

ANNEX 5

DRAFT REGIONAL MEMORANDUM OF UNDERSTANDING (MoU) ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION IN THE CASPIAN SEA

**DRAFT REGIONAL MEMORANDUM OF UNDERSTANDING (MoU) ON
OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION
IN THE CASPIAN SEA**

The Governments of the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan, hereinafter referred to as the Parties;

RECOGNISING the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities;

MINDFUL THAT in the event of an oil pollution incident, prompt and effective action is essential in order to minimise the damage which may result from such an incident;

RECOGNISING ALSO the importance of mutual assistance and international co-operation through the exchange of information such as national contingency plans, reports on significant incidents and relevant research and development;

BEARING IN MIND the relevant provisions of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention) related to the promotion of bilateral or multilateral agreements for preparedness for and response to oil pollution incidents;

TAKING ACCOUNT of the “polluter pays” principle as a general principle of international environmental law;

TAKING ACCOUNT ALSO of the importance of international instruments on liability and compensation for oil pollution damage;

TAKING ACCOUNT FURTHER of the [draft] Framework Convention for the Protection of the Marine Environment of the Caspian Sea, and the efforts undertaken so far under the Caspian Environment Programme which, as one of its priority items, recommends, *inter alia*, the maintaining and promotion of regional co-operation in marine pollution preparedness and response;

BEING AWARE of the need, before the Framework Convention and its draft Protocol concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency comes into force, to promote regional co-operation and to enhance existing national and regional capabilities concerning preparedness and response to marine pollution incidents;

RECOGNISING FURTHER that regional plans on co-operation in cases of major oil spills, specifying in advance the operational procedures and administrative and financial conditions related to co-operation in cases of emergency, are necessary for a prompt and efficient response to major marine pollutions at the regional level;

ACKNOWLEDGING the positive role played by the relevant international organizations in promoting regional co-operation in preparedness for and response to marine pollution incidents in the Caspian Sea region;

NOTING that this Memorandum of Understanding is a voluntary non-binding interim instrument to facilitate an early use of the draft Regional Plan prior to the entry into force of the Emergency Protocol to the Framework Convention;

NOTING ALSO that this Memorandum of Understanding and the draft Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency do not imply obligations exceeding the national capabilities of each Caspian State;

HAVE REACHED THE FOLLOWING UNDERSTANDING:

ARTICLE 1

The Parties hereby decide, in accordance with the principles of the OPRC Convention and their national laws, and subject to their capabilities and availability of resources, to use the draft Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency (annexed to this MoU and hereinafter referred to as

“the Plan”) as a guideline for regional co-operation on major oil pollution emergencies and to promote its implementation.

ARTICLE 2

- (1) In cases of major oil pollution incidents, the Parties decide to co-operate, in taking individually and jointly, necessary response measures according to the agreed provisions of the Plan.
- (2) Any Party requiring assistance to deal with a pollution incident may call for assistance from other Parties. Parties so requested, subject to their capabilities and the availability of relevant resources, should use their best endeavours to render the assistance.
- (3) Nothing in this Memorandum of Understanding should inhibit Parties from calling for assistance from outside the region if they judge it necessary.
- (4) Each Party should undertake to facilitate the prompt and efficient movement between the Parties of personnel, equipment and other means to respond to oil spills.

ARTICLE 3

- (1) The Emergency Response Caspian Region Thematic Centre (ERCRTC) shall perform the functions ascribed to the Caspian Regional Centre in the Plan until such time as the Protocol enters into force.
- (2) The Parties, according to the Plan, should either directly or through the ERCRTC exchange information specified in the Plan. In case of direct exchange of information between Parties, a copy of such information should be submitted to the ERCRTC also.

- (3) Each Party should provide ERCRTC with up-to-date information, which is relevant to the purpose of this Plan and the objectives of this MoU, and ERCRTC should keep the Parties informed on a regular basis.

ARTICLE 4

- (1) This Memorandum of Understanding will come into effect for a Party on the date of its signature by that Party.
- (2) Any Party wishing to propose amendments to this MoU shall give sixty days written notice to the other Parties or through the ERCRTC. Such amendments shall be adopted only with the consultation of Parties and the unanimous consent of Parties signatories to this MoU.

ARTICLE 5

Any dispute in the interpretation or application of this Memorandum of Understanding should be resolved by consultations between the Parties, and should not be referred to any national or international tribunal or third party for settlement.

ARTICLE 6

Any Party may withdraw from this Memorandum of Understanding by giving sixty days written notice to the other Parties or through the ERCRTC. The remaining Parties may consult to determine how the outstanding matters should be dealt with.

ARTICLE 7

- (1) This Memorandum of Understanding will automatically cease to exist upon the entry into force of the Protocol concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency.

- (2) ERCRTC shall notify the Parties sixty days in advance of the date referred to in paragraph (1) above.

The foregoing represents the understanding reached between the Parties referred to in this Memorandum.

This Memorandum of Understanding is open for signature by Parties at the Caspian Environment Programme – Programme Coordination Unit (CEP-PCU).

For the Government of the Republic of Azerbaijan:

_____	_____
Signature	Date

For the Government of the Islamic Republic of Iran:

_____	_____
Signature	Date

For the Government of the Republic of Kazakhstan:

_____	_____
Signature	Date

For the Government of the Russian Federation:

_____	_____
Signature	Date

For the Government of Turkmenistan:

Signature

Date