

PROTOCOL
on Environmental Impact Assessment in a Transboundary Context to the
Framework Convention for the Protection of the Marine Environment of the
Caspian Sea

The Caspian Littoral States:

Azerbaijan Republic
Islamic Republic of Iran
Republic of Kazakhstan
Russian Federation
Turkmenistan

hereinafter referred to as the Parties to this Protocol,

Being Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea,

Recalling Article 17, of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea,

Aiming to create conditions of mutual understanding and being guided by principles of constructive interaction in addressing the issue of protection of the marine environment of the Caspian Sea,

Recognizing that the application of principles of environmental impact assessment in preparing decisions on the proposed activity promotes the implementation of the principle of sustainable development,

Taking into account the relevant provisions of the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (1991), done at Espoo, Finland, February 25, 1991 and the Protocol on Strategic Environmental Assessment to the above Convention done in Kiev, Ukraine, May 21, 2003,

Conscious that upgrading the practice of public participation in decision-making contributes to the better quality of the proposed activity and promotes public awareness on environmental problems, and also taking into account the relevant provisions of the Convention on Access to Information, Public Participation in Decision-Making Process and Access to Justice in Environmental Matters, done at Aarhus, Denmark, June 25, 1998,

Proceeding from the aspiration to assist in elaboration of the Protocol on Environmental Impact Assessment on the Marine Environment in a Transboundary Context for Article 17 of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea,

Desiring to promote closer international cooperation and direct contacts among the federal and local authorities of executive power, private and non-governmental organizations of the Caspian Littoral States,

Have agreed as follows:

Article 1. Definitions

For the purposes of this Protocol,

Convention means the Framework Convention for the Protection of the Marine Environment of the Caspian Sea;

Party means, unless the text indicates otherwise, a Contracting Party to this Protocol;

Party of origin means the Contracting Party or Parties to this protocol under whose jurisdiction a proposed activity is envisaged to take place;

Affected Party means the Contracting Party or Parties to the Protocol likely to be affected by the transboundary impact of a proposed;

Concerned Parties means the Party of Origin and the Affected Party (Parties) of environmental impact assessment pursuant to this Protocol;

“Proposed activity” means any activity or any major change to an activity including elaboration of plans and programmes, which is likely to cause an impact on the marine environment of the Caspian Sea and is subject to a decision of a competent authority in accordance with an applicable national procedure

Impact means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, atmospheric air, water, climate, landscape, historical monuments and other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic and other conditions resulting from alterations to these factors;

Transboundary impact means any impact within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party;

Environmental impact assessment (EIA) means the compulsory national procedure for evaluating the likely impact of a proposed activity on the environment.

Strategic environmental assessment (SEA) means the evaluation of the likely environmental, including health, effects, which comprises the determination of the scope of an environmental report and its preparation, the carrying out of public participation and consultants, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

Public means public organizations and population.

Post-project analysis means integrated research aimed at evaluation of efficiency of environmental and other decisions envisaged by the project in the course of realization of a proposed activity for the purposes of their timely correction and improvement of the EIA procedure.

Competent authority means the national authority or authorities designated by a Party as coordinating the tasks covered by this Protocol implementation.

Article 2. Objective

Objective of the present Protocol is to apply EIA procedures of any proposed activity, , that are likely to cause significant adverse effect on the marine environment of the Caspian Sea.

Article 3. General provisions

1. Each Contracting Party shall adopt necessary legislative, administrative or other measures to implement the provisions of this Protocol.

2. Each Contracting Party shall take measures to ensure that environmental and health related issues are considered and taken into account in the EIA procedure of the proposed activity.

3. Each Contracting Party determines the practical mechanisms for consideration and taking into account of, pursuant to point 2 of this Protocol, environmental concerns, bearing in mind the necessity to ensure transparency of the decision-making process in the implementation of the proposed activity.

4. The planned activities listed in Appendix I to this Protocol that are likely to cause a transboundary impact on the Marine Environment of the Caspian Sea shall be subject to impact assessment on the marine environment of the Caspian Sea.

Appendix 1 to this Protocol may be amended by mutual consent of the interested Parties.

5. The Party of origin shall ensure that EIA of the planned activity is performed prior decision-marking on constructing of objects of the activities listed in Appendix I to this Protocol.

6. The sea level fluctuations of the Caspian Sea and change of the state of the environment shall be taken into account in the EIA of a proposed activity.

7. The provisions of this Protocol shall be applied to the procedures of EIA of a proposed activity with possible significant adverse transboundary effect on waters and seashore land parts of the Caspian Sea in the Caspian Littoral States unless otherwise addressed by conventions (agreements, treaties) among the Caspian Littoral States.

8. The content of an EIA of activities listed in Appendix I to this Protocol shall be determined by normative and legal documents of the Contracting Parties adopted for purposes of the corresponding documentation elaboration.

9. The documents for the EIA should contain, as a minimum requirement, information as mentioned in Annex 2.

10. Strategic environmental assessment shall be carried out prior to decision making by an authority for all drafts plans and programmes regarding sectoral and socio-economic development in the Caspian Littoral States, where those draft plans and

programmes set the framework for future development consent for the projects listed in Appendix 1.

11. The interested Parties shall ensure participation of the public and population in the regions adjacent to the Caspian Sea which are likely to be affected by a significant transboundary impact, in consideration of the EIA preliminary materials of planned activity to be presented by the Party of origin.

12. Each Contracting Party shall make efforts to ensure that the state and regional power and management authorities and officials provide the public and population with assistance and advice on the issues covered by this Protocol.

13. Contracting Parties shall cooperate in the elaboration of the principles of implementation of EIA of a proposed activity with possible significant transboundary impact on the marine environment of the Caspian Sea.

14. In performing EIA of the proposed activity with a transboundary impact the interested Parties shall ensure that the conformed normatives and standards characterizing the status of the environment, natural resources and health of the population resident in the area which is likely to be adversely affected be used.

15. Information, concerning the preparation of materials of EIA of planned activity with possible significant transboundary impact, comments and proposals and other data that shall be exchanged between the interested Parties during the implementation of EIA procedure, shall be presented in official UN languages.

16. Order and amount of fees on presentation and exchange of information on planned activity with possible significant transboundary impact are determine in consultations of the Party of origin and affected Parties.

17. The provisions of this Protocol shall not affect the right of the Parties to implement national laws, regulations, administrative provisions or the accepted legal practice protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security interests.

18. The provisions of this Protocol shall not affect the right of the Contracting Parties to implement, by bilateral or multilateral consent where appropriate, more stringent measures than those of this Protocol.

19. The provisions of this Protocol shall not prejudice any obligations of the Contracting Parties under international law with regard to activities having or likely to have a transboundary impact.

Article 4. Notification

1. For the proposed activity listed in Appendix I to this Protocol the Party of Origin shall notify any Party which it considers may be an Affected Party as well as the Secretariat of the Convention.. Competent authority of a Party of Origin shall submit

to a Competent Authority of an Affected Party notification that shall contain, *inter alia*:

- information on the planned activity and materials of the preliminary EIA which contain data on the possible transboundary environmental impact on the affected Party;
- corresponding information related to the procedure of EIA of the planned activity which is envisaged by the National normative legal documents accepted by the Party of origin;
- a request to submit by the affected Party reasonably accessible information on the status of the Caspian Sea marine environment and of pollution from the land-located sources within the jurisdiction of the affected Party if such information is necessary for preparation of the EIA documentation on the planned activity. This information shall be submitted to the National authority of the Party of origin by the National authority of the affected Party without a delay;
- the deadline for submission of the affected Party comments and proposals after consideration of materials of the preliminary EIA of the planned activity.

The notification is sent in the format presented in Appendix 3.

2. The Competent authority of the affected Party shall respond to the National authority of the Party of origin within the time not more than ____ days from the moment of reception of the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the EIA of the planned activity procedure.

3. If the affected Party notifies that it does intend to participate in the EIA of the planned activity the Competent authority of the affected Party shall present the relative information to the Competent authority of the Country of Origin in compliance with the format presented in Appendix 4, in terms specified in the notification.

4. If the affected Party notifies that it does not intend to participate in the EIA of the planned activity or if it does not respond within the time specified in the paragraph 2 of this article then the Party of origin shall perform the EIA of the planned activity in compliance with the provisions of the National normative legal documents.

Article 5. Public Participation

1. The Competent bodies of interested Parties shall ensure the timely and effective public participation in the EIA procedure of the proposed activity starting from the stage of the EIA plan elaboration (terms of reference for EIA performance).

2 The Contracting Parties, using mass media, and/or other appropriate means, shall ensure the timely availability of the summary draft EIA documentation and/or relevant information provided pursuant to Article 4, including information on possible transboundary impacts of the proposed activity, to the public organizations.

The materials on the EIA of planned activity might be placed in libraries, Internet and other accessible places for public attendance (clubs, schools, local governments).

3. The competent authorities of interested parties shall ensure that the public, as well as population in the areas likely to be affected by the proposed activity be provided with possibilities for making comments and/or objections on the proposed activity within the specified time frame.

4. The competent authorities of the concerned parties shall make all necessary effort to ascertain which members or groups of public are to be consulted to ensure timely and effective public participation.

In case of necessity the Competent authorities of concerned Parties appoint organization to arrange contacts with public and other interested organizations for preparation of proposals and comments on the planned activity preliminary EIA materials, presented by the Party of origin for the purpose of implementation of provisions of paragraphs 1,2 and 3 of the present Article.

Article 6. Final EIA and Decision

1. The competent authority of the affected Party shall ensure that the comments and objections received from the public through the procedures detailed in Article 5 be forwarded to the competent authority of Party of origin with the comments and suggestions of the competent authority of the affected party to the draft EIA documentation.
2. The Competent Authority of the Party of origin shall ensure that the proposals and comments received from the affected Party are incorporated into the final EIA document and are taken into consideration, together with the outcome of the EIA, in the final decision on the proposed activity by the Competent Authority in the Party of origin.
3. The Competent Authority of the Party of origin shall provide the Competent Authority of the affected Party and the Secretariat with the final decision on the proposed activity along with the reasons and considerations on which it was based, including information on how the comments and objections received were taken into account in accordance to paragraph 1 of the present Article. If any comments and proposals were discounted, the reasons for their rejection shall be indicated.
4. The Competent Authority of the affected Party shall make available to the public information about the decision and how the proposals submitted by the affected Party were taken into account.

Article 7. Development of the ecological monitoring programme and post-project analysis plan

1. The Party of origin shall ensure that a post-project analysis be carried out which includes, in particular, the surveillance of the conditions envisaged in the permit for implementation of the planned activity, and also the comparison analysis of the earlier prognosis assessment of the change in the environment status with its real change after the objects of the planned activity were put into operation in order to use the gained experience in implementing of similar activities in future.
2. If, as a result of the post-project analysis, one of the concerned Parties has reasonable grounds for concluding that there is a significant adverse

transboundary impact, or factors have been discovered which may result in such an impact, it shall immediately inform the Party of origin. In this case, the concerned Parties shall immediately consult and take necessary measures to eliminate or reduce the impact.

Articles 8 – 19 that include articles connected with the elaboration of the organisational structure of the Protocol will be presented later on because this structure must be corresponding to the organisational structure of the Framework Convention.

List of proposed activities in the Caspian Sea region which realization are likely to cause significant adverse transboundary environment impact

1. Oil, gas and petrochemical industry (exploration and extraction of hydrocarbons on the shelf and coast, petroleum refineries and gas works, installations for gasification and coal and bituminous shale liquefaction of 500 tons per day and more).
2. Electric power industry (thermal power stations and other installations for combustion organic fuel with a heat output of 300 MW and more, nuclear power stations and other nuclear reactors (except research installations for producing and conversion of split and reproducing materials which maximum heat output of not more than 1 kW of constant thermal loading, hydraulic power stations).
3. The laying on land and on the bottom of the sea of pipelines for carrying oil, gas and products of their processing.
4. Chemical industry (integrated installations and factories for the production of all kinds of chemical products, major storage facilities for petroleum, petrochemical and chemical products).
5. Ferrous and nonferrous metals industry (extraction by open cast mining and underground mining, enrichment, cake and by-product process, installations for initial smelting of cast-iron and steel, electrolysis, foundry and rolling production).
6. Construction materials (quarries, integrated installations and factories for producing cement, asbestos-bearing products, lime, glass, ceramics and other construction materials).
7. Pulp and paper industry (pulp and paper manufacturing of 200 metric tons or more per day).
8. Microbiological industry.
9. Agricultural industry (major cattle-breeding complexes and integrated poultry farms and objects of aquaculture).
10. Large reservoirs, the main canals, hydroameliorative systems and systems of water supply of large cities, underground water abstraction installations of 10 million cubic meters and more per year.
11. Construction (expansion, reconstruction) of ports, terminals, shipyards, international ferry transportation, and also internal waterways and ports for the inland-waterway traffic which permit the passage of vessels of 1350 metric tons and more.
12. Construction of highways, motorways, railways and airports with 1500 m and more length of the basic runway.
13. Installations for production, enrichment, regeneration of nuclear fuel, collection, removal and processing of radioactive waste products and reactor compartments.
14. Objects, target ranges for thermal, chemical processing, recycling and landfill of non-radioactive waste products, destruction and landfill of chemical weapon, rocket fuel and ammunition.
15. Construction (erection) of artificial islands, spits, reefs and artificial grounds in coastal zone of area 1 km² and more or led to considerable change of hydrological regime.

16. Activity (works) on introduction, acclimatization non-aboriginal (new species of plants, animals and other organisms, alien to natural ecological systems, as well as artificially made).
17. Plans, programmes, concepts and other documents providing the long-term sustainable socio-economic development of territorial administrative entities in the Caspian littoral States and also aimed at the solution of the global environmental problems (preservation of the ozone layer and biodiversity; prevention of the potable water resources from exhaustion, etc.) which are likely cause impact on the marine environment of the Caspian Sea.

General requirements to the EIA materials content

1. The basis for realization of proposed activity is as follows: the adopted plans and programmes of the sectoral and socio-economic development of the region where realization of the specified activity is proposed, national strategies and plans of integrated resource management and the land which affected the sea.
2. A description of the proposed activity (the nomenclature of products, capacities, dates of the beginning and the end of constructing activity).
3. A description of nature peculiarities of the territory and an assessment of the current environment status in a place of the intended location of the proposed activity, including:
 - physico-geographical and geological characteristics of the territory;
 - climate peculiarities of the territory;
 - characteristics of the land use;
 - availability of territories with the limited regime use (reserves, zakazniks, wetlands, parks, nature and archeology sanctuaries).
4. Socio-economic characteristic of the area in the intended location of the proposed activity (population density, availability of town planning and other industrial and agroindustrial enterprises, level of the development of communication and other infrastructure, provision of human and financial resources, level of the population health, etc.).
5. Characteristics of the basic sources of environmental impact with a view of their territorial arrangement:
 - types, qualitative structure and volume of the pollutants emissions in the atmospheric air;
 - volume of water abstraction from the surface and underground water sources, including drinking quality waters;
 - types, qualitative structure and volume of discharge of waste waters into the water sources;
 - size of the intended land allotment, including withdrawn from the agricultural turnover;
 - types, qualitative structure, modular status and volume of waste products of manufacture and consumption;
 - type and capacity of physical impacts (noises, vibrations, electromagnetic impacts, radiation);
 - other impacts on the environment.
6. A prognosis assessment of the environment status change caused by realization of the proposed activity (atmospheric air, water sources, hydrological and hydro-geological regimes of the aquiferious areas, type of the land use and an impact on flora and fauna, and also assimilation capacities of the natural environment components and reproduction of renewed natural resources).
7. A prognosis assessment of socio-economic conditions change caused by realization of the proposed activity in the nearest and remote prospect (expansion of employment, business activity enhancing, increase in allocations to the local budgets, development of communications and other infrastructure, improvement

of working conditions and the population recreation opportunities, reduction in a degree of risk for the health of inhabitants, improvement of the engineering infrastructure, etc.).

8. A prognosis assessment of impacts on anthropogenous systems and their components (buildings, architectural and archeological monuments and other material and cultural values, the transport communications, recreational qualities of landscapes, etc.).
9. The measures directed at prevention/reduction (elimination or minimization) of adverse environmental impacts and improvement of social conditions, including:
 - measures to ensure protection, preservation and restoration of endemic, rare and endangered biological species of the Caspian Sea;
 - recommendations envisaged by harmonized action programmes elaborated by the Caspian littoral States and aimed at reduction of loadings of pollution from the municipal and industrial spot and dispersed sources, including agricultural, city and other discharges;
 - prevention of reduction of water consumption by the population in the intended location of the proposed activity;
 - increase of efficiency of fresh water use from surface and underground water sources due to wide introduction of turnover and consecutive water delivery systems in industry and of drop irrigation in agriculture;
 - undertaking of compensatory ecological and social measures;
 - undertaking of measures to reduce emergencies and accidents risks of technogenic character caused by realization of the proposed activity, and also on localization and liquidation of consequences of these;
 - other measures aimed at prevention/reduction of negative impacts on the environment and improvement of social conditions.
10. A substantiation of the choice of the proposed activity kind in view of all considered alternative options (the choice of a territorial location in view of ecological and recreational value of the territory in question; provided technological decisions; availability and an opportunity of meeting the requirement of the proposed activity in energy power and material resources; the level of energy and materials consumption for a unit of production; the level of the production cooperation and utilization of waste products; provided nature protection measures efficiency; results of the ecology and economic assessment of the environmental impact, etc.).
11. Public participation in preparation of the proposed activity EIA materials (informing the public on the proposed activity and carrying out public discussions, the account of the comments and proposals put forward by the participants, and also outcomes of the public discussions which shall be included in the corresponding reports).
12. Development of the ecological monitoring programme and post-project analysis plan.
13. Materials of the proposed activity EIA and a brief resume containing the basic results and conclusions of the performed EIA.

Notification on planned activity

Information on planned activity

- Title of object of the planned activity.
- The basic kind of activity.
- Substantiation of the planned activity:
- Capacities (annual/daily release of the basic types of production in physical units of measurement).
- Socio-economic aspects of the planned activity realization.
- Ecological aspects of the planned activity realization.
- Development of communications and other infrastructure.
- Construction activity duration.
- The additional information/comments.

The information on EIA preliminary materials on the planned activity

- Substantiation of the planned activity location (socio-economic, physico-geographical factors).
- Expected operation period (years) of the objects of the planned activity ("age") – until the elimination of significant negative impacts on the marine environment of the Caspian Sea and on the environment of the affected Parties.
- The basic characteristics of the planned activity for which EIA is carried out.
- A brief description of the basic characteristics of technological processes of the planned activity (used technologies and equipment).
- The need in fresh and sea water (abstraction volumes of fresh water from the surface and underground water sources, volumes of waste waters discharge directly into the Caspian Sea, including these purified according to the norms established by the national standards, and the volume of relatively purified waste waters, volumes of waste waters discharge into other transboundary water bodies).
- Expected significant negative impact of the planned activity on the marine environment of the Caspian Sea, and also on the environment of the coastal zone of the affected Parties (types and volumes of expected emissions of pollutants in the atmospheric air, discharge into water sources of waste waters, including within the possible emergencies, formation of waste products of manufacture and consumption, their accommodation, recycling, landfill, etc.).
- The envisaged measures on prevention, minimization and elimination of significant negative impacts (including within the possible emergencies) on the marine environment of the Caspian Sea, and also on the environment of the coastal zone of the affected Parties, including compensatory measures for transboundary pollution.
- Additional information/comments.

Information on the deadlines of the final EIA materials preparation

- If provisions of the national acts and other normative legal documents of the Party of origin establish the deadlines for preparation of the final EIA materials of the planned activity the Party of origin notifies the affected Parties about the deadline by which the affected Parties, which have expressed the desire to participate in preparation of the final EIA materials, should submit their proposals and remarks.
- If provisions of the national acts and other normative legal documents of the Party of origin do not establish the deadlines for the final EIA materials of the planned activity preparation the affected Parties, which have expressed the desire to participate in the final EIA materials preparation, should submit their proposals and comments not later than 60 days after the notification on the planned activity was receipt from the Party of origin.
- If in preparing EIA materials the Party of origin needs additional information on the environment status in the territory which is under the jurisdiction of the affected Parties, then the reasonably accessible information is submitted by the latter in reasonable terms, sufficient for its account at carrying out EIA.
- The contact information

The National authority of the Party of origin:

(Name)

(the post address, telephone number, fax number, e-mail)

(contact person: surname, name, other names, telephone number, fax number, e-mail)

The designer of a project:

(title of an organization)

(the contact person: surname, name, other names, telephone number, fax number, e-mail)

**Information of the affected Party on participation in EIA of planned activity
with transboundary environmental impact**

Distribution of the preliminary EIA materials on the planned activity

- the organization(s) which is/are involved in preparation of proposals and comments on the materials of the planned activity;
- placing of materials of the planned activity EIA (libraries, Internet, etc.);
- additional information/comments.

The information on probably affected territories:

- Natural vulnerable territories (for example, sources of potable water, desertification, salinization, soil pollution).
- Especially protected natural territories.
- Territories of cultural heritage (archeological monuments).
- Additional information/comments.

The information about social and economic activity in the zone which is likely to be affected:

- Conditions of living and the population health status.
- Industrial, agroindustrial and other activity which is likely to be affected.
- Technogenic environment which is likely to be affected (for example, buildings and constructions, communications, pipelines, etc.).
- In case the Party of origin applies for additional information on the environment status in the territory which is under the jurisdiction of the affected Parties, the latter shall submit the reasonably accessible information without a delay.
- Additional information/comments

The contact information

The National authority of the affected Party:

(Name)

(the post address, telephone number, fax number, e-mail)

(contact person: surname, name, other names, telephone number, fax number, e-mail)

In case if the Competent authority of the affected Party appoint the organization to arrange contacts with public and other interested organizations for preparation of proposals and comments on the planned activity preliminary EIA materials, the following shall be informed:

(title of an organization)

(the contact person: surname, name, other names, telephone number, fax number, e-mail)