

**PROTOCOL
CONCERNING REGIONAL PREPAREDNESS, RESPONSE
AND CO-OPERATION IN COMBATING OIL POLLUTION INCIDENTS
TO THE FRAMEWORK CONVENTION ON THE PROTECTION OF
THE MARINE ENVIRONMENT OF THE CASPIAN SEA**

Preamble

Caspian littoral States:

Republic of Azerbaijan

Islamic Republic of Iran

Republic of Kazakhstan

Russian Federation

Turkmenistan

hereinafter referred to as the Contracting Parties,

Being the Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, done at Tehran, Islamic Republic of Iran, on 4 November 2003, hereinafter referred to as the Convention,

Committed to implement the relevant provisions of the Convention,

Recognizing that pollution of the Caspian Sea by oil and by oil pollution incidents of the sea threatens the marine environment,

Recognizing that special measures are necessary in the event of oil pollution incidents originating from ships, pipelines, fixed and floating platforms, and abandoned wellheads and land-based sources of pollution,

Determined to act promptly and effectively in the event of an oil pollution incident at sea, with a view to reducing the damage caused by such an incident,

Stressing the importance of genuine preparation at national level to combat oil pollution incidents at sea,

Recognizing further that it is important that reciprocal assistance and international co-operation be instituted amongst the Contracting Parties,

Emphasizing also the importance of measures taken both individually and jointly in order to minimize the risks of oil pollution incidents in the Caspian Sea,

Mindful of regional agreements in other parts of the world, the aim of which is to provide assistance in the event of marine oil pollution incidents,

Taking into account the intention of the Contracting Parties to protect the marine environment and coastal areas from pollution by oil,

Taking into account also the relevant international conventions and, in particular, those dealing with preparedness for and response to oil pollution incidents, and liability and compensation for pollution damage,

Wishing to further develop co-operation and mutual assistance among the Contracting Parties in combating oil pollution in the Caspian Sea,

HAVE AGREED as follows:

I. GENERAL PROVISIONS

Article 1. Use of Terms

For the purpose of this Protocol:

(a) “Oil pollution incident”, including “oil pollution accidents”, means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline, and which requires emergency action or other immediate response;

(b) “Oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(c) “Ship” means a vessel of any kind that operates in the marine environment, including hovercraft, hydrofoil boats, submarines, towed and self-driving boats;

(d) “Offshore unit” means any platforms and other manmade offshore structures, fixed or floating offshore installations or structure engaged in exploration, exploitation or production activities related to hydrocarbon resources or their loading or unloading;

(e) “Sea ports and oil handling facilities” means those facilities which present a risk of an oil pollution incident and includes, *inter alia*, sea ports, oil terminals, pipelines and other oil handling facilities;

(f) “Competent National Authority” means the national authority designated by each Contracting Party with responsibility for preparedness and response to oil pollution incidents and which will be responsible for implementation and fulfilment of the obligations specified in this Protocol;

Article 2. Scope of Application

The area to which this Protocol shall be applied is the marine environment of the Caspian Sea, taking into account its water level fluctuations, the land affected by proximity to the sea, and marine oil pollution originating from land-based sources.

Article 3. Objective

The objective of this Protocol is to provide regional measures for preparedness, response and co-operation for protection of the Caspian Sea from oil pollution caused by activities referred to under Articles 8 and 9 of the Convention and marine oil pollution originating from land-based sources.

Article 4. General Provisions

1. The Contracting Parties shall take, individually or jointly, all measures, necessary for the implementation of this Protocol, to prepare for and respond to oil pollution incidents.

2. The Contracting Parties shall jointly develop and establish guidelines for the practical, operational and technical aspects of joint action.

3. The Contracting Parties shall establish a regional mechanism. The procedures for such mechanism shall be considered and consequently adopted by the Conference of Parties.

4. For the purpose of the operational implementation of this Protocol, a Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency shall be established by the Contracting Parties.

Article 5. National Systems and Contingency Plans for Combating Oil Pollution Incidents

1. Each Contracting Party shall establish a national system of operational response to oil pollution. This system shall include, as a minimum, the designation of:

(a) The Competent National Authority with responsibility for preparedness and response to oil pollution incidents;

(b) The national operational contact point with responsibility for receiving and transmitting information on oil pollution incidents, as mentioned in Article 7, paragraph 4, of this Protocol;

(c) The Competent National Authority entitled to act on behalf of the Contracting Party to request assistance or to decide to render requested assistance.

2. Each Contracting Party shall prepare and implement a national contingency plan for preparedness and response to oil pollution incidents. The national contingency plan shall include, *inter alia*:

(a) A description of the administrative organization, and the responsibilities of each of the constituent authorities, in preparing for and combating oil pollution incidents;

(b) Identification of the likely sources of discharges of oil;

(c) An itemization of the equipment and human resources which might be available for combating oil pollution incidents;

(d) Specification of the means for temporary storage and final disposal of recovered oil.

3. Each Contracting Party shall establish, if necessary in co-operation with entities of oil and shipping industries, port authorities and any other relevant entities, and shall maintain in operational condition a minimum level of pre-positioned equipment in order to be able to deal effectively with discharges of oil. The quantity of equipment should be commensurate with the risk of oil pollution involved.

4. Each Contracting Party shall, individually or within the framework of bilateral or multilateral co-operation, establish programs of exercises and staff training to improve the state of readiness of the bodies responsible for dealing with oil pollution incidents.

Article 6. Dissemination and Exchange of Information

Each Contracting Party shall submit to the Secretariat the report on the implementation of the Protocol and undertakes to disseminate to the other Contracting Parties either directly or through the regional mechanism:

(a) The information prescribed in Article 5, paragraphs 1 and 2 (a), of this Protocol;

(b) Information on new ways in which pollution of the sea by oil may be avoided and about new effective measures for combating pollution, including the results of research programs;

(c) Information on major oil pollution incidents dealt with.

Article 7. Pollution Reporting Procedures

1. Each Contracting Party shall ensure that persons having charge of ships flying its flag provide without delay the relevant national authorities with information of any emergency event on its ships involving a discharge, release or emission of oil, or any probable discharge, release or emission.

2. Each Contracting Party shall issue instructions to persons in charge of their offshore units, sea ports and oil handling facilities to inform their national authorities, without delay, of any events arising from their own activities involving a discharge, release or emission of oil, or any probable discharge, release or emission.

3. Each Contracting Party shall issue instructions:

- (a) To masters or other persons having charge of ships flying its flag;
- (b) To its maritime inspection ships and aircraft;
- (c) To the pilots of its civil aircraft;
- (d) To persons in charge of its offshore units, its sea ports and its oil handling facilities;

to report without delay, to the competent national authorities any observed event at sea, in sea ports or at oil handling facilities involving the discharge of oil and also to report the presence of any observed floating oil slicks.

4. Each Contracting Party when informed of an oil pollution incident, including any information received in accordance with paragraphs 1 to 3 of this article, shall immediately inform, including through the regional mechanism, all Contracting Parties likely to be affected about the incident and taken and planned actions.

Article 8. Operational Measures

1. In line with its national systems for preparedness and response to oil spills each concerned Contracting Party shall in the event of an oil spill undertake to:

- (a) Make the necessary assessments of the nature, extent and possible consequences of the oil pollution incident or, as the case may be, the type and approximate quantity of oil and the direction and speed of drift of the spillage;
- (b) Take every practicable measure to prevent, reduce and, to the fullest possible extent, eliminate the effects of the oil pollution incident;
- (c) Keep the oil pollution under observation and keep the other Contracting Parties informed of developments concerning the oil pollution incident and of the measures taken or planned;
- (d) Foster and support the implementation of the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency.

2. Where action is taken to combat pollution originating from emergencies, all possible measures shall be taken to safeguard:

- (a) Human lives;
- (b) The ship or offshore unit itself, if a ship or offshore unit is involved in an oil pollution incident, whilst respecting the need to prevent or minimize damage to the environment.

Any Contracting Party, which takes such action, shall inform the International Maritime Organization either directly or through the regional mechanism.

Article 9. Oil Pollution Emergency Plans on Board Ships, on Offshore Units, in Sea Ports and at Oil Handling Facilities

1. Each Contracting Party shall take the necessary measures to ensure that ships flying its flag shall carry on board a shipboard oil pollution emergency plan as required by, and in accordance with, the relevant international regulations, namely the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990, Article 3, paragraph 1 (a), and the International Convention for the Prevention of Pollution From Ships, 1973, as modified by the Protocol of 1978 relating thereto, Annex I, Regulation 37.

2. Each Contracting Party shall require masters of ships flying its flag, in the event of an oil pollution incident, to follow the procedures described in the emergency plan and in particular to provide the Competent National Authorities with such detailed information about the ship and its cargo which is relevant for actions to be taken in pursuance of Article 8 of this Protocol, and to co-operate with these authorities.

3. Each Contracting Party shall require that its:

- (a) Operators in charge of offshore units;
- (b) Authorities or operators in charge of sea ports;
- (c) Operators in charge of oil handling facilities

shall prepare oil pollution emergency plans that are coordinated with the national system established in accordance with Article 5 of this Protocol and are approved in accordance with procedures established by the Competent National Authority.

Article 10. Assistance

1. A Contracting Party requiring assistance to deal with an oil pollution incident, or the threat of such an incident, may request assistance from the other Contracting Parties. The Contracting Party requesting assistance shall specify the type of assistance which it requires, which may include expert advice, specialized personnel and strike teams, equipment, products, ships and aircraft. Contracting Parties from whom assistance is requested under this Article shall use their best endeavors to render this assistance insofar as their resources permit.

2. Each Contracting Party shall take the necessary legal and administrative measures to facilitate:

- (a) The arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting, cargoes, materials and equipment required to deal with such an incident;
- (b) The expeditious movement into, through and out of its territory of the personnel, cargoes, materials and equipment referred to in subparagraph (a).

Article 11. Reimbursement of Costs of Assistance

1. Unless an agreement concerning the financial arrangements governing actions of Contracting Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Contracting Parties shall bear the costs of their respective action in dealing with pollution in accordance with paragraphs 2, 3 and 4 of this Article.

2. Actions of one Contracting Party to assist another Contracting Party in combating an oil pollution incident shall be undertaken upon written request of the Contracting Party receiving the assistance.

3. The costs of activities to provide assistance in combating oil spill incidents undertaken by the Contracting Party at the request of another Contracting Party shall be compensated by the requesting Contracting Party. If the request is cancelled, the requesting Contracting Party shall bear the costs already incurred or committed by the assisting Contracting Party.

4. If the action to provide assistance was taken by a Contracting Party on its own initiative and unless the other Contracting Party objects, the assisting Contracting Party shall bear the cost of its action;

5. The principles laid down above in subparagraphs 2, 3 and 4 of this Article shall apply unless the Contracting Parties concerned otherwise agree in any individual case.

6. Unless otherwise agreed, the costs of the action taken by a Contracting Party at the request of another Contracting Party shall be fairly calculated according to the national legislation of the assisting Contracting Party concerning the reimbursement of such costs.

7. The Contracting Party requesting assistance and the assisting Contracting Party shall, where appropriate, co-operate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes; in the field of liability and compensation for pollution damage. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Contracting Party requesting assistance may ask the assisting Contracting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been

calculated in accordance with paragraph 6 of this Article. It may also request a postponement of the reimbursement of such costs.

8. The provisions of this Article shall not be interpreted as in any way prejudicing the rights of Contracting Parties to recover from third parties the costs of actions taken to deal with oil pollution incidents, or the threat of such incidents, under their national legislation and international treaties, which the Contracting Parties are parties to. The Contracting Parties may co-operate and provide mutual assistance in recovering the costs involved in their actions.

II. INSTITUTIONAL ARRANGEMENTS

Article 12. 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) Keep under review the content of this Protocol;
- (c) Consider and adopt any amendments to this Protocol or its annexes;
- (d) Consider reports prepared by the Secretariat on matters relating to the implementation of this Protocol;
- (e) Seek, where appropriate, the technical and financial services of relevant international bodies and scientific institutions for the purpose of the objective of this Protocol;
- (f) Establish such subsidiary bodies as may be deemed necessary for the implementation of this Protocol;
- (g) Fulfil the tasks as described in Article 4, paragraph 3, of this Protocol;
- (h) Consider strategies, action plans and programs for the implementation of this Protocol;
- (i) Perform such other functions, as may be required for the implementation of this Protocol.

2. For the purposes of this Protocol and in accordance with Article 23, paragraph 4, of the Convention, the Secretariat shall *inter alia*:

- (a) Prepare and make available to the Contracting Parties notifications and other information received in accordance with the provisions of this Protocol;
- (b) Prepare and transmit reports on matters relating to the implementation of this Protocol;
- (c) Consider enquiries by and information from the Contracting Parties and to consult with them on matters relating to the implementation of this Protocol;
- (d) Arrange, upon request by any Contracting Party, for the provision of technical assistance and advice for the effective implementation of this Protocol;
- (e) Co-operate, as appropriate, with relevant regional and international organizations and programs;
- (f) Perform such other functions as may be determined by the Conference of the Parties.

Article 13. Functions of the Regional Mechanism

1. The regional mechanism shall assist the Contracting Parties in reacting promptly and effectively to oil pollution incidents.

2. The functions of the regional mechanism shall include:

(a) Establishing close working relationships with the Competent National Authority of the Contracting Parties and also, where necessary, with relevant international and regional governmental and non governmental organizations and bodies dealing with oil pollution incidents;

(b) Coordinating regional activities with regard to technical co-operation, training, exercises, and providing expertise in cases of emergency, and assisting national activities in these fields;

(c) Collecting and disseminating information on oil pollution incidents (inventories, expert opinions, reports on incidents, technical progress for improving contingency plans, etc.);

(d) Preparing systematic procedures for data and information exchange concerning oil pollution incidents;

(e) Acting as the focal point for exchanges of information on techniques for surveillance of oil pollution incidents in the Caspian Sea;

(f) Making proposals on updating of the Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency;

(g) Performing such other functions as may be required by the Conference of Parties.

III. IMPLEMENTATION AND COMPLIANCE

Article 14. Funding of the Protocol

1. To achieve the objectives of this Protocol, the Contracting Parties, shall ensure that financial resources are available for the formulation and implementation of related programs, projects and measures. To this end, the Contracting Parties shall:

(a) Commit available domestic financial resources;

(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, non-governmental organizations and private sector entities.

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

Article 15. Relationship with the Convention

The rules of procedure adopted pursuant to Article 22, paragraph 9 (c), of the Convention shall apply with respect to this Protocol, unless the Contracting Parties determine otherwise.

Article 16. 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 17. 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 Tehran from the 12th of August 2011 to the 12th of February 2012.

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 to the Depository of the Convention of the instrument of ratification, acceptance, approval or accession by all Caspian littoral States.

Article 18. Adoption of Amendments and Annexes to the Protocol, and Amendments to the Annexes

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

IV. FINAL CLAUSES

Article 19. Effect of the Protocol on National Legislation

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

Article 20. 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 21. Reservation

No reservations may be made to this Protocol.

Article 22. Authentic Texts

The Azeri, English, Farsi, Kazakh, Russian and Turkmeni 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 23. Depository

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

Article 24. 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 to that effect, have signed this Protocol.

Done at the city of Aktau on the twelfth day of August of 2011