

DRAFT 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

October 2005

**DRAFT PROTOCOL  
CONCERNING REGIONAL CO-OPERATION IN COMBATING OIL POLLUTION  
IN CASES OF EMERGENCY  
to the Framework Convention on the Protection of the Marine Environment of the  
Caspian Sea**

*The Contracting Parties to the present Protocol,*

*Being Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea*<sup>1</sup>,

*Committed to implement the relevant provisions of the Convention;*

*Recognizing that pollution of the Caspian Sea by oil may threaten the marine environment in general and the interests of Caspian Sea littoral States in particular,*

*Recognizing that special measures are necessary in the event of accidents and other pollution incidents originating from ships, pipelines, fixed and floating platforms, and abandoned wellheads;*

*Concerned to act promptly and effectively in the event of an oil pollution incident at sea which would endanger the coasts or the related interests of Caspian littoral States, 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 cooperation be instituted amongst States in order to protect their coasts and their related interests from oil pollution;*

*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 the success 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,*

*Recognizing also that an oil pollution incident of the sea, or a threat thereof, in the Caspian Sea involves a danger for the littoral States and the marine environment,*

*Taking into account the intention of the littoral States 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 pollution incidents, and liability and compensation for pollution damage,*

*Wishing to further develop co-operation and mutual assistance among Caspian littoral States in combating oil pollution in the Caspian Sea,*

*Have agreed as follows:*

---

<sup>1</sup> Adopted at Tehran in November 2003

## I. General Provisions

### *Article 1* DEFINITIONS

For the purpose of this Protocol:

- (a) “Convention” means the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, adopted at Tehran in November 2003;
- (b) “Oil pollution incident” 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 or related interests of one or more States, and which requires emergency action or other immediate response;
- (c) “Oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;
- (d) “Related interests” means the interests of a Caspian littoral State directly affected or threatened by an oil pollution incident including, *inter alia*:
  - (i) the health of the coastal population
  - (ii) the conservation of biological diversity and the sustainable use of marine and coastal biological resources;
  - (iii) maritime activities in coastal waters, in ports or estuaries, including fishing activities;
  - (iv) the cultural, aesthetic, scientific and educational value of the area;
  - (v) the historical and tourist appeal of the area in question, including water sports and recreation;
  - (vi) industrial activities which rely on the intake of seawater, including desalination plants and power plants;
- (e) “Ship” means a vessel of any kind that operates in the marine environment, including hovercraft, hydrofoil boats, submarines, towed and self-driving boats;
- (f) “Offshore unit” means any platforms and other manmade offshore structures, fixed or floating offshore unit or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil;
- (g) “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;
- (h) “Marine pollution emergency plan” means a local contingency plan other than a National Contingency Plan setting out the arrangements, including the nomination of an On Scene Commander and the provision of an adequate level of oil spill combating equipment commensurate with the spill risk, for responding to incidents which cause or may cause marine pollution by oil, with a view to preventing such pollution or reducing or minimizing its effect;
- (i) “Regional Centre” means the Caspian Regional Centre for preparedness, response and cooperation in combating oil pollution in cases of emergency, which will be established in accordance with Article 3(3) of this Protocol.

- (j) “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 and the duties specified in this Protocol.

## ***Article 2***

### **PROTOCOL AREA**

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 a regional mechanism for preparedness, response and cooperation 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 appropriate measures in accordance with 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 the Regional Centre. The procedures for the establishment of the Centre shall be decided and 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 shall be established.

## ***Article 5***

### **NATIONAL SYSTEMS AND CONTINGENCY PLANS FOR COMBATING OIL POLLUTION INCIDENTS**

1. Each Contracting Party shall establish a national system for responding promptly to oil pollution incidents. 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 reports on oil pollution incidents, as mentioned in article 6(2)(c) of this Protocol;

- (c) the competent national authority entitled to act on behalf of the State to request assistance or to decide to render assistance when requested.
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) identification of sensitive areas and vulnerable resources, and priorities for their protection;
  - (d) an itemization of the equipment and human resources which might be available for combating oil pollution incidents;
  - (e) specification of the means for temporary storage and final disposal of recovered oil.
3. Each Contracting Party shall establish, if necessary in cooperation with the 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 cooperation, establish programmes 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**

1. Each Contracting Party undertakes to disseminate to the other Contracting Parties, either directly or through the Regional Centre:
- (a) the information prescribed in articles 4(1) and 4(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 programmes;
  - (c) information on major oil pollution incidents dealt with.
2. The Contracting Parties shall also communicate such information to the Regional Centre.

## ***Article 7***

### **OPERATIONAL MEASURES**

1. For the sole purposes of this Protocol, responsibility zones shall be established in accordance with the legal status of the Caspian Sea.

Until such time as responsibility zones are defined and agreed by all Contracting Parties, each Contracting Party shall be responsible for its national oil pollution preparedness and response and shall assume the obligations in paragraphs 2 to 4 of this article on an interim basis.

2. A Contracting Party in whose responsibility zone an oil pollution incident occurs shall:

- (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) immediately inform all Contracting Parties likely to be affected by the oil pollution incident of these assessments and of any action which it has taken or intends to take, and simultaneously provide the same information to the Regional Centre;
- (d) keep the oil pollution under observation for as long as it is present in its responsibility zone and shall keep the other Contracting Parties informed of developments concerning the oil pollution incident and of the measures taken or planned.

3. When oil slicks drift into an adjacent responsibility zone, the responsibility for evaluation and for the notification of the other Contracting Parties, as stipulated above, shall be transferred to the Contracting Party in whose responsibility zone the oil slicks are now located, unless otherwise agreed by the Contracting Parties concerned.

4. 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 Centre.

## *Article 8*

### **ZONES OF JOINT INTEREST**

1. Two or more Contracting Parties may designate zones of joint interest and shall inform the other Contracting Parties, through the Secretariat of the Convention, of their proposal. Such zones of joint interest shall only become effective if there are no objections from the other Contracting Parties.

2. If pollution occurs in a zone of joint interest, the Contracting Party in whose responsibility zone the incident occurs shall:

- (a) inform the affected Contracting Party or Contracting Parties immediately as required by article 6(2)(c) of this Protocol;
- (b) invite that Contracting Party or all that Contracting Parties to take part in the evaluation of the nature of the incident and to decide whether the incident must be regarded as being of

sufficient gravity and magnitude to warrant joint action by both Contracting Parties in combating it.

3. Subject to the provisions of paragraph 4 of this article, the responsibility for initiating such joint action shall lie with the Contracting Party in whose responsibility zone the incident occurs. This Contracting Party's Competent National Authority coordinates action; the said authority shall then assume responsibility for action, request any assistance which may be needed and coordinate all available resources. The adjacent Contracting Party shall provide such appropriate support as its resources permit and shall likewise appoint an authority for liaison purposes.

4. The adjacent Contracting Party may assume responsibility for coordinating action, subject to an agreement with the Contracting Party in whose responsibility zone the incident occurs, where:

- (a) the adjacent Contracting Party is directly threatened by the incident, or
- (b) the ship or ships in question flies or fly the flag of the adjacent Contracting Party, or
- (c) the greater part of the resources likely to be used in the operation to combat pollution belong to the adjacent Contracting Party.

If this paragraph is invoked, the Contracting Party in whose responsibility zone the incident occurs shall give the Contracting Party assuming responsibility for the coordination of action all requisite assistance.

## *Article 9*

### **POLLUTION REPORTING PROCEDURES**

1. Each Contracting Party shall issue instructions to masters or other persons having charge of ships flying its flag to report without delay to the nearest coastal State any emergency event on his ship 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 offshore installations, sea ports and oil handling facilities to report without delay to the appropriate national authorities 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 civil aircraft; and
- (d) to persons in charge of offshore units, sea ports and 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. The information collected in accordance with paragraphs 1 to 3 above shall be communicated immediately to the other Contracting Parties likely to be affected by the oil pollution incident and to the Regional Centre. In the case of ships, these pollution reports shall comply with the relevant provisions drawn up by the International Maritime Organization.

***Article 10***  
**MARINE 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 steps to ensure that ships flying its flag shall have on board a marine pollution emergency plan as required by, and in accordance with, the relevant international regulations<sup>2</sup>.
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 authorities, at the latter's request, with such detailed information about the ship and its cargo which is relevant for actions to be taken in pursuance of article 6 of this Protocol, and to cooperate with these authorities.
3. Each Contracting Party shall require that:
  - (a) operators in charge of offshore units;
  - (b) authorities or operators in charge of sea ports; and
  - (c) operators in charge of oil handling facilities

shall prepare marine pollution emergency plans that are coordinated with the national system established in accordance with article 4 of this Protocol and are approved in accordance with procedures established by the competent national authority.

***Article 11***  
**ASSISTANCE**

1. A Contracting Party requiring assistance to deal with an oil pollution incident, or the threat of an oil pollution 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 endeavours 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 personnel, cargoes, materials and equipment required to deal with such an incident; and
  - (b) the expeditious movement into, through and out of its territory of the personnel, cargoes, materials and equipment referred to in subparagraph (a).

***Article 12***  
**REIMBURSEMENT OF COSTS OF ASSISTANCE**

---

<sup>2</sup> Regulation 26 of Annex I of MARPOL



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 paragraph 2.

2. (a) If the action was taken by one Contracting Party at the express request of another Contracting Party, the requesting Contracting Party shall reimburse to the assisting Contracting Party the costs of its action. If the request is cancelled, the requesting Contracting Party shall bear the costs already incurred or committed by the assisting Contracting Party;

(b) if the action was taken by a Contracting Party on its own initiative, that Contracting Party shall bear the cost of its action;

(c) the principles laid down above in subparagraphs (a) and (b) shall apply unless the Contracting Parties concerned otherwise agree in any individual case.

3. 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 law and current practice of the assisting Contracting Party concerning the reimbursement of such costs.

4. The Contracting Party requesting assistance and the assisting Contracting Party shall, where appropriate, cooperate 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 3. It may also request a postponement of the reimbursement of such costs.

5. 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 oil pollution incidents, under other applicable provisions and rules of national and international law. The Contracting Parties may cooperate and provide mutual assistance in recovering the costs involved in their actions.

### ***Article 13***

## **ENVIRONMENTAL SAFETY OF MARITIME TRAFFIC**

1. In conformity with generally accepted international safety standards, the Contracting Parties shall take the necessary steps to assess the environmental safety, individually, bilaterally or multilaterally, of the recognized routes used by maritime traffic in the Caspian Sea and shall take initiatives, where appropriate, taking into account the rules and standards as set by the International Maritime Organization, aimed at reducing the risks of accidents and the environmental consequences thereof by, for example, identification of the more likely collision areas of the Caspian Sea.

2. Each Contracting Party shall develop means for monitoring shipping, and identify by the relevant national authority dealing with shipping movements. The Contracting Parties shall, to that end, consult each other regularly and shall participate actively in the studies needed for such development within the competent international bodies.

### ***Article 14***

## **ACCESS TO PORTS BY SHIPS IN DISTRESS**

The Contracting Parties may, in accordance with international recommendations, define national or regional strategies concerning access to their ports of ships in distress presenting a threat to the marine environment. They shall co-operate to this end and inform the Regional Centre of the measures they have adopted.

## **II. Institutional Arrangements**

### ***Article 15*** **MEETINGS**

1. Meetings of the Contracting Parties to this Protocol shall be held regularly, at least once a year, and may be held in conjunction with ordinary meetings of the Conference of the Parties to the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings, as provided for in article 22(4) of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol, in particular:

- (a) to keep under review the implementation of this Protocol and to examine the effectiveness of measures taken;
- (b) to examine and discuss reports of activities from the Regional Centre on the implementation of this Protocol;
- (c) to formulate and adopt strategies, action plans and programmes for the implementation of this Protocol, including implementation of the Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency;
- (d) to keep under review and consider the efficacy of these strategies, action plans and programmes, including the Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency, and the need to adopt any new strategies, action plans and programmes and to develop measures to that effect;
- (e) to identify and define as soon as possible those areas which, owing to their environmental characteristics, must be regarded as particularly sensitive locally or for the Caspian Sea environment in general;
- (f) to discharge such other functions as may be appropriate for the implementation of this Protocol.

### ***Article 16*** **FUNCTIONS OF THE REGIONAL CENTRE**

1. The Regional Centre shall cooperate with and assist Contracting Parties to react promptly and effectively to oil pollution incidents.

2. The functions of the Regional Centre 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 cooperation, 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;
- (e) acting as the focal point for exchanges of information on techniques for surveillance of oil pollution incidents in the Caspian Sea;
- (f) performing such other functions as may be required by the meeting of Contracting Parties to this Protocol or, where necessary, the Conference of Parties.

### **III. Implementation and Compliance**

#### *Article 17*

#### **RELATIONSHIP WITH THE CONVENTION**

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

#### *Article 18*

#### **EFFECT OF THE PROTOCOL ON DOMESTIC LEGISLATION**

The provisions of this Protocol shall not affect the right of Contracting Parties to adopt more stringent measures than those provided for in this Protocol.

#### *Article 19*

#### **SUB-REGIONAL AGREEMENTS**

The Contracting Parties may negotiate, develop and maintain appropriate bilateral or multilateral sub-regional agreements in order to facilitate the implementation of this Protocol, or part of it. Such agreements should not prejudice the provisions of this Protocol. Upon request of the interested Contracting Parties, the Regional Centre shall assist them, within the framework of its functions, in the process of developing and implementing such bilateral or multilateral sub-regional agreements.

#### *Article 20*

#### **AMENDMENT OF THE PROTOCOL**

1. Any proposal from one of the Contracting Parties with a view to amendment of this Protocol shall be studied at a meeting of the Contracting Parties.
2. The procedure for adoption of amendment to the Protocol shall be as set forth in Article 34 of the Convention.

***Article 21***  
**SETTLEMENT OF DISPUTES**

In case of disputes between Contracting Parties concerning the application or interpretation of the provisions of the present Protocol, the Contracting Parties will settle them by consultations, negotiations or by any other peaceful means of their own choice.

**IV. Final Clauses**

***Article 22***  
**SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL AND  
ACCESSION**

1. The Protocol shall be open for signature only by Parties to the Convention at the city of [xxx], [country here] from [month here 200[x]] to [month here 200[x]].
2. The Protocol shall be subject to ratification, acceptance or approval by the Caspian littoral States. It shall be open for accession by any Caspian littoral State in accordance with their national legislation from the date on which the Protocol is closed for signature.
3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository.

***Article 23***  
**RESERVATIONS**

No reservation may be made to this Protocol.

***Article 24***  
**ENTRY INTO FORCE**

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 25***  
**DEPOSITARY**

The Depositary of this Protocol is the Depositary of the Convention.

***Article 26***  
**AUTHENTIC TEXTS**

This Protocol, of which the Azerbaijani, English, Farsi, Russian, Kazakh and Turkmen texts are equally authentic, shall be deposited with the Depository. In case of dispute arising as to the interpretation or application of this Protocol, the English text shall be authoritative.

***Article 27***

**RELATIONSHIP WITH THE NEGOTIATIONS OF THE LEGAL STATUS  
OF THE CASPIAN SEA**

Nothing in this Protocol shall be interpreted as to prejudice the outcome of the negotiations 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 [.....],

on the [.....] day of [.....200[x]]