

**Framework Convention  
for the Protection of the Marine  
Environment of the Caspian Sea**

Distr.: General  
16 May 2014  
Original: English

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**CONFERENCE OF THE PARTIES  
Fifth Meeting  
28-30 May 2014, Ashgabat, Turkmenistan**

Items 11 b) and 12 of the provisional agenda

**PROTOCOL FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY TO  
THE FRAMEWORK CONVENTION FOR THE PROTECTION OF THE  
MARINE ENVIRONMENT OF THE CASPIAN SEA (“TEHRAN  
CONVENTION”)**

Note by the interim Secretariat

**Introduction**

1. Article 6 of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (“Tehran Convention”) requests the Contracting Parties to cooperate in the development of protocols to the Convention prescribing additional measures, procedures and standards for the implementation of the Convention.
2. Article 24 para. 1 of the Tehran Convention stipulates the adoption of protocols to the Convention by unanimous decision of the Parties at a Meeting of the Conference of the Parties. Protocols shall enter into force after their ratification or approval by all the Contracting Parties in accordance with their constitutional procedures. Protocols shall form an integral part of the Tehran Convention.
3. Attached as Annex A to this note is the text of the Protocol for the Conservation of Biological Diversity as negotiated among Government-nominated Experts, submitted to COP4 for adoption and signature and reproduced as Annex A in document TC/COP5/3.
4. At COP4 in Moscow, 10-12 December 2012, the Russian Federation introduced proposals to amend the text of the Protocol. No agreement was reached and the Contracting Parties at COP4 decided to finalize the arrangements for adoption and signature of the Protocol as soon as possible before the fifth Meeting of the COP.

5. In the absence of an agreement the Russian Federation amended its proposals; the revised proposals were circulated by email of 8 November 2013. At the Institutional and Planning Meeting of the Tehran Convention in Geneva, 19-20 December 2013, delegations declared they were not yet ready to discuss the revised proposals. It was agreed that the Parties would internally review their position and consult each other with a view to reach consensus at the Preparatory Committee Meeting to COP5, so as to secure adoption and signing of the Protocol at COP5.

6. At the Preparatory Committee Meeting to COP5 in Ashgabat, 26-28 March 2014, two new package proposals on the text of the Protocol were presented by Russian Federation. The proposals are attached as Annex B to this Note.

7. Delegations favored option 2 and the discussion focused on the additional wording to the text of art. 11.4, which at the meeting was amended to read “The Secretariat shall examine the conformity of the proposal with the common guidelines and criteria referred to in Annex II of this Protocol and if, after assessment, it is compliant shall seek the agreement of all Contracting Parties to this proposal and inform the Conference of the Parties, which shall decide whether to include the area in the PACS List”. Kazakhstan requested more time to consider the proposal suggesting that the additional wording may perhaps not change the substance of the article but is superfluous. Azerbaijan supported what was said by Kazakhstan. Delegations committed to inform the interim Secretariat of their position by 11 April 2014 at the latest.

8. By 11 April 2014 both Kazakhstan and Azerbaijan still could not agree on the proposed amended wording of art.11.4. It was agreed to continue the discussions among the Contracting Parties on this issue and to prepare for adoption and signing of the protocol text at COP5 in the hope and expectation that by/at the COP agreement on the text has/will be reached.

**Suggested action:**

9. The Conference of the Parties may wish to:
- a) Reach agreement on and adopt the text of the Protocol for the Conservation of Biological Diversity to the Tehran Convention, as contained in Annex A to this note;
  - b) Welcome the signing of the Protocol by the Contracting Parties;
  - c) Call upon the signatories to proceed and expedite ratification; and
  - d) Request the (interim) Secretariat to undertake the necessary steps to promote its implementation.

**PROTOCOL FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY TO  
THE FRAMEWORK CONVENTION FOR 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 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);

Determined to implement the Convention and in accordance with its Article 14, paragraph 2, which stipulates cooperation in the development of the Protocols in order to undertake the necessary measures for the protection, preservation and restoration of marine biological resources;

Being Contracting Parties to the United Nations Convention on Biological Diversity, June 5, 1992;

Being aware that the Caspian Sea is a unique ecosystem, and contains a large number of biotopes and species of great national, regional and global importance that need protection, preservation and restoration, and of the need to guarantee sustainable and rational use of biological resources;

Taking into consideration the pressure on the marine environment of the Caspian Sea due to different kinds of human activities, which threaten biological diversity;

Stressing the importance of safeguarding biological diversity and, as appropriate, improving the state of the natural and cultural heritage of the coastal and marine areas of the Caspian Sea, in particular through the development of protected areas and by the protection and conservation of threatened species, at the national and regional levels;

Noting with concern the issue of alien species and the need to develop control measures to prevent the accidental transfer due to human activities of such species into and out of the Caspian Sea;

Acknowledging the need to take the necessary measures to protect, preserve and restore the health and integrity of the coastal and marine ecosystems 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) "Biological diversity" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems;

(b) "Biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity;

(c) "Biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use;

(d) "Competent Authority" means either the "National Authority" defined in Article 1 of the Convention or the authority(ies) within the government of a Contracting Party designated by the National Authority responsible for the fulfilment of the obligations specified in this Protocol;

(e) "Country of origin of genetic resources" means the country which possesses those genetic resources in in-situ conditions, with the exception of agreed transboundary types of biological resources, which are owned by all Caspian littoral states;

(f) "Country providing genetic resources" means the country supplying genetic resources collected from in-situ sources, including populations of both wild and domesticated species, or taken from ex-situ sources, which may or may not have originated in that country;

(g) "Domesticated or cultivated species" means species in which the evolutionary process has been influenced by humans to meet their needs";

(h) "Ecosystem" means a dynamic complex of living organisms and their environment interacting as a functional unit;

(i) "Endemic species" means any species believed to occur only in a specified geographical region;

(j) "Ex-situ conservation" means the conservation of components of biological diversity outside their natural habitats;

(k) "Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity;

(l) “Genetically modified species” means any species whose genetic material has been altered using gene technology;

(m) “Genetic resources” means genetic material of actual or potential value;

(n) “Habitat” means a specified living space where an organism or population naturally occurs;

(o) “In-situ conservation” means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties;

(p) “Alien species” (also known as exotic or introduced species) means any species occurring outside of its historically known natural range as a result of intentional or accidental dispersal by human activities;

(q) “Invasive species” means an alien species whose establishment and spread may cause economic or environmental damage to the ecosystems or biological resources or harm to human health;

(r) “Conference of the Parties” means the body referred to in Article 22 of the Convention;

(s) “PACS List” means the list of protected areas of importance to the marine environment of the Caspian Sea;

(t) “Protected area” means a geographically defined area which is designated, regulated and managed to achieve specific conservation objectives;

(u) “Secretariat” means the body referred to in Article 23 of the Convention;

(v) “Sustainable use” means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations;

(w) “Technology” means the practice, description and terminology of any or all of the applied sciences which have practical and/or industrial use, including *inter alia* biotechnology;

(x) “Threatened species” means any taxon whose survival is significantly jeopardized by human activities or other factors;

(y) “Introduction” means intentional or accidental transfer of any species from outside into the Caspian ecosystem;

(z) “Applicable international treaties” means relevant international legal instruments in force to which all the Contracting Parties are a party.

## **Article 2. Objectives**

The objectives of this Protocol are to protect, preserve, and restore the health and integrity of the biological diversity and the ecosystem of the Caspian Sea as well as to ensure the sustainable use of biological resources and in that context:

(a) To safeguard threatened species, and vulnerable ecosystems, to ensure their long-term viability and diversity;

(b) To prevent decline, degradation and damage to species, habitats and ecological systems, directed by the precautionary principle;

(c) To protect and conserve those areas that best represent the high range of species, special habitats, ecological systems and natural and related cultural heritage.

### ***Article 3. Scope of Application***

In accordance with Articles 3 and 15 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 as well as the land affected by proximity to the sea including wetlands of international significance as identified by national legislation or otherwise by the Contracting Parties.

### ***Article 4. Implementation of the Protocol***

Each Contracting Party shall designate a Competent Authority to coordinate the implementation of the provisions of this Protocol in its territory and under its jurisdiction.

### ***Article 5. General Provisions***

The implementation of this Protocol by the Contracting Parties shall be guided by their national legislation, taking into account Article 9, paragraph 1, Article 11, paragraph 2, and Article 30 of this Protocol. Within that context the Contracting Parties shall:

(a) Individually or jointly take all appropriate measures to protect, preserve and restore the marine environment of the Caspian Sea;

(b) Use the natural resources of the Caspian Sea in such a way as not to cause harm to the marine environment and biological resources of the Caspian Sea;

(c) Protect, preserve and restore biological diversity with particular emphasis on threatened species;

(d) Protect, preserve and restore areas that are unique, highly sensitive or regionally representative in an environmentally sound and sustainable manner, notably by the establishment of protected areas;

(e) Adopt national and, as appropriate, regional strategies, action plans and programmes and develop and implement appropriate legislation for the conservation of biological diversity and the sustainable use and management of biological resources including their habitats;

(f) Undertake monitoring measures related to the biological diversity of the Caspian Sea;

(g) Identify and compile inventories of biological diversity and habitats for the purpose of conservation of biological diversity and sustainable and rational use of biological resources;

(h) Ensure that sectoral strategies and action plans are consistent with the principles of conservation of biological diversity and sustainable and rational use of biological resources;

(i) Apply national integrated management of coastal areas, taking into account the need for sustainable and rational use of biological resources and conservation of biological diversity;

(j) Control sources of pollution and any activity that cause or may cause a significant negative impact on habitats and species;

(k) Cooperate with each other and with competent international organizations in the field of biological diversity conservation and management of threatened species and ecosystems.

## II. PROTECTION AND CONSERVATION OF SPECIES

### *Article 6. Measures for the Protection and Conservation of Species*

For the purpose of protection and conservation of species, the Contracting Parties shall:

(a) Provide comprehensive inventories of threatened species of flora and fauna and accord protected status to such species based on the categories of Annex I of this Protocol from which a Caspian Red Book will be developed in cooperation with relevant international organizations, to be adopted by the Conference of the Parties, subject to previous discussion and analysis by the Contracting Parties.

(b) Regulate activities having adverse effects on protected species and their habitats, and other measures to ensure a favourable state of conservation of such species;

(c) Control and where appropriate prohibit the intentional and, to the extent possible, the accidental taking, possession or killing, the transport and use for commercial purposes of protected species of flora and fauna, their parts and derivatives thereof;

(d) Control and, where appropriate, prohibit the disturbance of fauna, particularly during the period of breeding, incubation, hibernation or migration, as well as other periods of biological stress;

(e) Regulate all forms of destruction and disturbance of protected species of flora and their parts and products, including the picking, collecting, cutting, uprooting, possession of, commercial trade in, or transport and exhibition for commercial purposes;

(f) Cooperate for the protection and recovery of migratory species;

(g) Undertake long-term monitoring of the status of threatened species included under Annex I of this Protocol, as well as the nature and magnitude of impacts threatening their survival according to agreed common population dynamics criteria;

(h) Exchange information on measures being taken to conserve populations of threatened species included under Annex I of this Protocol and conduct an assessment of the effectiveness of such measures based on agreed common criteria;

(i) Elaborate and implement national and, as appropriate, regional action plans for the species listed under Annex I of this Protocol for their in-situ and ex-situ conservation and recovery;

(j) Cooperate to ensure the protection, conservation and, if necessary, restoration of threatened species listed under Annex I of this Protocol.

(k) Grant exemptions, where appropriate and in accordance with national legislation to the prohibitions prescribed for the protection of the species listed under Annex I of this Protocol for scientific and reproductive purposes, and, in case of threats to human health, providing that those exemptions do not harm the survival of the population of the target species or of any other species.

### ***Article 7. Alien Species***

The Contracting Parties shall:

(a) Regulate the introduction of alien species and prohibit those that may have harmful impacts on the ecosystems, habitats or species and regulate those already introduced which are causing or may cause damage;

(b) Review the status of all alien species introduced into the Caspian Sea, the risks posed by them and prepare and implement a regional Plan of Action for those identified as invasive species.

### ***Article 8. Genetically Modified Species***

The Contracting Parties shall regulate the introduction of genetically modified species and prohibit those that may have harmful impacts on human health, the ecosystems, habitats and species, and regulate those already introduced which are causing or may cause damage. Such introduction shall be decided upon by the Conference of the Parties, subject to previous discussion and analysis by the Contracting Parties.

## **III. PROTECTION AND CONSERVATION OF PROTECTED AREAS**

### ***Article 9. Designation of Protected Areas***

1. For the purpose of in-situ conservation and after ensuring that none of the other Contracting Parties objects, each Contracting Party may for the purpose of this Protocol designate protected areas in the marine environment and land affected by proximity to the sea in accordance with the criteria contained in Annex II of this Protocol. Such protected areas may be designated with the objective of safeguarding:

(a) Representative types of coastal and marine ecosystems of adequate size to ensure their long-term viability and to maintain their biological diversity;

(b) Habitats which are in danger of disappearing in their natural area of distribution and in the Scope of Application of this Protocol, including those which have a reduced natural area of distribution as a consequence of their regression or on account of their intrinsically restricted area;

(c) Habitats critical to the survival, reproduction and recovery of threatened or endemic species of flora and fauna;



(d) Sites of particular importance because of their scientific, aesthetic, cultural or educational interest.

2. If two or more Contracting Parties intend to designate a shared protected area, the competent authorities of these Parties shall endeavour to cooperate, with a view to reaching agreement on the measures to be taken.

3. When protected areas covering both coastal and marine areas are designated, the Contracting Party shall endeavour to ensure the coordination of the administration and management of the protected area as a whole. The Contracting Party shall develop and implement management plans in accordance with guidelines and common criteria set by Annex II of this Protocol.

#### ***Article 10. Management of Protected Areas***

1. In conformity with applicable international treaties and national legislation, the Contracting Party shall take the protection measures required for, in particular:

(a) The prohibition of the dumping or discharge of wastes and other substances likely to damage the ecosystem integrity of the protected area directly or indirectly;

(b) The regulation of the passage of vessels and any stopping or anchoring;

(c) The regulation of the introduction of any species into the area including those not indigenous to the protected area in question, as well as reintroduction of species which are or have been present in the protected areas;

(d) The regulation of any activity involving the physical construction on or exploration within the protected area;

(e) The regulation of any scientific research activity;

(f) The regulation of fishing, hunting, taking of animals, harvesting of plants or their destruction, as well as trade in animals and parts of animals, plants and parts of plants;

(g) The regulation of any other activity or act likely to harm or disturb the species, or that might endanger the state of conservation of the ecosystems, or might impair the natural or cultural characteristics of the protected area;

(h) Any other measure aimed at safeguarding important ecological and biological systems.

2. In conformity with the applicable international treaties and national legislation, the Contracting Party shall adopt planning, management, supervision and monitoring measures for the protected areas, which should include:

(a) The development and adoption of a management plan that specifies the legal and institutional framework, and the management and protection measures applicable;

(b) The monitoring of ecological systems, habitats, population dynamics, as well as the impact of human activities;

(c) The active involvement of local communities and wider populations, as appropriate, in development of a management plan and subsequent management of protected area, and assist local inhabitants who might be affected by the establishment of the protected area;

(d) The training and education of local communities, and wider population and organizations;

(e) The training of managers and qualified technical personnel.

3. The Contracting Parties shall ensure that national emergency response contingency plans incorporate measures for responding to incidents that could cause damage or constitute a threat to the protected areas.

#### ***Article 11. Procedures for the Establishment and Listing of Protected Areas***

1. The Contracting Parties shall draw up a "List of Protected Areas of the Caspian Sea".

2. PACS may be designated, in the marine and/or coastal areas by one or more Contracting Parties. The geographical coordinates of the PACS in the marine areas will be determined in accordance with the provisions of the Convention on the legal status of the Caspian Sea after its entry into force for all Contracting Parties.

3. Contracting Parties making proposals for including areas in the PACS List shall provide the Secretariat to the Convention with an introductory report containing information on the area's geographical location, its physical and ecological characteristics, its administrative status, its management plan and the means for implementation, as well as a statement justifying its importance. Where a proposal concerns areas in the marine and/or coastal areas of the sea of two or more Contracting Parties, the Parties concerned shall consult each other with a view to ensuring the consistency of the proposed protection and conservation measures, and their implementation.

4. The Secretariat shall examine the conformity of the proposal with the common guidelines and criteria referred to in Annex II of this Protocol and if, after assessment, it is compliant shall inform the Conference of the Parties, which shall decide whether to include the area in the PACS List.

5. Once included in the PACS List the Contracting Party or Parties shall implement the protection and conservation measures specified in their management plans developed in accordance with Article 10, paragraph 2 (a) of this Protocol. They shall inform the Secretariat of any changes in the delineation or administrative status of the protected area.

6. The Secretariat shall inform the competent national and international organizations of the List and of the measures taken in the PACS.

### **IV. INSTRUMENTS AND REQUIREMENTS FOR THE PROTECTION AND CONSERVATION OF SPECIES AND PROTECTED AREAS**

#### ***Article 12. Conservation of Biological Diversity in the Framework of Coastal Zone Management***

Pursuant to Article 15 of the Convention, the Contracting Parties shall take measures to develop and adopt national coastal area management strategies and plans to provide a mechanism for biological diversity conservation. Requirements for the application of these national strategies and plans include the following:

- (a) Integration of biological diversity conservation and environmental protection provisions in national and/or regional development planning;
- (b) Implementation of integrated management approach that allows multiple uses of biological resources in accordance with Article 3 of this Protocol.
- (c) Analysis of natural dynamics of coastal ecosystems connected with sea-level fluctuations.

***Article 13. Environmental Impact Assessment in the Framework of Conservation of Biological Diversity***

Pursuant to Article 17 of the Convention, the Contracting Parties shall apply the procedures of Environmental Impact Assessment as a tool for preventing and minimizing adverse impacts on biological diversity in the marine environment of the Caspian Sea.

***Article 14. Access to Genetic Resources***

1. Recognising the sovereign rights of the Contracting Parties over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Taking into account national legislation, each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for the environmentally sound use by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Protocol.

3. For the purpose of this Protocol, the genetic resources being provided by a Contracting Party are only those that are provided by Contracting Parties that are countries of origin of such resources or Contracting Parties that have acquired the genetic resources in accordance with this Protocol.

4. Access to genetic resources, where granted, shall be on mutually agreed terms and subject to the provisions of this Article. Such terms may include:

- (a) A dispute settlement;
- (b) Terms on benefit-sharing;
- (c) Terms on subsequent third party use, if any, and
- (d) Terms on changes of intent, where applicable.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Contracting Party.

6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

#### ***Article 15. Access to and Transfer of Technology***

1. Each Contracting Party undertakes subject to the provisions of this article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology, referred to in paragraph 1 of this Article, to other Contracting Parties shall be provided and/or facilitated under fair and favourable terms, including concessional and preferential terms where mutually agreed.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights in accordance with applicable international treaties and consistent with paragraphs 4 and 5 of this Article.

4. Each Contracting Party shall take appropriate legislative, administrative or policy measures with the aim that the private sector facilitates access to joint development and transfer of technology referred to in paragraph 1 of this Article for the benefit of both governmental institutions and the private sector of the Contracting Parties.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Protocol, shall cooperate in this regard subject to national legislation and applicable international treaties in order to ensure that such rights are supportive of and do not run counter to its objectives.

#### ***Article 16. Scientific and Technical Cooperation and Assistance***

1. The Contracting Parties shall promote technical and scientific cooperation in the field of conservation of biological diversity and sustainable and rational use of biological resources, through the appropriate national and international institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties in implementing this Protocol. Special attention should be given to the human resource development and institutional capacity building, research and monitoring programmes, and standardizing procedures and guidelines in promoting such cooperation.

3. The Contracting Parties shall cooperate in the development and use of technologies, including traditional technologies, in pursuance of the objectives of this Protocol. For this purpose, the Contracting Parties shall also promote cooperation through the training of personnel and exchange of experts.

4. The Contracting Parties, subject to mutual agreement, shall promote the establishment of joint projects, and research programmes and joint ventures for the development of technologies relevant to the objectives of this Protocol.

**Article 17. Exchange of Information**

The Contracting Parties shall:

(a) Adopt appropriate measures to facilitate the exchange of information from all publicly available sources relevant to the conservation on biological diversity and sustainable and rational use of biological resources. Such exchange of information shall include the results of technical, scientific and socio-economic research, as well as information on training and traditional knowledge;

(b) Exchange information concerning the characteristics of protected areas and threatened species, including the experience acquired and the problems encountered;

(c) At the earliest opportunity, communicate any situation that might endanger the ecosystems of protected areas or the survival of threatened species to the other Contracting Parties that might be affected and to the Secretariat.

**Article 18. Environmental Education and Public Awareness**

The Contracting Parties shall:

(a) Give appropriate publicity to the status of threatened species and the designation of protected areas, their characteristics, importance and applicable regulations;

(b) Endeavour to inform the public of the value and vulnerability of protected areas and threatened species, and of the scientific knowledge gained through nature conservation programmes. Such information should be included in education and public awareness programmes;

(c) Endeavour to promote the participation of public and conservation organizations in measures necessary for the protection of protected areas and threatened species;

(d) Cooperate, as appropriate, with other Contracting Parties and competent national and international organizations in developing educational and public awareness programmes, with respect to conservation of biological diversity and sustainable and rational use of biological resources.

**Article 19. Reports of Contracting Parties**

1. Each Contracting Party shall submit a report to the Secretariat on the implementation of provisions of this Protocol, in particular on the status of the:

(a) Biological diversity including threatened and alien species;

(b) Habitats;

(c) Protected areas included in the PACS List, and changes in their status;

(d) Implementation of environmental education and public awareness programmes.

2. The format of the report and the procedure for submission of information shall be agreed by the Conference of the Parties.

## V. INSTITUTIONAL AND FINANCIAL PROVISIONS

### *Article 20. 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;

(c) Keep under review the content of this Protocol;

(d) In accordance with Article 24 of this Protocol, consider and adopt any amendments to this Protocol or its annexes, as well as its additional annexes;

(e) Consider reports submitted by the Secretariat on matters related to this Protocol;

(f) Evaluate the efficacy of the measures adopted for the protection of protected areas, and threatened species, and examine the need for other measures, particularly in the form of amendments to this Protocol or to its Annexes;

(g) Adopt and review, where appropriate, relevant regional programmes, plans of actions and measures in accordance with Article 6 of this Protocol;

(h) Formulate procedures for reports transmitted by the Parties under Article 19 of this Protocol and the exchange of information in accordance with the Article 17 of this Protocol;

(i) Decide on the inclusion of an area in the PACS List, in conformity with Article 9 of this Protocol;

(j) Consider and decide on the financial and budgetary matters related to the implementation of this Protocol;

(k) Establish any subsidiary bodies or institutional mechanisms as may be deemed necessary for the implementation of this Protocol;

(l) Consider and undertake any additional actions that may be required for the achievement of the objectives of this Protocol;

(m) Seek, where appropriate, the technical and financial services of relevant international bodies and scientific institutions for the purposes of the objectives 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) Establish and maintain liaison and co-ordination with relevant international organizations, particularly with the Secretariats of the biological diversity-related treaties;
- (e) Assist the Contracting Parties, in cooperation with the relevant international, intergovernmental and non-governmental organizations, in the implementation of this Protocol.
- (f) Develop unified monitoring systems for the PACS and threatened species;
- (g) Propose the establishment of a network of the PACS, in coordination with the Contracting Parties, aimed at the effective conservation of biological diversity of the Caspian Sea.
- (h) Create and update databases of PACS and threatened species;
- (i) Prepare and present reports and technical studies that may be required for the implementation of this Protocol to the Conference of Parties;
- (j) Elaborate and implement the relevant training programmes;
- (k) Carry out the functions assigned to it in the action plans adopted by the Conference of the Parties in the framework of this Protocol;
- (l) Perform such other functions as may be determined by the Conference of the Parties.

#### ***Article 21. 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 channelling 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 Conference of the Parties.

## **VI. FINAL CLAUSES**

***Article 22. 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 23. 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 24. 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 25. 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 26. 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 27. Reservation***

No reservations may be made to this Protocol.



***Article 28. Depository***

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

***Article 29. Authentic Texts***

The Azerbaijani, 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 30. Relationship with the Negotiation of the Legal Status of the Caspian Sea***

Nothing in this Protocol shall be interpreted as to prejudice 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 THE ... .. DAY OF ... ..  
OF ... ..**

**PROTOCOL FOR THE CONSERVATION OF BIOLOGICAL DIVERSITY TO  
THE FRAMEWORK CONVENTION FOR THE PROTECTION  
OF THE MARINE ENVIRONMENT OF THE CASPIAN SEA**

**ANNEX I**

**Categories for the Identification of Threatened Species**

**Extinct (EX)**

A taxon is Extinct when there is no reasonable doubt that the last individual has died. A taxon is presumed Extinct when exhaustive surveys in known and/or expected habitat, at appropriate times (diurnal, seasonal, annual), throughout its historic range have failed to record an individual. Surveys should be over a time frame appropriate to the taxon's life cycle and life form.

**Extinct in the Wild (EW)**

A taxon is Extinct in the Wild when it is known only to survive in cultivation, in captivity or as a naturalized population (or populations) well outside the past range. A taxon is presumed Extinct in the Wild when exhaustive surveys in known and/or expected habitat, at appropriate times (diurnal, seasonal, annual), throughout its historic range have failed to record an individual. Surveys should be over a time frame appropriate to the taxon's life cycle and life form.

**Critically Endangered (CR)**

A taxon is Critically Endangered when the best available evidence indicates that it meets any of the criteria A to E\* for Critically Endangered, and it is therefore considered to be facing an extremely high risk of extinction in the wild.

**Endangered (EN)**

A taxon is Endangered when the best available evidence indicates that it meets any of the criteria A to E\* for Endangered and it is therefore considered to be facing a very high risk of extinction in the wild.

**Vulnerable (VU)**

A taxon is Vulnerable when the best available evidence indicates that it meets any of the criteria A to E\* for Vulnerable, and it is therefore considered to be facing a high risk of extinction in the wild.

**Near Threatened (NT)**

A taxon is Near Threatened when it has been evaluated against the criteria\* but does not qualify for Critically Endangered, Endangered or Vulnerable now, but is close to qualifying for or is likely to qualify for a threatened category in the near future.

**Least Concern (LC)**

A taxon is Least Concern when it has been evaluated against the criteria\* and does not qualify for Critically Endangered, Endangered, Vulnerable or Near Threatened. Widespread and abundant taxa are included in this category.

**Data Deficient (DD)**

A taxon is Data Deficient when there is inadequate information to make a direct, or indirect, assessment of its risk of extinction based on its distribution and/or population status. A taxon in this category may be well studied, and its biology well known, but appropriate data on abundance and/or distribution are

lacking. Data Deficient is therefore not a category of threat. Listing of taxa in this category indicates that more information is required and acknowledges the possibility that future research will show that threatened classification is appropriate. It is important to make positive use of whatever data are available. In many cases great care should be exercised in choosing between DD and a threatened status. If the range of a taxon is suspected to be relatively circumscribed, and a considerable period of time has elapsed since the last record of the taxon, threatened status may well be justified.

**Not Evaluated (NE)**

A taxon is Not Evaluated when it has not yet been evaluated against the criteria.

\* The criteria can be found in the "IUCN Red List and Criteria" (latest version 3.1)

## ANNEX II

### Common Criteria for Inclusion in the PACS List

#### *A. Site Selection Criteria*

1. To be eligible for inclusion in the PACS List, an area must fulfil at least one of the general criteria set out in Article 9, paragraph 1 of this Protocol. Several of these general criteria can be fulfilled by the same area in certain cases, and such circumstances only strengthen the case for the inclusion of the area in the List.

2. No limit is imposed on the total number of areas included in the List or on the number of areas any individual Party can propose for inscription. Nevertheless, the Parties agree that sites will be selected on a scientific basis and included in the List according to their qualities; therefore they will have to fulfil the requirements set out by this Protocol and the present criteria.

3. The Contracting Parties agree that besides the fundamental criteria of national administrative status of protected areas, the following criteria will guide their site selection for inclusion in the PACS List:

**(a)** Global Significance:

The site is a particularly good example of a natural or near-natural ecosystem, characteristics of the appropriate bio-geographical region; it supports an appreciable assemblage of rare, vulnerable or endangered species or subspecies of plant or animal, or an appreciable number of individuals of any one or more of these species; it is of special value for maintaining the genetic and ecological diversity of a region because of the quality and peculiarities of its flora and fauna; it is of special value as the habitat of plants or animals at a critical stage of their biological cycle; it regularly supports 20,000 waterfowl; it regularly supports 1% of the population of one species or subspecies of waterfowl;

**(b)** Regional Value:

The site has a regional value and highly representative of the Caspian Region and its biological diversity;

**(c)** National Status:

The site has the administrative status of national protected area, protection measures and a financed management plan;

**(d)** Uniqueness:

The site contains unique or rare ecosystems, and or rare; threatened; endangered or endemic species;

**(e)** Natural Representativeness:

The site is highly representative of ecological systems, community or habitat types or other natural characteristics;

**(f) Biological Diversity:**

The site has a high diversity of species, communities, habitats or ecosystems;

**(g) Manageable Anthropogenic Stressors:**

Sites with less human-induced stressors are preferred;

**(h) Manageable Natural Stressors:**

Sites with minimum degree of natural stressors are preferred;

**(i) Availability of Adequate Baseline Data:**

The site has a minimal information gap and some degree of reliable baseline data available;

**(j) Cultural Representativeness:**

The site has high representative value with respect to cultural heritage, due to the existence of environmentally sound traditional activities integrated with nature, which support the well being of local populations;

**(k) Scientific, Educational and Aesthetic Values:**

The site has scientific, educational or aesthetic value and does not face threats likely to immediately impair its ecological, biological, aesthetic or cultural values;

**(l) Civil Society Involvement:**

There is an ongoing involvement and active participation of the public, particularly of local communities, in the process of planning and management of the area.

***B. Criteria for Inclusion in the PACS List***

To be included in the PACS List, the Contracting Parties agree to undertake the following planning and management measures within their proposed areas:

**(a)** Submission of relevant baseline data including environmental, socio- economic and cultural aspects and a plan of fulfilling the identified information gaps;

**(b)** Submission of a well defined short and long-term objectives of the Conservation Management Plan;

**(c)** Submission of relevant information on the competent authority/authorities and status of multiple stakeholder involvement;

**(d)** Application of measures including Environmental Impact Assessment, to prevent, control and mitigate all sources of pollution that might have adverse impact on the conservation status of species, community, ecosystem or habitats, cultural, or aesthetic value of the area proposed for inclusion in the PACS List;

(e) Fully cooperate in implementation of provisions of this Protocol, especially in connection with the introduction and or re-introduction of any species;

(f) To be included in the PACS List an area will have to be endowed with a management plan. The main rules of this management plan are to be defined from the time of inclusion and implemented immediately. A detailed management plan must be presented within three years of the time of inclusion. Failure to respect this obligation entails the removal of the site from the List;

(g) The competence and responsibility with regard to administration and implementation of conservation measures for areas proposed for inclusion in the PACS List must be clearly defined in the texts governing each area;

(h) In order to be included in the PACS List, a protected area must have a management body with sufficient powers as well as the means and human resources to prevent and/or control activities which are likely to be contrary to the aims of the protected area;

(i) To be included in the PACS List, an area will have to be endowed with a monitoring programme. This programme should include the identification and monitoring of a certain number of significant parameters for the area in question, in order to allow the assessment of the condition and evolution of the area, as well as the effectiveness of protection and management measures implemented, so that they may be adapted if need be. Submission of regular monitoring reports of the area from the date of inclusion in the PACS List.

### ***C. Implementation of Protection, Planning and Management Measures***

1. Conservation and management objectives must be clearly defined in the text relating to each site, and will constitute the basis for assessment of the adequacy of the adopted measures and the effectiveness of their implementation during the revisions of the PACS List.

2. Protection, planning and management measures applicable to each area must be adequate for the achievement of the conservation and management objectives set forth in the management plan for the site in the short and long term, and take in particular into account the threats upon it.

3. Protection, planning and management measures must be based on an adequate knowledge of the elements of the natural environment and of socio-economic and cultural factors that characterize each area. In case of shortcomings in basic knowledge, an area accepted for inclusion in the PACS List must actively initiate the collection of the missing data and information.

4. In the respect of the specificity characterizing each protected site, the protection measures for a PACS must take account of the following basic aspects:

(a) The strengthening of the regulation pertaining to the release or dumping of wastes and other substances likely directly or indirectly to impair the integrity of the area;

(b) The strengthening of the regulation of the introduction or reintroduction of any species into the area;

(c) The regulation of any activity or act likely to harm or disturb the species, or that might endanger the conservation status of the ecosystems or species or might impair the natural, cultural or aesthetic characteristics of the area;

(d) The regulation applicable to the zones surrounding the area in question.

5. Periodic reporting of the monitoring and evaluation of the site, and appropriate revisions of the management plan should be undertaken in accordance with this Protocol.

6. Failure to meet these criteria will result in the removal from the PACS List.

**Package deal proposal by the Russian Federation for the draft Protocol for the Conservation of Biological Diversity to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (“Tehran Convention”)**

Taking into account the discussion of this issue during the Institutional and Planning Meeting in Geneva, Switzerland, 19-20 December 2013, we propose the following two options for the package deal aimed at reaching consensus and removing the disagreements on this draft protocol.

**Option 1**

*Delete from the:*

***Article 10. Management of protected areas***

1. In conformity with applicable international treaties and national legislation, the Contracting Party shall take the protection measures required for, in particular:

- (a) The prohibition of the dumping or discharge of wastes and other substances likely to damage the ecosystem integrity of the protected area directly or indirectly;
- (b) ~~The regulation of the passage of vessels and any stopping or anchoring;~~
- (c) The regulation of the introduction of any species into the area including those not indigenous to the protected area in question, as well as reintroduction of species which are or have been present in the protected areas;
- (d) The regulation of any activity involving the physical construction on or exploration within the protected area;
- (e) ~~The regulation of any scientific research activity;...~~

*Retain in:*

***Article 4. Implementation of the Protocol***

Each Contracting Party shall designate a Competent Authority to coordinate the implementation of the provisions of this Protocol in its territory and under its jurisdiction.

***Article 14. Access to Genetic Resources***

1. Recognising the sovereign rights of the Contracting Parties over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.



**Option 2**

Retain in:

***Article 10. Management of protected areas***

1. In conformity with applicable international treaties and national legislation, the Contracting Party shall take the protection measures required for, in particular:

- (a) The prohibition of the dumping or discharge of wastes and other substances likely to damage the ecosystem integrity of the protected area directly or indirectly;
- (b) The regulation of the passage of vessels and any stopping or anchoring;
- (c) The regulation of the introduction of any species into the area including those not indigenous to the protected area in question, as well as reintroduction of species which are or have been present in the protected areas;
- (d) The regulation of any activity involving the physical construction on or exploration within the protected area;
- (e) The regulation of any scientific research activity;...

*Make editorial changes to:*

***Article 9. Designation of Protected Areas***

1. For the purpose of in-situ conservation and ~~after ensuring that none of the other Contracting Parties objects, with~~ upon the distinctly expressed consent of all Contracting Parties each Contracting Party may for the purpose of this Protocol designate protected areas in the marine environment and land affected by proximity to the sea in accordance with the criteria contained in Annex II of this Protocol...

*This editorial change is provided in legalese and retains the same meaning.*

*Provide clarification/addition to:*

***Article 11. Procedures for the Establishment and Listing of Protected Areas***

4. The Secretariat shall examine the conformity of the proposal with the common guidelines and criteria referred to in Annex II of this Protocol and if, after assessment, it is compliant, shall agree upon these proposals with all Contracting Parties and inform the Conference of the Parties, which shall decide whether to include the area in the PACS List.