

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

Distr.: General
17 March 2014
Original: English

**CONFERENCE OF THE PARTIES
Fifth Meeting
[29-30 May 2014, Ashgabat]Turkmenistan**

Items 5 and 12 of the provisional agenda

**RECOMMENDATIONS AND ANALYSIS BASED ON THE COMMENTS BY
THE AARHUS CONVENTION SECRETARIAT ON PUBLIC PARTICIPATION
UNDER THE TEHRAN CONVENTION**

Note by the interim Secretariat

I. Introduction

The interim Secretariat of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran Convention) requested the Secretariat of the Convention on Access to Information Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) to perform an assessment as to how far the Tehran Convention and its ancillary Protocols respond to the recommendations of the Aarhus Convention. In a letter from 25 June 2013, the Secretary of the Aarhus Convention responded with a comprehensive assessment including proposals for collaboration between the two convention secretariats. This information paper is based on the findings of this assessment and analyzes them to identify measures the Tehran Convention Parties may take to further enhance access to environmental information, public participation and access to justice in environmental matters in the context of the continued development and implementation of the Tehran Convention and its ancillary Protocols on the regional, national and local levels.

II. Access to information and public participation under the Tehran Convention

The Tehran Convention sets forth obligations for the Contracting Parties pertaining to access to environmental information, while the Rules of Procedures regulate the participation of non-governmental bodies in Convention related meetings.

The “Moscow” Protocol for the Protection of the Caspian Sea against Pollution from Land-based Sources and Activities and the draft protocol for the conservation of

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biological diversity include provisions on access to information and public participation in environmental matters, the draft protocol on environmental impact assessment

(EIA) in a trans-boundary context contains additional provisions for public consultations, and the “Aktau” Protocol Concerning Regional Preparedness, Response and Cooperation in Combating Oil Pollution Incidents stipulates that systematic procedures for data and information exchange concerning oil pollution incidents should be prepared.

The implementation of the provisions contained in the Tehran Convention and its Protocols is governed by the Strategic Convention Action Plan (SCAP) and the National Public Participation Strategies (NPPS) as integral part of the National Convention Action Plans (NCAPs). A comparative summary of the NPPSs is provided in a regularly updated synthesis report and, in accordance with the Unified Reporting Format for the Tehran Convention and its Protocols, governments are requested to regularly report on the status of their policies and legislation regarding public access to information. Further guidance on data collection and dissemination, information exchange and public participation in the Convention process is provided in the Ministerial Statements and Decisions of the Conferences of the Parties to the Convention. A web-based Caspian Environmental Information Center, accessible to policy makers and the public at large and sustained by a network of national focal points is acting as the thesaurus of data and information submitted and collected in the context of the implementation of the Tehran Convention and its Protocols.

III. Relevance and applicability of the Aarhus Convention

Three of the five countries Party to the Tehran Convention - Azerbaijan, Kazakhstan and Turkmenistan - are also Parties to the Aarhus Convention, whereas I.R. of Iran and Russian Federation are currently not bound by its obligations. These three countries shall therefore respect the obligations of the Aarhus Convention on the three levels of access to information, public participation and access to justice in environmental matters. Furthermore, they shall promote the application of the principles of the Aarhus Convention in international fora such as the Tehran Convention, an obligation which is further described by the “Almaty Guidelines” of 2005. Since 2009, the Kiev Protocol to the Aarhus Convention on Pollutant Release and Transfer Registers is in force, but to this day has not been acceded by any of the Contracting Parties to the Tehran Convention.

IV. Analysis of the recommendations of the Aarhus Convention Secretariat

a) Access to information

The Aarhus Convention Secretariat recommends that all Contracting Parties to the Tehran Convention abide by the minimum standards on access to information set by the Aarhus Convention to ensure an equal level of protection of this right throughout the region. It also suggests the development of a set of clear and transparent policies and procedures to govern access to information under the Tehran Convention regime.

Comment: : In updating the NPPS synthesis report based on national reports the interim Secretariat of the Tehran Convention (TCIS) will explore up till what extent further

strengthening and/or harmonization of national policies and legislation is advisable; the CEIC is mandated to maximize the availability and access to information under the Tehran Convention regime.

b) Public participation considerations

The Aarhus Convention Secretariat recommends that all Contracting Parties to the Tehran Convention abide by the minimum standards on public participation set by the Aarhus Convention, to ensure an equal level of protection of this right throughout the region. It also suggests the development of a set of clear and transparent policies and procedures on public participation to be followed by the Tehran Convention regime bodies. The Secretariat finally recommends that in deciding on the deliberate release in the environment and placing on the market of genetically modified organisms the Parties consult the public, as recommended in the GMO amendment to the Aarhus Convention.

Comment: In updating the NPPS synthesis report based on national reports, TCIS will explore up till what extent further strengthening and/or harmonization of national policies and legislation is advisable. Procedures for public participation in Convention meetings are available; TCIS will explore ways and means to further encourage and support such participation. The recommendation on GMOs should be considered when preparing the agenda for implementing the protocol for the conservation of biological diversity.

c) Access to justice considerations

The Aarhus Convention Secretariat recommends that all Contracting Parties to the Tehran Convention abide by the minimum standards on access to justice, as well as ensure public access to review procedures as set by the Aarhus Convention, to ensure an equal level of protection of this right throughout the region.

Comment: In updating the NPPS synthesis report based on national reports, TCIS will explore up till what extent further strengthening and/or harmonization of national policies and legislation is advisable.

d) Institutional matters

The Aarhus Convention Secretariat recommends the development of further measures, including financial support, to ensure that NGOs – at least one - can participate and be heard at Convention related meetings, as well as in the preparation of such meetings.

Comment: There is no evidence to suggest that NGOs are systematically prevented from participating in Convention related meetings. Subsidizing such participation is and will continue to be done depending on available resources.