



Text following the negotiation meeting of 8 June 2021

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

Preamble

The 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),

Guided by the provisions of Articles 19 and 21 of the Convention as well as, for the purpose of this Protocol, the articles of its Protocols related to monitoring, assessment and information exchange of the Caspian Sea marine environment,

Underlining the importance of the Convention on the Legal Status of the Caspian Sea (Aktau, Republic of Kazakhstan, 12th of August 2018).

Taking into account the Agreement on Cooperation in the Field of Hydrometeorology of the Caspian Sea as well as the Agreement on the Conservation and Rational Use of Aquatic Biological Resources of the Caspian Sea (Astrakhan, Russian Federation, on 29 September 2014),

Underlining the importance of monitoring, assessment and information exchange for the conservation of the marine environment of the Caspian Sea and the sustainable and rational use of its resources,

Noting the importance of public access to information on the state of the marine and coastal environment of the Caspian Sea and confirming their intention to facilitate in accordance



with the national legislation civil society and stakeholder engagement in the protection of the marine environment of the Caspian Sea.

HAVE AGREED as follows:

I. GENERAL PROVISIONS AND OBLIGATIONS

Article 1. Use of Terms

For the purpose of this Protocol:

- (a) “Convention” means the Framework Convention for the Protection of the Marine Environment of the Caspian Sea.
- (b) “Environmental Monitoring” means a system of regular and/or periodical observations and measurements of physical, chemical and biological characteristics of the marine environment of the Caspian Sea in accordance with agreed environmental monitoring programmes to assess its current state, trends and predict future changes.
- (c) “Conference of the Parties” means the body referred to in Article 22 of the Convention;
- (d) "Secretariat" means the body referred to in Article 23 of the Convention;
- (e) “Competent Authority” means the authority(ies) designated by a Contracting Party as responsible for the fulfillment of the obligations specified in this Protocol;

[(f) “Environmental Monitoring Programme” means an agreed document containing a **set / main directions (RF)** of environmental monitoring activities and **arrangements / measures (KZ)** implemented by the Parties in support of national and regional policies and decision making ~~related to the implementation of the Convention and its Protocols (KZ);~~]

~~[(f) “Working Group on Environmental Monitoring and Assessment” means the working group of the Convention established by its Conference of the Parties for keeping under review and advising on monitoring, assessment and information exchange of the Caspian Sea marine environment in support of the implementation of the Convention and its Protocols, inter alia in cooperation with relevant organizations;]¹~~

- (g) "The Public" means one or more natural or legal persons;

¹ [In accordance with the proposal of AZ, the definition of the Working Group on Monitoring and Assessment is to be removed. However, reference to a similar mechanism or non-specific expert group should be made at a different place within the Protocol text. This proposal is supported by IR, RF and TK. KZ reserves its position regarding the use of such mechanism or group further on in the Protocol text. For that reason, also the provisions of Article 5.2 and Article 10.2 (d) are put into brackets.]



[(h) “Marine Environment” means the complex of elements, comprising marine waters, **water bodies (RF)**, influx of fresh waters, bottom sediments and air adjacent to the sea surface and land affected by proximity to the Sea, as well as biological ~~organisms (or)~~ **resources (AZ) (or) communities (RF) organisms (IR)** inhabiting them;]

[(i) “Environmental information” means any **summarized (RF)** information in written, visual, oral, electronic or any other material form on the marine environment of the Caspian Sea;]

RF proposal:

[(x) “Original data” means the values of the parameters of the marine environment measured at a certain station with fixed coordinates at a fixed point in time, with the necessary **methodological amendments introduced into them that passed the primary quality control at the national level;**]

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

[(k) “Caspian Environment Information Centre” means the virtual centre of environmental information submitted and collected in the context of the implementation of the Convention and its Protocols;

[(l) “Environmental quality objective” means an agreed target for environmental quality that countries seek to achieve with respect to specific physical, chemical and biological characteristics of the marine environment; **(pending approval of AZ)**]

[(m) “Environmental quality standard” means the concentration of a particular substance or group of substances in the marine environment which should not be exceeded in order to protect human health and the environment;

Proposal RF

[(x) “**Environmental** assessment” means a process comparing the actual values of the state of the marine environment with the adopted quality standards and objectives.]

Article 2. Objectives

[The objective of this Protocol is to ensure the cooperation of the Parties in the field of monitoring, assessment, and information exchange on the state of the marine environment of the Caspian Sea in accordance with environmental monitoring programmes ~~in support of the implementation of the Convention and its Protocols.~~-(KZ)]

Article 3. Scope of Application



In accordance with Article 3 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.

Article 4. General Provisions

[For the purpose of this Protocol, the Contracting Parties shall individually and/or jointly take all appropriate measures consistent with the principles of the Convention **and its Protocols (AZ, IR, RF, TK)** to comply with the provisions of this Protocol, and to this end:]

- (a) [Establish a base and technical framework for **environmental (IR, AZ) monitoring, assessment and original data (RF) / environmental information (IR, AZ) and data (AZ, TK) / data (KZ, TK) exchange related to the marine environment of the Caspian Sea;**]
- (b) Regularly assess the environmental conditions of the Caspian Sea as well as the causes and effects of changes in these conditions;

IR proposal to replace the following paras instead of para b (supported by KZ):

[(b) Regularly monitor the physical, chemical and biological characteristics of the marine environment of the Caspian Sea]

[(c) Regularly assess the current state, trends and future changes of the marine environment of the Caspian Sea as well as analyze the causes and effects of its changes.]

- (c) [Report and exchange ~~data and~~ **environmental (IR)** information in accordance with the requirements of the Convention and its Protocols;]
- (d) [Report on the state of the Caspian Sea **marine (IR)** environment on a regular basis;]

KZ proposal:

[(d) Prepare analytical materials on environmental monitoring for the Report on the State of the Environment of the Caspian Sea;]

- (e) [Promote and ensure public access to **environmental (IR)** information on the state of the Caspian Sea **marine (IR)** environment;]
- (f) [Ensure regular input and updating of the ~~data and~~ **environmental (IR)** information in the virtual CEIC.]

II. ENVIRONMENTAL (IR) MONITORING, ASSESSMENT, REPORTING, INFORMATION EXCHANGE

Article 5. Setting the baseline for environmental monitoring and assessment



[The Contracting Parties, for the fulfilment of the obligations specified in the Convention and its Protocols, (AZ) shall:]

AZ proposal:

1. [taking into account the requirements, commonly used in international practice establish and apply the Environmental Quality Standards;]
2. [define the Environmental Quality Objectives and periodically update them to reflect the increasing information through the monitoring programmes;]
3. [individually and jointly develop and implement monitoring programmes and conduct assessments with the view to meet the Environmental Quality Standards and Objectives.]

[1. 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~~ which shall be approved and, if necessary, revised by the Conference of the Contracting Parties. At the same time, the mentioned Environmental Quality Objectives and Standards shall be applied only in relation to the objectives of the Tehran Convention and shall not affect the national environmental legislation of the Contracting Parties (RF);]

~~[2. oversee, guide and support the work of the Working Group on Environmental Monitoring and Assessment;] (RF)~~

IR proposal:

The Contracting Parties shall:

1. [set Environmental Quality Standards and Objectives, through an advisory mechanism.]
2. [develop environmental monitoring programme as well as procedures for assessment, reporting and information exchange which shall be approved and, if necessary, revised by the Conference of the Contracting Parties.]
3. [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~~ (KZ);]

RF proposal, add:

[3. Establish, provide guidance and maintain the ongoing activities of an advisory body(s) which has(ve) the task to consider technical issues arising in the course of implementation of paragraphs 1 and 2 of this Article.]

Article 6. Environmental monitoring ~~and original data exchange~~-(IR)



[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~~) as well as the Environmental Monitoring Programme (RF).]

IR proposal:

[1. The Contracting Parties shall ~~develop and~~ implement (individual) (national) and (joint) (regional) programmes for monitoring marine environment **of the Caspian Sea elements** (~~marine waters, influx of fresh waters, sediments, biological organisms~~) as well as the Environmental Monitoring Programme.]

[2. The joint environmental monitoring programmes, **including the Environmental Monitoring Programme, (RF)** 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;

KZ proposal:

Deletion; or

[a) 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

IR Proposal to delete sub para (b) and replace it with (supported by KZ):

(b) [Agreed sets of:

- i) Physical, chemical and biological parameters**
- ii) Number and location of the monitoring stations**
- iii) Type of media (water, sediments, biota)**
- iv) Frequency, timing and submission formats**
- v) Information on participating certified analytical laboratories**
- vi) Designation of the organization(s) responsible for accumulating, checking, compiling and managing the data**
- vii) Information on the rights of data owners and access to compiled data sets]**

- c) [Harmonizing procedures for the operation of the monitoring programmes, measurement systems, analytical techniques, **through their intercalibration procedure, (RF)** data processing and evaluation procedures for data quality]

IR Proposal: To delete the whole sub para (d)

- d) Arrangements for submission of evaluated (quality controlled) original data, resulting from monitoring, to the Secretariat, including:

- viii) Number and location of the monitoring stations



- ix) Type of media (water, sediments, biota)
- x) Frequency, timing and submission formats
- xi) Information on participating certified analytical laboratories
- xii) Designation of the organization(s) responsible for accumulating, checking, compiling and managing the data
- xiii) Information on the rights of data owners and access to compiled data sets

RF proposal, add (not supported by KZ):

[3. Original data provided in accordance with para 2 (d) of Article 6, shall be submitted to the Secretariat in compliance with the requirements set out in the Environmental Monitoring Programme.]

RF proposal, add (not supported by KZ):

[4. The Environmental Monitoring Programme is to be approved and, as appropriate, revised by the Conference of the Contracting Parties.]

Article 7. Environmental assessment

[The Contracting Parties shall, at regular intervals **or any other time deemed necessary (IR)**, and against the regional Environmental Quality Standards and Objectives, carry out (individual) (national) or (joint) (regional) assessments of the **status and current state and trends as well as the (IR)** effectiveness of the measures taken for the prevention, control and reduction of pollution of the marine environment of the Caspian Sea.]

AZ proposal:

[The Contracting Parties may, when assessing the monitoring results against the EQS, take into account:

- (a) natural background concentrations for metals and their compounds, if they prevent compliance with the EQS value; and
- (b) hardness, pH or other water quality parameters that affect the bioavailability of metals.]

Article 8. Reporting

[1. Each Contracting Party shall, at regular intervals not exceeding **three or (IR)** four years, and in accordance with a Unified Reporting Format [, **adopted by Conference of the Parties,**] (AZ), publish and disseminate a report on the implementation of the Convention and its Protocols [**in its country**] (AZ).]



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.

KZ proposal:
Deletion of Article 8.

Article 9. Access to and exchange of environmental information

IR Proposal to add:

[The Contracting Parties shall provide arrangements for submission of evaluated (quality controlled) environmental information resulting from joint environmental monitoring programs as well as the Environmental Monitoring Programme noted under Article 6 of this Protocol, to the Secretariat.

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]

[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, within the framework of national legislation (IR).]

[3. The Contracting Parties will through designated focal points (environmental information officers) (AZ) ensure that all relevant information collected and provided in accordance with section II of this Protocol will be stored and regularly updated in the virtual (AZ) 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;

² RF: Suggests to discuss the issue of public availability of the original data of the marine environment monitoring. After reaching an agreement on the issue of the public availability of the original data, RF believes that the original monitoring data base should be publicly available through communication means in accordance with the definition of “environmental information” proposed by RF.



- (c) Keep under review the content of this Protocol and its annex;
- (d) Consider and adopt any amendments to this Protocol or its annex;
- (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;

RF proposal:

[(g) Consider, adopt and, as appropriate, regularly revise the joint Environmental Monitoring Programme, Environmental Quality Standards and Objectives, as well as carry out other arrangements, programmes 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;] (RF)~~
- (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