

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

(Note by the Interim Secretariat)

Following the results of the 7th Preparatory Meeting for COP 6 (PrepCom-7) in Baku, Azerbaijan, September 2019, the Parties continued their cooperation towards the implementation of the Aktau Protocol in accordance with the Tehran Convention draft Program of Work (PoW) 2020-2021. To that effect three online meetings to discuss remaining items under the Caspian Sea Plan Concerning Regional Cooperation in Combating Oil Pollution in Cases of Emergency (hereinafter draft Plan) were held in October 2019 and January, February 2020. Furthermore, the Parties held three online alpha-bravo exercises under the Aktau Protocol in July, October 2020 and in August 2021.

1. The Plan

Resulting from the three online meetings, two items were left open for clarification by the Parties at the intergovernmental level, a) the regional mechanism and b) the language use in the communications related to the Plan.

a. Regional Mechanism

Article 4 (3) of the Aktau Protocol regulates that “the Contracting Parties shall establish a regional mechanism” and that “the procedures for such mechanism shall be considered and consequently adopted by the Conference of the Parties”. The functions of the regional mechanism are established in Article 13 of the Aktau Protocol.

Following the entry-into-force of the Aktau Protocol and as part of their review and finalization of the draft Plan, the Parties considered the nature and procedures for the regional mechanism.

At PrepCom-4 for COP 6 in Geneva, Switzerland, November 2016, it was agreed that the implementation of the Aktau Protocol should be fully integrated in the Tehran Convention process.

PrepCom-5 in Geneva, Switzerland, November 2017 considered an options paper submitted by the International Maritime Organization (IMO) on “Models and Considerations for Establishing a Regional Centre for Oil Pollution Preparedness and Response” (PrepCom 5 TC/COP6/17 Annex 3) and concluded that the “regional mechanism” should take the form of a “light secretariat arrangement”.

At PrepCom-6 in Baku, Azerbaijan, September 2018, the Parties agreed in paragraph 10 of their draft Ministerial Statement (PrepCom 6 TC/COP6/10) that COP 6 should “decide to make the secretariat responsible for the regional mechanism, provided for in Article 4 (3) of the Aktau Protocol, with the purpose and functions as described in Article 13 of the Aktau Protocol”.

The draft Plan for the implementation of the Aktau Protocol as per 26 February 2020, currently defines the regional mechanism in its section 1.2 as “the procedures decided by the Conference of the Parties to the Tehran Conference 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 tasks of the regional mechanism are then further specified in several sections of the Plan.

By correspondence of 30 March 2021, the Russian Federation proposed an alternative wording for the definition of regional mechanism in section 1.2 of the Plan, which reads: “Regional Mechanism means a mechanism for coordinating and assisting in an effective response to oil pollution incidents, on technical cooperation in emergency cases, on the exchange of information on incidents and technical means for incident monitoring, and on optimizing the Caspian Sea Plan Concerning Regional Cooperation in Combating Oil Pollution in Cases of Emergency.” The proposal is included in the Plan as per Attachment 1.

b. Language Use

The use of the language in the communications related to the draft Plan is regulated in its section 2.2 at the end as well as in section 3.7 c). Earlier drafts of the draft Plan until PrepCom-7 regulated the use of (maritime) English. However, during the three online meetings on the Plan, a bilingual approach was discussed.

The different proposals by the Parties are reflected in the draft Plan. The text of the draft Plan as presented at PrepCom-7, supported by Iran and Azerbaijan, foresees that English shall be used in all communications related to the Plan. Turkmenistan, Kazakhstan, and Russia support that in addition to English, also the Russian language shall be used. Iran, supported by Azerbaijan, offers another proposal that for the sake of operational efficiency at national or local levels, the English communication may be translated by the Parties into any other language, with the written English communication prevailing in cases of dispute in its interpretation.

International experts of IMO and OSPRI hold that the use of English in the international maritime context is the general standard and becoming part of IMO Conventions such as the International Convention on Training, Certification and Watchkeeping for Seafarers (STCW Convention). However, bilingual elements can be considered in emergency communications related to the draft Plan such as the use of a bilingual English-Russian POLREP form. In case of emergency this would ensure basic familiarity of non-English or non-Russian speaking officers with the received communication to adequately initiate further steps. The language use in non-emergency communications may follow the regulations and practice under the Tehran Convention process, taking into account Article 22 Aktau Protocol and Article 36 Tehran Convention.

For reference, the language use for communications in oil pollution emergency preparedness and response plans of other selected Regional Seas is:

English:

- Black Sea Contingency Plan (section 2.1): “The English language shall be used in all communications related to the Plan.”
- HELCOM Manual on Cooperation in Response to Marine Pollution (section 5): “The [POLREP] report should be in English.”
- ROPME Sea Area Regional Oil Spill Contingency Plan (section 2.2): “The English language shall be used in all communications related to the Plan.”
- Arctic Agreement on Cooperation on Marine Oil Pollution Preparedness and Response (Article 23): “The working language of this Agreement shall be in English, the language in which this Agreement was negotiated.”

English + other language:

- NOWPAP Regional Oil and HNS Spill Contingency Plan (section 3.6.2 and 3.6.3): “English language, originally, or as translation attached to the original language, should be used in all important communication related to the implementation of the Plan, including all those in writing (see 3.6.3). Important spoken communications should be confirmed by written documents, e.g. fax, telex or email. This is to include the activation of the Plan, requests for assistance, offers of assistance, estimated costs of assistance, acceptance of requests, instructions by the command for the movement and deployment of assisting units, tasks assigned to units and termination of operations.”

2. Aktau Protocol Implementation and Operational Authorities Meeting

Item 6 of the draft PoW 2020-2021 (PrepCom 7 TC/COP6/8rev) further specifies expected outputs and items 7 to 12 of the draft Ministerial Statement (PrepCom 7 TC/COP6/10) contain instructions regarding the implementation of the Aktau Protocol.

a. Budget, Staffing and Program of Work

In accordance with their decision contained in paragraph 11 of the draft Ministerial Statement, the Parties are to review the provision of support to “a staff member in the Secretariat with the responsibility of performing the functions of Article 12 (2) of the Aktau Protocol” as well as those of the regional mechanism in Article 13 of the Aktau Protocol. In this connection, the Parties may discuss implementation activities and review a draft budget for the Aktau Protocol implementation in the period beyond 2021 (Attachment 2).

b. Long-term Exercise Schedule

In accordance with their decision contained in paragraph 8 of the draft Ministerial Statement, the Parties are to agree on a long-term schedule for regular oil spill preparedness exercises in the Caspian Sea, as included in Annex 9 “Guidelines for Oil Spill Exercises under the Plan”.

c. Cooperation with Astrakhan Agreement

Parties may, furthermore, review the cooperation possibilities of the Aktau Protocol with the Agreement on Cooperation in Emergency Prevention and Response in the Caspian Sea (Astrakhan Agreement) as outlined in paragraph 12 of the draft Ministerial Statement based on the analysis contained in PrepCom 7 TC/COP6/17 Annex 5.

d. Meeting of Operational Authorities

In accordance with paragraph 9 of the draft Ministerial Statement, the Parties are to designate the Competent National Authority and the National Operational Contact Point in their country, Article 5 (1) Aktau Protocol. In this connection, section 2.3 of the draft Plan regulates that the “Operational Authorities shall meet regularly [...] 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.” Therefore, Parties may hold a meeting of high-level government-nominated experts dedicated to the implementation of the Aktau Protocol, comprising the first regular meeting of the Operational Authorities in accordance with Section 2.3 of the Plan.