

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

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Sixth Preparatory Committee meeting for the 6th Meeting of the Conference of Parties to the Tehran Convention

24-28 September 2018, Baku, Republic of Azerbaijan

Management and Administration of the Tehran Convention Secretariat

(Note by the interim Secretariat)

Introduction:

At the 5th Meeting of the Conference of the Parties to the (Tehran) Framework Convention for the Protection of the Marine Environment of the Caspian Sea, 28 - 30 May 2014, in Ashgabat, Turkmenistan, the Parties decided to transform the interim Secretariat of the Convention provided by the Regional Office for Europe of the United Nations Environment Programme located in Geneva, into a rotating permanent Secretariat in the region, starting from 2015 in Baku, Azerbaijan. United Nations Environment Programme, through its Regional Office for Europe was requested "*to administer the Secretariat and for that purpose to establish a Trust Fund with mutually agreed terms of reference and a budget subject to the decisions of the Conference of the Parties*".

The United Nations Environment Assembly at its first session, on 27 June 2014, adopted Decision 1/16 "*authorizing*" the Executive Director of United Nations Environment Programme to "*carry out the functions of the Tehran Convention Secretariat, as specified in article 23.1 of the Convention, on such mutually agreed terms of reference as the Executive Director and the Parties see fit, and in accordance with the decision by 5th Meeting of the Conference of the Parties on the location of the Secretariat*".

Historic overview:

The decisions of the 5th meeting of the Conference of the Parties and the United Nations Environment Assembly provided the mandate for the finalization of the core of the Tehran Convention institutional arrangements: a trust fund; recruitment of the Executive Secretary; and signing of the Secretariat Headquarters, Host Country Agreement.

1. Trust Fund

Following the decision of the 5th meeting of the Conference of the Parties, the interim Secretariat of the Tehran Convention prepared and submitted draft Terms of Reference of the Trust Fund in May 2014. Given that the Terms of Reference had to be agreed by the Parties and UN Environment (see above decisions of the 5th meeting of the Conference of the Parties and the United Nations Environment Assembly), the draft was based on the formal requirements of both UN/UN Environment Rules and Procedures and the Tehran Convention Financial Rules.

At the 1st Preparatory Committee Meeting for 6th Meeting of the Conference of the Parties, Baku, 24-27 November 2014, the Parties reviewed the draft Terms of Reference and made some minor amendments while agreeing with the overall text. After consideration of the proposed amendments UN Environment, in June 2015 agreed with the proposed Terms of Reference of the Trust Fund. The 3rd

Preparatory Committee Meeting for 6th Meeting of the Conference of the Parties, Baku, 10 - 11 November 2015, reviewed the final draft of the Terms of Reference of the Trust Fund and expressed its agreement. Both the 3rd Preparatory Committee Meeting and the 4th Preparatory Committee Meeting (Geneva, 7-10 November 2016) received and agreed with updated Trust Fund budget proposals in the understanding that the budget figures would again be updated in time for consideration and approval of the 6th Meeting of the Conference of the Parties.

The agreed Terms of Reference of the Trust Fund and an updated budget are contained in document TC/COP6/7.

2. Executive Secretary (ES)

The recruitment process of the Executive Secretary of the Tehran Convention was initiated in June 2014. The vacancy announcement was issued in February 2015. Interviews for the position took place in the summer of 2015. At the invitation of UN Environment, a representative of the Government of Turkmenistan – Presidency of the Conference of the Parties – participated as observer in the interview panel. Consequently, early September 2015, the Panel made its recommendation to the Executive Director of UN Environment as to who should be selected for the post.

In the ensuing consultations on the Secretariat arrangements, it was decided to keep the Executive Secretary recruitment process pending until agreement on the arrangements had been reached, including on the question how to make the process of recruitment of the Executive Secretary and other Secretariat staff meet the requirements of both the UN/ UN Environment Rules and Procedures and the provisions of the Tehran Convention which, in article 22.10 (h) assigns the Conference of the Parties with the task "to appoint the Executive Secretary of the Convention and such other personnel as may be required, taking into account the equitable representation of the Contracting Parties"

3. Host Country Agreement

The 5th Meeting of the Conference of the Parties, in its Decision on the Location and Arrangements for the Tehran Convention Secretariat, appealed to the host country (Azerbaijan) to support the Secretariat in accordance with the Standardized List of Host Country Secretariat Support, contained in Annex III of document TC/COP4/6. The list includes the enjoyment by Secretariat staff, representatives of the Contracting Parties, delegates and experts invited to meetings and conferences in the host country, of the privileges and immunities accorded to the existing UN organizations in the host country.

The negotiations on the Host Country Agreement started mid 2015 with the understanding of Azerbaijan that the Host Country Agreement would be one between the host country (Azerbaijan) and the Tehran Convention Secretariat. UN Environment on the other hand maintained that in light of the mandate it had received from the United Nations Environment Assembly the Host Country Agreement should be one between Azerbaijan and UN Environment as the provider and host of the Tehran Convention Secretariat.

Efforts to overcome the differences in positions, for instance by having the Host Country Agreement signed by Executive Director of UN Environment on behalf of the Tehran Convention Secretariat, were undertaken in meetings in Geneva and Baku, but were not inconclusive. The 3rd Preparatory Committee Meeting for the 6th Meeting of the Conference of the Parties (10-11 November 2015) and the ensuing meeting of the Parties in Baku, 20-22 January 2016, urged UN Environment and Azerbaijan to find a compromise solution.

In March 2016, and in the understanding that the agreement should in a sense be a standard agreement replicable for future host country situations, Azerbaijan circulated its version of the Host Country Agreement to the Parties for their comments. The text could not be acceptable to UN Environment. After that, the interim Secretariat of the Tehran Convention took the initiative to draft a possible compromise text on the basis of the version proposed by Azerbaijan and the UN standard template for host country agreements. Upon request of Azerbaijan this text was also circulated to the Parties.

In addition, and with a view to arrive at a clear position UN Environment requested advice from the UN Office for Legal Affairs on the status and options for signing of the Host Country Agreement. UN Office for Legal Affairs advised that *"this question should also be resolved between the Parties to the Convention and United Nations Environment Programme"*.

In light of the discussions, Azerbaijan developed a new 2nd version of the Host Country Agreement, which will be presented to the meeting.

The Memorandum of Understanding

The Contracting Parties to the Tehran Convention at their 5th Preparatory Committee Meeting for the 6th Meeting of the Conference of Parties (Geneva, 13-17 November 2017), decided to deal with the outstanding issues in a Memorandum of Understanding between the Parties and UN Environment concerning the management and administration of the Convention Secretariat, and requested the interim Secretariat of the Tehran Convention to prepare and circulate a draft Memorandum of Understanding.

The interim Secretariat of the Tehran Convention prepared and circulated the draft MOU by email of 22 December 2017 requesting comments before next meeting. Attached to the Memorandum of Understanding were the agreed Terms of the Reference of the Trust Fund and a draft template of options for secretariat services available to multilateral environmental agreements, prepared by UN Environment.

At their meeting in Baku, Republic of Azerbaijan, 5-7 February 2018, the Representatives of the Contracting Parties discussed the draft text of the Memorandum of Understanding. They expressed appreciation for the efforts taken by the interim Secretariat of the Tehran Convention. It was agreed that the Parties would send their comments, if any, to the interim Secretariat by 19 February 2018. The comments of the Russian Federation were received and distributed before the meeting

After the meeting comments were received from the Republic of Azerbaijan and IR Iran.

Annex 1 to this Note contains the draft Memorandum of Understanding as circulated by email of 22 December 2017, integrating all above-mentioned comments made.

The comments by UN Environment on the integrated text of the draft Memorandum of Understanding are:

1. UN Environment supports that the Memorandum of Understanding – as stated in the preamble – reflects an agreement between the Contracting Parties to the Tehran Convention and the Executive Director of UN Environment;
2. UN Environment supports the proposed sequence in para 1 of the Memorandum of Understanding concerning the recruitment of the Executive Secretary: selection by UN Environment followed by appointment by the Conference of Parties followed by the issuing of the contract by UN Environment;
3. UN Environment informs that the template of secretariat services to multilateral environmental agreements, referred to in para 2 of the Memorandum of Understanding and circulated to the Parties, has been updated and revised. The table of services documented should be seen as indicative, non-exhaustive and non-prescriptive. As in the case of all

multilateral environmental agreements, the actual level and type of services required from UN Environment for the Tehran Convention process is difficult to specify and will depend on the relationship with and support from the host country, the level of Trust Fund support approved by the Conference of the Parties, and the emerging day to day needs of the Secretariat. It is therefore suggested to delete the reference to the template of services in para 2 of the draft Memorandum of Understanding and have the first part of the para which makes the Executive Secretary responsible and accountable to the Conference of the Parties for the management and operation of the Convention Secretariat, followed by a second sentence reading: Under the UN Environment's Delegation of Authority Framework and Accountability, the Executive Secretary will be authorized to select, oversee and control the administrative services provided by UN Environment, including their cost recovery.

Upon consultations, the interim Secretariat of the Tehran Convention was requested to integrate all comments made and produce a text of the Memorandum of Understanding, which in its view might meet the consensus of all parties concerned. The text is contained in Annex 2 to this Note.

Suggested action:

The Extraordinary Meeting of the Conference of the Parties in Moscow, 19-20 July 2018, "having reviewed the progress report of the interim Secretariat on the accomplished activities", "stressed the importance of the continuation of the work on the matters related to the efficient implementation of the provisions of the Tehran Convention"

At the fifth Summit of the Heads of the Caspian littoral States, Aktau, Republic of Kazakhstan, 12 August 2018, the "leaders paid close attention to the state of the environment in the Caspian. It was stated that the most important outcome of the efforts of the Caspian States in this direction was the signing on July 20, 2018 in Moscow of the Protocol on Environmental Impact Assessment in the Transboundary Context to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea of November 4, 2003. It was instructed to finalize the internal procedures for the entry into force of its adopted protocols, as well as the process of locating the Secretariat of the Convention in the territory of the Caspian States on a rotation basis".

Against that background, the Parties to the Tehran Convention may:

1. Consider and reach agreement on the Memorandum of Understanding concerning the management and administration of the Convention Secretariat, for submission and consequent approval by the Conference of the Parties;
2. Consider and agree on the recommendations with respect to the Trust Fund and budget for the Convention, as contained in document TC/COP6/7;
3. Request UN Environment to finalize the selection of the Executive Secretary and solicit the Parties consent with a view to secure appointment by the 6th meeting of the Conference of the Parties;
4. Review the Host Country Agreement text proposed by Azerbaijan and urge Azerbaijan and UN Environment to finalize the text and have it ready for signature at the 6th meeting of the Conference of the Parties.

Annex 1

Memorandum of Understanding ~~(AZ delete: between the Contracting Parties to the Tehran Convention and the Executive Director of UNEP)~~ concerning the management and administration of the Convention Secretariat

The Caspian Littoral States,

Republic of Azerbaijan

Islamic Republic of Iran

Republic of Kazakhstan

Russian Federation

Turkmenistan,

~~(RF: Being the)~~ Contracting Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, done at ~~(RF delete: the City of)~~ Tehran, ~~(RF: Islamic Republic of Iran)~~ on ~~(RF delete: the fourth day of)~~ November ~~(RF: 4)~~ 2003 (herein after referred to as the ~~(RF: Contracting Parties)~~ ~~(RF delete: Tehran Convention)~~), and entered into force on 12 August 2006) as well as its Protocols, and

The Executive Director of the United Nations Environment Programme (UNE)

Recalling that ~~(RF delete: the Ministers of Naturel Resources and Environment and High-level Officials of the Contracting Parties to the Tehran Convention, at)~~ ~~(RF: the Decision of May 30, 2014 of)~~ the Fifth Meeting of the Conference of the Parties to the Convention ~~(RF delete: (COP5))~~ in Ashgabat, Turkmenistan, ~~(RF delete: in their Decision of 30 May 2014)~~ on the Location and Arrangements for the Secretariat of the Convention, requested UNEP through its Regional Office for Europe to carry out the administration of the ~~(RF delete: Tehran)~~ Convention Secretariat and for that purpose to establish a Trust Fund with mutually agreed terms of reference and budget subject to the Decisions of the COP;

Recalling also that the United Nations Environment Assembly, in its Decision 1/16 of 29 June 2014, authorized the Executive Director of UNEP to carry out the functions of the ~~(RF delete: Tehran)~~ Convention Secretariat, ~~(RF replace: as specified in by: according to)~~ article 23.1 of the ~~(RF delete: Tehran)~~ Convention, on such mutually agreed terms of reference as the Executive Director and the Parties see fit and in accordance with the Decision on the Location and arrangements for the secretariat of the Tehran Convention, adopted at the Fifth Conference of the Parties to the Convention;

~~(AZ: Recalling article 23 of the Tehran Convention, the provisions of which establish a Secretariat composed of the Executive Secretary and other personnel necessary to perform the functions determined in the Tehran Convention.)~~

~~(AZ: It is noted that the functions of the Secretariat of the Tehran Convention, previously provided by the UNEP Regional Office (for Europe) on an interim basis, will be implemented with the administrative and technical support of UNEP-ROE, to the extent provided for in this Memorandum of Understanding)~~

Mindful that the Contracting Parties in their Decision on the Location and Arrangements for the Secretariat of the ~~(RF: delete Tehran)~~ Convention, decided to locate the Convention Secretariat in the territory of the Caspian littoral states on a four-year rotation basis, in accordance with the

alphabetical order of the English language, and welcomed the offer of the Republic of Azerbaijan to be the first host country of the Secretariat,

Have [\(RF: reached the following understanding:\)](#) (agreed as follows:)

1. [\(TCIS/RF: The Secretariat of the \(RF delete: Tehran\) Convention will be headed by an Executive Secretary appointed by the COP in accordance with article 22.10\(h\) of the Convention\) and recruited by UNEP in accordance with the Rules and Procedures of the United Nations and taking into account that the Contracting Parties expect UNEP to select/recruit/appoint nationals of the Contracting Parties on contracts which duration coincides with the four-year rotation schedule of the Convention Secretariat.\)](#)
[\(AZ: The selection of the Executive Secretary, who shall be the chief administrative officer of the Secretariat of the Tehran Convention and such other personnel as required, appointed by the COP in accordance with article 22.10\(h\) of the Convention, will be carried out by UNEP in accordance with the Rules and Procedures of the United Nations, taking into account that the Contracting Parties after such appointment by the COP expect UNEP to enter into the relevant contracts, which duration coincides with the four year rotation schedule of the Convention Secretariat\).](#) [\(IR.Iran: The Secretariat of the Tehran Convention will be headed by an Executive Secretary. The Executive Secretary shall be selected and recruited by UNEP in accordance with the Rules and Procedures of United Nations and taking into account that the Contracting Parties expect UNEP to select and recruit nationals of the Contracting Parties other than the host country on contracts which duration coincides with the four-year rotation schedule of the Convention Secretariat. The Executive Secretary shall be appointed by the COP in accordance with article 22.10\(h\) of the Convention\)](#)
2. In line with article 23.3 and 4 of the [\(RF delete: Tehran\) Convention](#), the Executive Secretary will be responsible and accountable to the COP for the management and operation of the Convention Secretariat, [\(both directly and, as far as the services listed in the attached agreed template of Secretariat services are concerned, through the Executive Director of UNEP\)](#)[\(AZ: As far as the services listed in the attached agreed template of Secretariat services are concerned, the Executive Secretary will be accountable to the COP through the Executive Director of UNEP, whereby the authority for exercising the functions entrusted to the Executive Director of UNEP will be delegated to the Executive Secretary in accordance with UNEP's Delegation of Authority Framework.](#)
3. The Executive Director of UNEP will establish a Trust Fund for receiving and administering contributions and donations for meeting the objectives of the [\(RF delete: Tehran\) Convention](#) and related Protocols, including the functioning of the Secretariat, in accordance with the attached agreed terms of reference and with a budget approved by the COP.
4. The relationship between the Convention Secretariat and its Host countries will be regulated in [\(RF: agreements with the respective country\) \(I.Iran: country specific Host Country agreements\)](#) [\(AZ: subsequent Host Country Agreements signed by the Host country and the Executive Secretary\) on behalf of the Secretariat by the Executive Director or UNEP or his delegated representative, \(IR.Iran: whereas the host countries commit to provide the support enlisted in the agreed standardized list of Host Country Secretariat support\) \(RF: whereas the host countries will seek to create conditions for the effective functioning of the Secretariat\).](#)
5. This MOU [\(RF: shall apply from the date of signing\) \(AZ: becomes operational at the date it has been signed\)](#) [\(IR Iran: becomes operational at the date on which both the Contracting Parties, represented by the President of the COP and the Executive Director of UNEP have signed\)](#)
6. This MOU may [\(RF: be amended by agreement of its Parties\) \(IR Iran, at the request of \(any Contracting Party or Executive Director of UNEP be amended\)](#) either party, be [\(IR Iran: amended\)](#) reviewed at any time). [\(AZ: Such a request will be made at least four months](#)

prior to the COP and addressed at its meeting) (IR Iran: Such a request, if any, shall be made not later than four months in advance of the next meeting of the COP). in advance, and then addressed at the next meeting of the COP. In any event, the MOU will be reviewed after each meeting of the COP to determine whether any modifications are needed. Any modifications to the MOU will be mutually determined in writing. (AZ: Any modifications and additions to the MOU will be in writing by agreement of all Contracting Parties)

On behalf of the Contracting Parties

On behalf of the Secretariat

(IR Iran/RF: President of the COP

(IR Iran/RF: Executive
Director UNEP

-
Executive Director UNEP/

(AZ:

(AZ: Executive Secretary)

-Republic of Azerbaijan

Islamic Republic of Iran

Republic of Kazakhstan

Russian Federation

Turkmenistan)

Executive Secretary

Annex 2

Memorandum of Understanding concerning the management and administration of the Convention Secretariat

(proposal by TCIS)

The Caspian Littoral States,

Republic of Azerbaijan

Islamic Republic of Iran

Republic of Kazakhstan

Russian Federation

Turkmenistan,

Being the Contracting Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, done at Tehran, Islamic Republic of Iran on November 4, 2003 (herein after referred to as the Contracting Parties) and entered into force on 12 August 2006 as well as its Protocols, and

The Executive Director of the United Nations Environment Programme (UN Environment)

Recalling that the Decision of May 30, 2014 of the Fifth Meeting of the Conference of the Parties to the Convention (COP) in Ashgabat, Turkmenistan, on the Location and Arrangements for the Secretariat of the Convention, requested UNEP through its Regional Office for Europe to carry out the administration of the Convention Secretariat and for that purpose to establish a Trust Fund with mutually agreed terms of reference and budget subject to the Decisions of the COP;

Recalling also that the United Nations Environment Assembly, in its Decision 1/16 of 29 June 2014, authorized the Executive Director of UNEP to carry out the functions of the Convention Secretariat, according to article 23.1 of the Convention, on such mutually agreed terms of reference as the Executive Director and the Parties see fit and in accordance with the Decision on the Location and arrangements for the secretariat of the Tehran Convention, adopted at COP5;

Recalling article 23 of the Convention, the provisions of which establish a Secretariat composed of the Executive Secretary and other personnel necessary to perform the functions determined in the Convention;

Noting that the functions of the Secretariat of the Convention, previously provided by the UNEP Regional Office for Europe on an interim basis, will be implemented with the administrative and technical support of UN Environment, to the extent provided for in this Memorandum of Understanding;

Mindful that the Contracting Parties in their Decision on the Location and Arrangements for the Secretariat of the Convention, decided to locate the Convention Secretariat in the territory of the Caspian littoral states on a four-year rotation basis, in accordance with the alphabetical order of the English language, and welcomed the offer of the Republic of Azerbaijan to be the first host country of the Secretariat,

Have reached the following understanding:

1. The selection of the Executive Secretary, who shall be the chief administrative officer of the Secretariat of the Convention, and such other personnel as required, appointed by the COP in accordance with article 22.10(h) of the Convention, will be carried out by UN Environment in accordance with the Rules and Procedures of the United Nations, taking into account that the Contracting Parties after such appointment by the COP expect UN Environment to enter into the relevant contracts, which duration coincides with the four-year rotation schedule of the Convention Secretariat
2. In line with article 23.3 and 4 of the Convention, the Executive Secretary will be responsible and accountable to the COP for the management and operation of the Convention Secretariat. Under the UN Environment's Delegation of Authority Framework, the Executive Secretary will be authorized to select, oversee and control the administrative services provided by UN Environment, including their cost recovery.
3. The Executive Director of UN Environment will establish a Trust Fund for receiving and administering contributions and donations for meeting the objectives of the Convention and related Protocols, including the functioning of the Secretariat, in accordance with the attached agreed terms of reference and with a budget approved by the COP.
4. The relationship between the Convention Secretariat and its Host countries will be regulated in agreements with the respective country, whereas, in accordance with the agreed Standardized List of Host Country Secretariat Support, the host countries will seek to create conditions for the effective functioning of the Secretariat.
5. This MOU becomes operational at the date it has signed.
6. This MOU may be amended by agreement of its Parties.

On behalf of the Contracting Parties

On behalf of United Nations
Environment Programme

President of the COP

Executive Director