting. In addition, the former Soviet Union entered into bilateral fisheries agreements with Iran.³

Regional cooperation structures, including for conservation of Caspian fisheries, broke down with the collapse of the Soviet Union. In 1992, the five Caspian states started discussions on new regional cooperation structures but these could not be concluded due to lack of agreement on the legal status of the Caspian Sea. A draft fisheries agreement was prepared and discussed among the five Caspian states at about the same time but this legal instrument could not be finalised, again because of lack of agreement on the Sea's legal status and its resources.

³ A 1927 agreement between Persia and the Soviet Union on exploitation of fisheries on the southern coast of the Caspian Sea set up a special commercial company owned by the two countries, and granted the company an exclusive concession conferring fishing rights and the right to process fish on the southern coast of the Caspian.

In 1992, in the absence of a binding regional arrangement, fisheries officials from the four former Soviet republics began to meet regularly as the Commission on Aquatic Bioresources (CAB). This Commission is discussed in more detail below.

In the mid-1990s, the international community became concerned about the status of sturgeon populations around the world, including the Caspian region. In 1998, in view of the impacts of the international trade in caviar on sturgeon populations, the Convention on International Trade in Endangered Species (CITES) began to take steps to control international trade with a view to curbing overexploitation. Since the Caspian region accounts for 80% of the global production of caviar, the Caspian states came under particular pressure to develop more effective fisheries conservation and management.

In 2001, Azerbaijan, Kazakhstan, the Russian Federation and Turkmenistan reached an agreement with the CITES Standing Committee on a compliance action plan under which they would take urgent measures to prevent further declines in sturgeon stocks. The Paris Agreement obliged them *inter alia* to establish and implement a common policy for the conservation and utilization of sturgeon resources and to adopt a collaborative basin-level management system for sturgeon fisheries in the Caspian Sea as the basis for sustainable commercial exports of sturgeons.⁴ However, progress in implementing the CITES recommendations has been slow.

In 2000 – 2001, an EU-funded project under the aegis of the Caspian Environment Programme provided technical assistance to the five countries in the area of fisheries management. In addition to financing the first all-Caspian surveys of fishery populations since the break-up of the Soviet Union, the project reviewed the 1992 draft fisheries agreement. A report was prepared that proposed revisions to a) move forward on a regional cooperation structure despite the unresolved issue of the Sea's legal status, and b) strengthen the Commission on Aquatic Bioresources into a regional fisheries management structure. However, this draft was never taken up by the five Caspian countries. A second EU-funded project operating in 2004 – 2006 also provided technical assistance on fisheries with a view towards furthering regional cooperation in this area. The project focused on technical aspects such as stock assessment methodologies but did not make progress on issues requiring a regional cooperation structure, such as illegal fishing.

Other international organisations are now engaged in the effort to address the decline in Caspian fisheries populations. The FAO is currently undertaking a regional Technical Cooperation Programme (TCP) on “Capacity building for the recovery and management of the sturgeon fisheries of the Caspian Sea” (through April 2009), and the World Bank has launched a small three-year technical assistance project aimed at supporting the recovery of Caspian sturgeon and the sustainable management of Caspian fisheries. Finally, the Global Environment Facility (GEF) will support a third regional project for implementation through the UNDP and UNEP, entitled “The Caspian Sea: Restoring Depleted Fisheries and Consolidation of a Permanent Regional Environmental Governance Framework” (“CaspECO”).

⁴ http://www.cites.org/eng/com/SC/45/E45-SumRep_annex2.pdf. In December 2003, the CAB adopted a *Regional Program of the Caspian Littoral States on the Joint Management, Conservation and Sustainable Use of the Caspian Sea Bioresources*. See http://www.cites.org/common/prog/sturgeon/regional_prog_caspian03.pdf

3. Existing & proposed legal structures for regional cooperation on conservation of Caspian marine bioresources

Commission on Aquatic Bioresources (CAB). The Commission on Management of Aquatic Bioresources of the Caspian Sea (CAB) is the only international structure currently in place for national fisheries agencies to cooperate with their counterparts on fisheries issues. It brings together fisheries officials from the five littoral countries at least once and usually two times a year.

The CAB was set up in 1992 by the four former Soviet Union countries. After several years of participation as an observer, I.R. Iran became a member in 2002.

One of the CAB's main functions is to recommend total catch quotas of various commercial aquatic species, in particular sturgeon but also kilka. On this basis, member countries determine annual fishing quotas. However, in recent years the CAB has expanded its role to take on other fisheries issues. For example, it collects information and advises on fishing regulation measures.

The CAB functions without a binding legal basis to support its activities. The fisheries officials participating in the CAB are aware of the importance of a regional agreement for the purposes of cooperation on fisheries management. As noted above, a draft agreement for regional cooperation on fisheries was first put forward for discussion in 1992. In 2002, the CAB convened a number of working groups, including one on "on the elaboration of a draft Statute of the Commission on Aquatic Bioresources of the Caspian Sea". The CAB has continued to discuss the issue of assigning the CAB intergovernmental status and the draft Statute is now being consulted with the respective Ministries of Foreign Affairs. However, the draft Statute continues to be linked to the unresolved question concerning the legal status of the Caspian Sea.

Tehran Convention. The Convention on the Protection of the Marine Environment of the Caspian Sea was agreed in Tehran on 4 November 2003 and came into force on 12 August 2006 after ratification by all five Caspian littoral States. The negotiations leading to its adoption were carried out with the support of UNEP, in the context of the Caspian Environment Programme. The UNEP Regional Office for Europe in Geneva serves as the interim Secretariat of the Convention, until a decision can be taken concerning the seat for a permanent Secretariat.

The Tehran Convention is a legal document that is binding on the Governments of the five Caspian countries. The five Governments have negotiated its terms and have made commitments to abide by those terms. It is a framework convention in that it sets forth a number of general principles agreed among the five Governments and it provides for a number of more detailed protocols in specific areas.

During the first meeting of the Conference of the Parties (CoP1) in May 2007, the ministers and high-level officials present recognised the key role of the Tehran Convention in defining an international legal framework for the protection of the

marine environment of the Caspian Sea and in sustainable utilization of its natural wealth. At CoP1 the Parties agreed to finalise the already negotiated Protocol Concerning Regional Preparedness, Response and Cooperation in Combating Oil Pollution Incidents, and to continue regional negotiations on three other priority Protocols to the Convention:

- on Biodiversity Conservation
- on for the Protection of the Caspian Sea against Pollution from Land-Based Sources and Activities
- on Environmental Impact Assessment in a Transboundary Context.

Negotiations have been finalised on these four Protocols, and they are expected to be adopted at the second Conference of the Parties sometime in autumn of 2008.

At a summit meeting in October 2007, the Presidents of the five Caspian states issued a Declaration in which they *inter alia* recognised the importance of the Tehran Convention and emphasized the need for the expedited development and approval of the associated Protocols to the Convention. They also stressed the importance of establishing a regional order to protect and maintain biological diversity and to wisely manage and utilize bioresources.

The Tehran Convention also foresees the need for other protocols: in particular, *Article 14: Protection, Preservation, Restoration and Rational Use of Marine Living Resources* provides for the development of additional protocols “in order to undertake the necessary measures for protection, preservation and restoration of marine biological resources.”

4. Article 14 of the Tehran Convention: a closer analysis of its obligations

Article 14 of the Tehran Convention provides for the Contracting Parties to co-operate in the development of protocols “in order to undertake the necessary measures for protection, preservation and restoration of marine biological resources” for the Caspian. This provision is a legal foundation for regional cooperation on fisheries conservation measures, and it is at the same time a broader remit.

Article 14.1 lists six areas where Parties are to “take all appropriate measures on the basis of the best scientific evidence available”. Each of these sections is analysed below, with a view to understanding the interrelationship between the management of the Caspian Sea fisheries and the protection of the marine environment of the Caspian Sea, as well as the potential for a relationship between the Tehran Convention and a legal regime for regional cooperation on conservation and sustainable use of the marine bio resources of the Caspian Sea.

- **Art. 14.1(a) – develop & increase the potential of marine living resources for conservation, restoration and rational use of the environmental equilibrium in the course of satisfying human needs in nutrition and meeting social and economic objectives;**

Article 14.1(a) includes all marine living resources in its scope. In the context of the Caspian, this includes the entire marine food chain, from phyto- and zooplankton to the sturgeon and seals at the top. It obliges the Parties to take positive actions (“develop and increase the potential”) with respect to the management of marine living resources. The provision lists three objectives: (1) conservation, (2) restoration and (3) rational use. “Conservation” is synonymous with preservation; it requires protective actions to prevent injury, waste, loss or depletion. “Restoration” is the act of bringing something back to its former status or condition after a damage or depletion. The third action of “rational use” is linked to conservation and restoration, in that rational use is possible only if marine living resources are conserved and restored, and harvested in a sustainable manner. This requires a long-term view of marine living resources as well as effective governance structures.

The term “environmental equilibrium” recognises the importance of an ecosystem approach that considers marine biodiversity as a whole, not only commercial species. This provision also notes the importance of meeting human needs and achieving socio-economic objectives. The Caspian Sea region is thus seen as a number of complex socio-ecological systems linking humans and nature. In order to maintain environmental equilibrium, these systems need to be resilient, i.e., to be able to absorb shocks and disturbances and still retain their basic functions and structures. This can only be achieved through a holistic approach which looks at the fisheries sector in the broader context of socio-economic and environmental imperatives.

- **Art. 14.1(b) – maintain or restore populations of marine species at levels that can produce the maximum sustainable yield as qualified by relevant environmental and economic factors and taking into consideration relationships among species;**

This provision’s use of the term “maximum sustainable yield” is a direct reference to the traditional approach towards management of marine bioresources such as commercially fished species. “At levels that can produce the maximum sustainable yield” is a term implying a need for scientific stock assessment and analysis in order to determine catch levels that are sustainable. At the same time it is understood, however, that sustainability cannot be achieved by simply increasing the production of specific components in the ecosystem in isolation of other components, assuming that conditions will remain stable and failing to acknowledge secondary effects and feedbacks that can cause changes in the overall ecosystem leading to collapse. The article includes all marine species, thus recognising the complex interactions necessary for maintaining or restoring marine populations and the importance of the overall food chain in maintaining commercial fish and other marine populations.

- **Art. 14.1(c) – ensure that marine species are not endangered by over-exploitation;**

The Parties recognise in this provision that over-exploitation indeed endangers a number of Caspian marine species. The provision expresses the Parties’ common commitment and shared obligation to ensure that over-exploitation is no longer a factor contributing to the endangerment of these species. Implementation of the shared obligation to prevent over-exploitation implies regional cooperation to control

illegal fishing in all areas of the Caspian Sea, even if agreement has not yet been reached on the legal status of the Sea. This issue is discussed further in section 5 on best practices in regional cooperation on conservation of marine bioresources, including fisheries.

- **Art. 14.1(d) – promote the development and use of selective fishing gear and practices that minimize waste in catch of target species and minimize by-catch of non-target species;**

This provision recognises that non-selective fisheries practices are wasteful and can harm both target species (e.g., endangering population growth by harvesting of immature fish) and non-target species (e.g., by-catch). It places a positive obligation on the Parties to promote good fishing practices by e.g. raising awareness within the fishing industry concerning the need to change wasteful fishing methods, carrying out extension and other education activities, and supporting support investments in more selective fishing gear. It will require leadership and well-developed social networks among stakeholders, promotion of trust and strong penalties for cheaters.

- **Art. 14.1(e) –protect, preserve and restore endemic, rare and endangered marine species**

The Parties recognise here that some of the Caspian’s marine species warrant special attention because of their uniqueness to the region, their scarcity, and/or the risk of extinction. Three kinds of species are mentioned: endemic (native and unique to the area), rare and endangered. The provision is in the form of a positive obligation. The Parties have committed themselves to take the measures needed not only to protect and preserve these species, but also to restore them to their prior status. This again indicates the need for a long-term ecosystem approach to ensure conservation and sustainable management of the Caspian’s aquatic bioresources.

- **Art. 14.1(f) – conserve biodiversity, habitats of rare and endangered species as well as vulnerable ecosystems**

Article 14.1(f) is linked to the draft Biodiversity Protocol already negotiated under the Tehran Convention and due for signature at COP2. However, whereas the draft Biodiversity Protocol outlines a series of general commitments to protection biodiversity in the Caspian Sea region, this provision is specifically aimed at protection of marine rare and endangered species, including their habitats and any vulnerable ecosystems. It recognises that these are essential components of the Caspian’s complex, adaptive socio-ecological system which must be conserved in order to maintain its overall resilience. It calls for a new approach towards conservation of the Caspian marine bioresources, an approach which will embrace and work with ecological variability instead of focusing on a few commercial species.

Conclusion: This textual analysis indicates that Article 14, while clearly covering conservation and management of fisheries, also has a much broader scope. Article 14 recognises that commercially fished species are just one part of the overall marine ecosystem, albeit a very important part. By including all marine bioresources in its

scope and by recognising the link between humans and nature, it argues for a more comprehensive and integrated approach to the conservation and management of the marine bioresources of the Caspian.

The Article sets forth a number of shared obligations that can only be met through regional cooperation -- not only between the fisheries authorities of the five Caspian States but also between fisheries, environmental and other authorities, both nationally and regionally. Cooperation with other stakeholders is also needed, in order to build the social capital and mutual learning required to maintain the resilience and sustainability of the Caspian ecosystem.

5. Best practices with respect to regional agreements on conservation of marine bioresources and their organisational structures

As part of this scoping paper, a review was carried out of the experiences of other regions with regional agreements on conservation and management of marine bioresources such as fisheries. The aim was to identify best practices that could be applied in developing regional cooperation for conservation of the Caspian's marine bioresources. Most of these agreements were concluded with respect to marine fisheries. However, given that the Caspian is a closed ecosystem, the regional agreements reached by countries sharing inland fisheries (lakes) also provide useful experience, e.g., measures to control invasive species.

Regional fisheries agreements are ultimately 'agreements to agree'. Such agreements typically provide for the establishment of specific decision-making bodies -- usually in the form of 'commissions' or 'organisations' -- to take the decisions necessary for the implementation of the relevant agreement. The detailed measures taken under these agreements are periodically reviewed, often on an annual basis.

A key task for a commission or organisation created by an international fisheries agreement is to adopt management measures for the fish stocks subject to the agreement. These measures can include

- methods of assessing fish populations,
- determination of an annual TAC and allocation of shares among the State parties,
- limitations on fishing capacity (including measures relating to fishing vessel numbers, types and sizes),
- the time periods and areas in which fishing may occur,
- the size of fish of any species which may be taken,
- the fishing gear and technology which may be used,
- other special measures, e.g., for conservation purposes.

Many regional agreements for conservation and management of marine fisheries follow the legal framework of the Convention on the Law of the Sea (CLOS). Under the CLOS, coastal States can claim a "territorial sea" of up to twelve nautical miles from a baseline (e.g., shoreline) where they exercise full sovereignty over fisheries and other resources. In addition, the CLOS allows coastal States to claim Exclusive

Economic Zones (“EEZ”) of up to 200 nautical miles from the baseline, within which they have sovereign rights for exploiting, conserving and managing resources including fisheries.

Beyond the EEZs are the so-called “high seas”, i.e., shared waters which lie outside of the sovereign reach of any State. While all States may enjoy the freedom of fishing on the “high seas”, this right is accompanied by a general duty on States to co-operate in the conservation and management of high seas fish stocks and to enter into negotiations to agree any necessary conservation measures.

It should be noted that the Caspian countries are not obliged to follow the CLOS’s model in this regard. The five littoral States in combination hold the sovereign rights over the Caspian Sea’s marine bioresources and they are entitled to decide how those resources are to be managed. As will be presented below, a regional agreement on conservation and sustainable use of the Caspian marine bioresources can be concluded without prejudice to ongoing negotiations on the legal status of the Caspian Sea.

Measures to conserve and/or manage marine bioresources in shared waters are primarily implemented and enforced through the vehicle of flag State responsibility. Concerned fishing nations reach agreement that fishing vessels flying their national flags will comply with certain management and conservation measures. Having entered into such obligations, flag States are then duty bound to give effect to them through their own national laws. The State parties may also agree to apply certain conservation and management measures within those areas under national jurisdiction.

The more recent fisheries agreements are increasingly concerned with the issue of ensuring compliance through a variety of mechanisms including data and information exchange as well as the establishment of joint observer programmes and joint patrol mechanisms. They also typically provide for dispute resolution including mechanisms to be followed to mediate, arbitrate or otherwise resolve matters of conflict. Such provisions generally follow typical international law practice.

Because of the urgent need for special measures to conserve important marine species in the Caspian, new elements could also be considered. For example, there is considerable scope for innovation to cover other marine bioresources as well, with a view to maintaining overall ecological balance of the Caspian region.

6. Issues mentioned by stakeholders, along with areas of common agreement

In the discussions with officials from fisheries agencies and environmental ministries carried out in the context of this scoping paper, a number of issues were identified that warrant further discussion.

One issue raised frequently was that of the legal status of the Caspian Sea. Some fisheries officials declared that no intergovernmental agreement on marine

bioresources would be possible until agreement had been reached on this issue. This argument seemed to be linked to a point of view that a regional agreement on marine bioresources would primarily be an instrument for dividing up fishing rights, rather than relating to the conservation and restoration of the marine ecosystem.

Officials from at least three Caspian countries raised the issue of fairness. They expressed the view that current arrangements for setting total allowable catches (TACs) and for allocating quotas among the littoral States were not equitable. They stressed the need for a regional agreement on conservation and management of marine bioresources that would apply pre-agreed rules uniformly to all State parties.

Despite the issues raised above, there was considerable agreement among the Caspian State stakeholders interviewed. All agreed on the importance of conservation, restoration and sustainable use of the Caspian's marine bioresources. All recognised the value of the Tehran Convention as the first and only agreement reached to date by all five Caspian States. Finally, there was consensus on the need for an intergovernmental agreement among the Caspian States on conservation and sustainable management of marine bioresources.

There was some openness to considering the Tehran Convention as an umbrella for a protocol to set up a structure for regional cooperation on conservation of the Caspian's marine bioresources. Environmental officials and some fisheries officials expressed the view that, since the five Caspian States already ratified and recognised the Tehran Convention as a legally binding framework and in line with article 14 of the Convention, a protocol under the umbrella of the Convention had more chances of being agreed in a timely manner.

At the same time, there was also considerable support among fisheries officials for continuing with the draft Agreement being discussed within the Commission on Aquatic Bioresources. Several fisheries officials interviewed considered the structure of the CAB to have been important for fostering regional communication and cooperation on marine bioresources, and they urged that the CAB and its structures be strengthened through an improved, self standing intergovernmental arrangement, or in the context of a Protocol to the Tehran Convention .

Most of the environmental officials expressed a wish for a regional agreement that would foster the close cooperation among fisheries and environmental protection organisations that will be needed to conserve and protect the Caspian's marine ecosystem. A Protocol based on article 14 of the Tehran Convention was considered a good option.

7. Suggestions for ways forward

There is wide acknowledgement among the Caspian State officials interviewed for this scoping paper that a legal framework is needed in order to bring about more effective regional cooperation on conservation of marine bioresources. Below are some suggestions for possible ways forward:

- **a regional agreement to cooperate on conservation of the Caspian marine bioresources could be concluded without prejudice to the issue of the legal status of the Caspian Sea**

The five Caspian States were able to reach agreement on the Tehran Convention without prejudice to their other negotiations concerning legal status. A Protocol to cooperate on conservation and sustainable use of marine bioresources also need not bind the Caspian littoral States with regard to this issue.

Moreover, the Caspian States have collective sovereign rights over the Caspian Sea and its marine bioresources. They can reach their own agreements concerning how to share responsibility for conservation and sustainable management of the Caspian marine bioresources.

For example, for the purposes of conservation and management of the Mediterranean fisheries, the Mediterranean coastal States have agreed to consider all parts of the Mediterranean Sea beyond twelve nautical miles from shore as shared waters, or so-called "high seas". The coastal States exercise full sovereignty over the fisheries and other marine bioresources within their territorial waters, but the resources in the areas beyond these twelve-nautical mile bands are managed as shared stocks. The Mediterranean coastal States have agreed to protect these shared stocks against over-exploitation by undertaking to control those fishing vessels which fly their national flags and which fish for marine bioresources on the shared waters.

- **the Caspian States can pool sovereignty and share responsibility for conservation and sustainable use of the Caspian's fisheries**

For the purposes of conserving and managing the Caspian Sea's marine bioresources, a regional agreement could establish territorial fishing zones (there is a historical precedent for the Caspian states having ten nautical mile coastal fishing zones) and then consider the waters beyond these zones as shared waters.

Each State would have primary responsibility for exploitation and management of the marine bioresources within its territorial fishing zone. The Caspian states could decide that each country would manage its fish stocks within the coastal fishing zone independently or, alternatively, they could agree on common fisheries management principles for these areas.

The marine bioresources in the shared waters beyond these territorial fishing zones would be managed and exploited on the basis of pooled sovereignty. The primary legal mechanism for implementing management decisions would be that of flag State control. Each State would be responsible for registering any fishing vessels based in its ports and flying its flag and for ensuring their compliance with any regionally agreed conservation and management measures.

In other words, the Caspian littoral States could agree to jointly manage fishing activities in the shared waters not because any one State had specific rights over these areas as spatial zones but through the control of vessels that fly their respective flags.

All areas of the Caspian Sea except those areas agreed as “territorial seas” (coastal zones) would be considered common areas, where responsibilities for conservation and management of the marine bioresources therein would be shared equally among the Caspian States.

- **a regional agreement to cooperate on conservation of the Caspian marine bioresources will need to be considered fair and this may require international support**

In several discussions with fisheries officials, suspicions were voiced about whether certain Parties were indeed taking all of the sturgeon rehabilitation measures they claimed, and there had been instances where research vessels from one Caspian State were not permitted into another State’s territorial waters. Several officials mentioned the need for a monitoring and inspection system that all Parties trusted. One suggestion was to set up a regional inspection system under the CAB or other structure, or to involve international observers during monitoring expeditions.

It seems clear that any regional agreement to cooperate on conservation of the Caspian marine bioresources will need an operational and effective management structure and this will require medium-term technical support. This could be obtained from the FAO, the World Bank, the GEF-financed CaspECO project and other international organisations, as well as other regional fisheries conservation and management organisations. The great interest of these and other international organisations in conserving and managing the Caspian marine bioresources means that it is highly likely that this support would be forthcoming.

A marine bioresources protocol under the Tehran Convention would facilitate better access to internal and external financial support. The higher level of support and international commitment under such a protocol could also lead to better incentives for national enforcement and compliance including inspection, overseen regionally.

- **a regional agreement to cooperate on conservation of the Caspian marine bioresources will need to involve all relevant sectors and stakeholders and this may require the leadership of Ministries of Foreign Affairs**

The Tehran Convention is the sole legal framework agreed among the five littoral countries. The Presidents of the five Caspian states endorsed the Tehran Convention in October 2007, thereby signalling the Parties’ strong commitment to this legal framework, including its protocols.

The process of elaborating the Tehran Convention and the four Protocols agreed to date has involved interactions between a great variety of sectoral ministries, often under the coordination and leadership of Ministries of Foreign Affairs. By nature of its legal character, the Tehran Convention strengthens the lead roles of the specific ministries and the resources available to them for regional cooperation purposes, including for monitoring and research. Through the bodies implementing the Tehran Convention and the protocols, the lead ministries can discharge their mandates and functions in the context of the overall mandates of the governments.

For instance, the elaboration and implementation of regional cooperation on measures needed to conserve marine bioresources could provide a strong additional impetus for the work of the Commission on Aquatic Bioresources if the CAB would constitute the core representation of the governments in meetings of the Parties dealing with issues related to fisheries conservation.

- **a regional agreement to cooperate on conservation of the Caspian marine bioresources should take an ecosystem approach**

The Caspian Sea is a closed ecosystem and its marine bioresources are affected by a variety of impacts in addition to fishing, including land-based pollution, invasive species introduced by transboundary shipping, and current oil exploration and exploitation activities. There are concerns that fisheries management in isolation will not be able to preserve and restore the Caspian's marine bioresources. On the other hand, integrating fisheries management with other policies and actions may bring considerable benefits and enable more effective protection of the marine environment as a whole.

One of the obstacles in developing a stronger regional structure for management of the Caspian's bioresources has been the lack of interaction between the fisheries agencies meeting through the CAB and the natural resources/environmental protection agencies who were engaged in the negotiations that led to the Tehran Convention.

A protocol under the framework of the Tehran Convention would be able to have a broader scope and thus provide better integration possibilities both in substance and for interdepartmental cooperation. It could through its multisectoral structure enable a fully integrated ecosystem conservation and management scheme, which matches the need for conservation with the requirements of longer term sustainable use, fostering broad cooperation between the fisheries, environmental protection and other sectors needed for effective conservation and management of the Caspian marine bioresources.



ELEMENTS OF REGIONAL COOPERATION FOR CONSERVATION AND SUSTAINABLE USE OF MARINE BIORESOURCES OF THE CASPIAN SEA**(Proposal by the Islamic Republic of Iran)**

Concern of the Contracting Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran Convention) over the decline in the fisheries of the Caspian Sea was reflected in the First Ministerial Statement held in Baku, Republic of Azerbaijan, 23-25 May 2007. Moreover, the importance of the need to establish a regional mechanism to protect and maintain biological diversity and to wisely manage and utilize bio-resources was emphasized in the Declaration of a Summit attended by the Presidents of the five Caspian States in Tehran, Islamic Republic of Iran, October 2007.

In pursuance to the Article 14 of the Tehran Convention as well as the Ministerial Statement and Presidential Declaration mentioned above, a series of national consultations with participation of relevant stakeholders were carried out in order to identify the areas of main concerns over the decline of the fisheries of the Caspian Sea and to agree at the national level on the elements of a legal mechanism for regional cooperation on conservation and sustainable use of the marine resources of the Caspian Sea.

The national consultations with participation of relevant stakeholders including the Fisheries Organization, Department of the Environment and the Ministry of the Foreign Affairs concluded a list of elements as the minimum requirements for regional cooperation on conservation and sustainable use of marine bio-resources of the Caspian Sea, to be included in future regional legal mechanism as follows:

1. Conservation of Threatened Fish Species and Fish Species of Common Interest
2. Sustainable Exploitation and Responsible Fisheries of Species whose Exploitation are Regulated
3. Joint Studies and Researches Programmes including Fish Stock Assessment Programme for Mutually Agreed Species
4. Establishment of Bioresources Gene Bank
5. Cooperation on Development of Aquaculture (for sturgeon, warm water and cold water fish species)
6. Cooperation on Development of Action Plan for Fish Species of Common Interest
7. Exchange of and Access to Information and Technology

8. Cooperation on Human Resources Development, Public Awareness and Training Programmes

10. Development of Joint Programme for Rehabilitation of Species of Common Interest

11. Cooperation on Addressing Illegal Fishing

12. Development of Joint Bioresources- related Environmental Monitoring Programme