

# **Synthesis and strategy for attracting and engaging the private sector, in particular the oil, gas and transport industry in the implementation of the Tehran Convention**

## **1. Introduction**

In recent years, the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran Convention) has taken important steps towards becoming a fully operational regional environmental convention owned by its member states.

The Caspian countries commit annual contributions to the Convention and during the 5<sup>th</sup> Meeting of the Conference of the Parties (COP5) in Ashgabat in May 2014 they decided on the location of the Convention Secretariat in the Caspian Sea region on a rotational basis under the administration of the UN Environment Program (UNEP) starting in Baku, Azerbaijan from 2015. The obligations under the framework character of the Tehran Convention have been specified in four Protocols on oil pollution preparedness and response (Aktau Protocol), on prevention of pollution from land-based sources (Moscow Protocol), on biodiversity protection (Ashgabat Protocol) and on transboundary environmental impact assessment (EIA) of which three have been signed/adopted and the negotiations on the EIA Protocol are close to being finalized. Preparations for the implementation of the Protocols are under way, extensive work to establish a shared environmental monitoring and information exchange system is ongoing, regional and national implementation plans have been established and the basis for continued work to increase public participation has been laid.

This comprehensive and wide range of activities as well as the significant financial resources attached to a successful implementation of the Convention and Protocols reveal that the private sector - and due to their special role in the Caspian Sea, in particular the oil, gas and transport companies - will become increasingly important partners of the governments of the Caspian countries in this process. The work the companies undertake, especially in the areas of environmental assessment, monitoring and information exchange, and in preventing, managing and controlling risks related to oil pollution incidents, directly relates to the implementation of commitments which governments have under the Convention and its Protocols. Therefore, engaging the private sector in areas of their expertise and interest has the potential to greatly assist in advancing and making the implementation of the Tehran Convention and its Protocols successful and cost-effective.

For that reason, and following the COP4 Ministerial decision to call upon the oil, gas and shipping industry “to support the implementation of the Tehran Convention and its Protocols”, the Tehran Convention Interim Secretariat (TCIS) assigned five consultants of the member state countries to identify how and which companies, in particular from the oil and gas and transport sector, could potentially contribute or strengthen their contribution to the implementation of the Convention. The present synthesis paper will provide an overview of past and present private sector support, it will compare and summarize the five national analysis reports and on the basis of the specifics in each country will make suggestions for next steps to attract further engagement.

## **2. Private sector support in the implementation of the Tehran Convention to date**

Since its entry into force in 2006 the Tehran Convention already has a history of smaller-scale private sector support (oil and gas companies) during its evolution.

BP Exploration Azerbaijan and associated project partners provided direct financial support to the development of the Caspian Environmental Information Center (CEIC), a web-based platform and network of national collaborating institutions, able to host and distribute information on the state of the Caspian Sea environment and to organize participation of civil society. This activity was implemented through GRID-Arendal, a UNEP collaborating institution, and directly contributed to the implementation of Art. 19 (5) of the Tehran Convention. Currently, a second phase of the project is under discussion with BP Azerbaijan to further expand the CEIC and ensure its future sustainability.

Furthermore, the Oil Spill Preparedness Regional Initiative (Caspian Sea – Black Sea – Central Eurasia) (OSPRI) has been instrumental in the Tehran Convention work to establish harmonized rules and procedures to prepare and prevent oil pollution incidents. OSPRI is part of the International Petroleum Industry Environmental Conservation Association (IPIECA), the global oil and gas industry association for environmental and social issues and acts as the consolidated representation body for private sector operators' contribution to policy development regarding oil spills preparedness and response in the Caspian Sea. In this role OSPRI has provided valuable technical support, notably in the development and negotiation of the Aktau Protocol and its (draft) regional contingency plan. Currently, implementation activities to enhance regional cooperation in support of marine oil spills preparedness in the Caspian region have started, in which OSPRI will continue to provide technical support towards increasing coherence of national oil spill contingency plans with the (draft) regional plan and advancing the (draft) regional plan to become operational. This work will directly benefit the implementation activities of the Aktau Protocol.

Such successful ongoing and past examples show that there is mutual benefit and potential in the cooperation of the private sector in the implementation of the Tehran Convention.

### **3. The national analysis reports for private sector engagement**

Of the five Caspian countries four - Azerbaijan, Iran, Kazakhstan and the Russian Federation - have submitted their respective national analysis report for private sector engagement to the TCIS. At the time of writing, the report of Turkmenistan was still under review by the Ministry of Nature Protection and can therefore not be taken into account in this synthesis paper. Furthermore, since more than a year has passed since the TCIS assigned the task to develop the national reports it became apparent that some will need to be updated to reflect the changed circumstances. This is for example true for the report of Kazakhstan where substantial changes in the government have occurred which are likely to affect the national procedures for attracting private sector support in the area of environmental protection (see below under 3.4).

#### **3.1 Structure of the national analysis reports**

For the purpose of effective national strategies to engage the private sector in the implementation of the Tehran Convention the following important guiding elements were identified:

- 1) Inventories of the most relevant industries and lists of major national and international oil, gas and transport companies operating in the Caspian Sea region;
- 2) Identified most relevant environment-related projects and activities of such companies which are in line with and respond to the objectives and provisions of the Tehran Convention and its Protocols,

including possible areas for cooperation;

3) Outline of legislation and relevant funding and private-public cooperation mechanisms in the countries and recommendations for establishing partnerships with identified private sector companies.

All four national reports address and analyze the above main elements to a varying extent. Along these lines, in the following the national reports will be assessed in detail as to what extent they provide useful guidance for effectively engaging the private sector in the implementation of the Tehran Convention.

### **3.2 Inventory of relevant national and international companies**

All national reports provide lists and descriptions of national and international companies with potential relevance for supporting the implementation of the Tehran Convention and Protocols. As it is the most active and influential industry in the region with a direct impact on the Caspian Sea environment, all outline the prospects of oil and gas production in their Caspian sectors. That is why for the most part oil and gas enterprises as well as transport companies are listed.

The report of *Azerbaijan* provides a comprehensive inventory of relevant companies active in the oil and gas industry in the country. The state oil company SOCAR is described to take on a dominant and central role in the country's oil and gas production and hence also in the provision of and procedures for private sector support to environmental activities. However, it remains unclear which of the many other listed companies can be potential priority partners and for what reason. Furthermore, a clear indication of which international companies are operating in Azerbaijan could provide further useful insight.

For the purpose of preparing the national report the Marine Environment Division of the Department of Environment in *Iran* organized a Tehran Convention information and engagement meeting where representatives of seven main companies participated of which three operate in the oil and gas and four in the transport sector. The list includes descriptions and contact details of those priority companies.

The national report of *Kazakhstan* provides a clear, descriptive and prioritized list of national and international companies operating in the Caspian Sea which have sufficient resources to engage in the implementation of the Tehran Convention and its Protocols.

The report of *Russia* provides a very distinct priority inventory of relevant national companies in the oil and gas sector, analyzing LUKOIL, Gazprom and Rosneft in detail, but not mentioning any potential company from the transport sector.

Despite the obvious focus on the oil and gas as well as transport sector with their direct influence on the Caspian Sea environment, a brief assessment whether other private sector companies, for example in the fishing industry, could be regarded as potential partners could enhance the overall picture of possible private sector engagement.

### **3.3 Relevant environmental projects and activities of the private sector and possible areas for cooperation**

Due to its encompassing protection objective many of the environmental activities carried out in accordance with national and international legislation by companies operating in and close to the

Caspian Sea have the potential to be supportive towards the implementation of the Tehran Convention.

The national report of *Azerbaijan* presents a number of relevant environmental activities which oil and gas companies carry out in its territory. These activities mostly contribute to the prevention of pollution from land-based sources and seabed activities and with that to the implementation of the Moscow Protocol. Summarized they pertain to:

- the management of waste formation water;
- solid waste and waste water treatment;
- oil sludge treatment and its use as alternative fuel;
- soil and land rehabilitation; and
- drilling gas recovery and the reduction of gas flaring.

The presented activities, however, are more akin to a list of loose achievements of companies in the environmental sector instead of an attempt to identify priority areas in which specific companies could be targeted to support the implementation of the Convention.

Perhaps due to only few oil and gas related activities in its Caspian sector the national report of *Iran* refrains from highlighting and prioritizing specific activities and areas for possible cooperation and merely states that all environmental activities of the listed companies potentially contribute to the implementation of the Tehran Convention. For the purpose of a concrete strategy for private sector engagement, an indication in which areas cooperation could best be achieved would, however, be beneficial.

The national report of *Kazakhstan* provides a detailed and structured overview of the activities of national and international companies operating in the Caspian Sea area which can benefit the implementation of the Tehran Convention. It focuses on the two big players in the Kazakhstan Caspian sector, Kazmunaigaz (KMG) and the North Caspian Operating Company (NCOC) both of which assign significant budgets to environmental activities. They include the following areas:

- environmental monitoring of: pollution, air and sea water quality, biodiversity (NCOC: seals and migratory birds), emergencies, flooded wells, sea level and ground water;
- oil spill prevention and response: KMG developed the national oil spill prevention and response plan of Kazakhstan and is involved in the construction of the North Caspian Environmental Oil Spill Response Base in Atyrau;
- emission reduction and drilling gas recovery;
- waste water treatment;
- soil and land rehabilitation;
- pollution from ships.

The report of the *Russian Federation* provides a very comprehensive picture of the identified companies' environmental activities. It also provides a detailed and well-structured list of proposed priority measures for cooperation opportunities in the areas of:

- oil spill preparedness and response;
- environmental monitoring;
- environmental research;
- public participation and environmental impact assessments

which do not need to be repeated here. In addition the report concludes with an assessment of which articles of the Tehran Convention the environmental programs of the companies contribute to.

### **3.4 National legislation and mechanisms for private-public cooperation and recommendations for establishing partnerships with the private sector**

Due to the different political systems, laws and cultures for private-public cooperation all national reports except the one of Iran are describing their legislation and mechanisms which have to be taken into account when approaching and engaging the private sector in the implementation of the Tehran Convention and Protocols.

In *Azerbaijan* the 100% state-owned company SOCAR is the centerpiece for oil and gas production in the country. All companies working with hydrocarbon exploration, production, processing and transportation operate under a Production Sharing Agreement (PSA) with SOCAR. Regarding environmental considerations, the PSAs are based on national legislation whereby the PSAs are equal and in some cases even above national law. The operating companies agree on an environmental action plan with SOCAR which includes the relevant environmental commitments of the companies. The Ministry of Ecology and Natural Resources (MENR) reviews the compliance of the PSAs and environmental action plans with national law and can perform sanctions in case of non-compliance. Especially with regard to the latter, the report unfortunately does not specify in which cases PSA regulations would be permitted to supersede national legislation. Furthermore, also the budget allocations of the companies for environmental activities, which could be used for cooperation with national or international public organizations have to be agreed and coordinated with SOCAR. Altogether, that makes SOCAR the primary authority to receive authorization for private-public cooperation in the area of the environment which has to be taken into account when approaching companies operating in the oil and gas sector of Azerbaijan. The national report, however, does not specify whether and in which circumstances shipping and transportation companies are subject to a similar authorization process. It also remains unclear on the exact role and power of the MENR next to SOCAR as government authority for environmental protection beyond legislation compliance review in the context of engaging the private sector in implementation activities.

As mentioned before *Iran* does not describe any particular mechanisms or laws relevant for cooperation with the private sector. The report states that there is no legal limitation for the private sector to support activities for the implementation of the Tehran Convention and its Protocols. This implies that the relevant companies can be approached directly for cooperation possibilities even in cases like the Khazar Exploration and Production Company (KEPCO) which is a subdivision of the National Iranian Oil Company. For the purpose of the national private engagement strategy it can be useful to outline whether there are any particular national procedures or paths to follow which would increase successful cooperation possibilities with the private sector. However, as the only national report Iran provides general recommendations for possible types of private sector support to the implementation of the Tehran Convention. Those could be in the form of:

- provision of expert advice in technical working groups and of research material and equipment;
- sponsorship of training courses for country experts;
- hosting conferences, meetings and seminars;
- financing of particular implementation projects; or
- direct financial support to the Convention Secretariat.

Very concretely and based on the recommendations made by the identified priority companies the report furthermore suggests to organize a high-level international diplomatic conference on the Tehran Convention with the participation of company executives and high-level government officials of the Caspian countries.

The national report of *Kazakhstan* provides an outline of which national laws in particular require private companies to carry out environmental protection activities, from the environmental code and the code on subsoil use to shipping laws. An interesting fact is that the code on subsoil use requires relevant companies to annually allocate 1 percent of their total income to research and development activities which can include environmental research activities. These have to be coordinated with the Ministry of Oil and Gas. The report also in detail describes the procedures to be followed in order for government agencies to obtain support, also from private sector companies, to implement international projects like those under the Tehran Convention. Similarly as in Azerbaijan, companies operating in the oil and gas sector agree on a PSA with the state of Kazakhstan which also includes environmental actions. Companies have to coordinate their environmental action plans with the Ministry of Environmental Protection and Water Resources which can also include public hearings. It is, however, not specified under which circumstances such hearings are required. The decision on the approval of environmental plans of companies also depends on the intended source of funding. In some cases PSAs include provisions that expenditures by the company for environmental activities are returnable and ultimately will have to be borne by the state. Because the PSAs are generally of a confidential nature, for example in the case of NCOG, such matters will need to be clarified in the negotiations with the companies for support. As mentioned before, due to substantial changes in the government composition in Kazakhstan where the Ministry of Environment and Water Resources was abolished and its functions delegated to the Ministries of Agriculture and Energy, this section of the report is likely to require an update.

The national report of the *Russian Federation* lists which national laws require private companies to take environmental action, such as the law on the protection of the environment, the law on subsoil, on the production and consumption of wastes, on trade navigation et cetera. However, unlike the reports of Azerbaijan or Kazakhstan, the report does not describe any particular mechanisms and procedures which may need to be taken into account when approaching the private sector for support in the implementation of the Tehran Convention and its Protocols. The three identified priority companies for engagement all entertain very close ties to the state. In that regard for the purpose of devising a national strategy for private sector engagement it would be beneficial to understand the interrelationships and the role of the Ministry of Natural Resources and Environment in preparation of the companies' environmental action plans.

#### **4. Summary, conclusion and suggested next steps**

The four national reports of Azerbaijan, Iran, Kazakhstan and Russia provide a good overview of and first insight into the respective national conditions and opportunities for private sector support in the implementation of the Tehran Convention and its Protocols. Considering past experience and in particular when looking at the national reports of Kazakhstan and Russia it can be concluded that there is great potential for increased and substantial private sector engagement in environmental protection activities in the Caspian Sea region, especially in the areas of pollution reduction, environmental monitoring, oil spill preparedness and response as well as biodiversity protection.



Some reports miss one or two of the important elements of national strategies for private sector engagement, in particular clear recommendations for how to establish partnerships in the near future. This is also the reason why this synthesis speaks of national "reports" rather than "strategies" which would provide both clear thematic priorities as well as concretely illustrate ways for possible private sector cooperation (as done in the report of Russia). Partnerships with the private sector, may they be through direct support to environmental activities or through private-public partnerships are as a rule characterized by mutual benefit and oriented towards a return of investments which is why approaches should be well-prepared.

Based on the above analysis the following next steps can be suggested:

- To consider and discuss the organization of a Tehran Convention High-Level Meeting or Regional Partnership Forum after the establishment and location of the Permanent Secretariat in Baku for attracting support by the identified private sector companies;
- Following the preparation of the national private sector engagement strategies for each country to lobby the identified companies for an increased participation at the milestone COP6 in Baku 2015 at which relevant side events can be held;
- To complement and update the national reports for upgrading them to guiding national private sector engagement strategies
- To update the present synthesis paper accordingly and upgrade it into a regional guidance document for private sector engagement which activities could be included in the Tehran Convention Program of Work;
- To submit and share the national private sector engagement strategy of Turkmenistan.

Daniel Nixdorf, 18 November 2014