

ALMATY GUIDELINES – REPLY TO QUESTIONNAIRE

FROM

INTERIM SECRETARIAT TO THE FRAMEWORK CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE CASPIAN SEA (“TEHRAN CONVENTION”)

Background

The Tehran Convention (Annex 1) was signed by the five Caspian littoral states in November 2003 after 8 years of negotiations. Being the first legally binding agreement signed by all five Caspian littoral states, the Tehran Convention is serving as an overarching legal instrument laying down the general requirements and institutional mechanism for environmental protection in the Caspian region. The Convention entered into force on 12 August 2006. Currently the Contracting Parties are in the process of developing protocols to the Convention for priority areas of environmental concern such as, Biodiversity, Land Based Sources of Pollution, Environmental Impact in Transboundary Context, and Regional Preparedness, Response and Cooperation in Combating Oil Pollution Incidents.

The reply to the questionnaire has been prepared by UNEP/ROE acting as the Interim Secretariat to the Tehran Convention.

Questionnaire

1. *“Formalized rules or procedures for access to information, public participation in decision making, and access to justice in environmental matters”.*

According to **Art. 5** of the Tehran Convention the Contracting Parties shall, in their actions to achieve the objective of the Convention and to implement its provisions, be guided by, *inter alia*, the principles of “accessibility to information on the pollution of the marine environment of the Caspian Sea according to which the Contracting Parties provide each other with relevant information in the maximum possible amount”.

Art. 21 of the Tehran Convention states that the Contracting Parties shall endeavor to ensure public access to environmental conditions of the Caspian Sea, measures taken or planned to be taken to prevent, control and reduce pollution of the Caspian Sea in accordance with their national legislation and taking into account provisions of existing international agreements concerning public access to environmental information.

2. *“Non formalized practices concerning access to information, public participation in decision making, and access to justice in environmental matters”.*

Throughout the Convention and Protocol negotiations the aim has been to allow, to maximum extend possible, the participation of relevant NGOs and public representatives in the regional negotiation meetings. This approach was very often

obstructed by the absence of clear, transparent and regionally agreed rules regarding the participation and status of observers. Decisions on the participation of observers were therefore often taken on an ad hoc basis in consultation with the Caspian governments. Despite the lack of rules which would facilitate the involvement of the public in the Convention process, efforts were made to establish a constructive dialogue with the public and relevant NGOs in particular. Request for information was dealt with without delays and information about forthcoming meetings was shared automatically well in advance. The regional NGOs showed considerable interest in the Convention negotiations, but their weak point was the lack of internal coordination and lack of financial resources to cover their participation in meetings. Back in 2004 the fruitful interaction between the Convention process and the regional NGO community led to the publishing of an “Open Letter of the Civil Society Working Group on the Framework Convention for the Protection of the Marine Environment of the Caspian Sea” (Annex 2). The open letter was disseminated at the CEP Steering Committee Meeting and also put on the CEP website.

At the meeting of the CEP Steering Committee in November 2004 it was agreed that pending the drafting of the Rules of Procedure for the Convention Process the CEP rules and procedures should be applicable to participation by registered NGOs at relevant convention and protocol meetings. It was also agreed that the selection of NGOs for participation in the meetings will be at the discretion of the organizing agencies which will seek regional advice when necessary.

During the first phase of the CEP, technical assistance was provided to the Caspian countries in form of small short-term projects which were carried out at national level. In this context three out of the five Caspian littoral states prepared projects which were more or less related to the principles of the Aarhus Convention. Azerbaijan and Turkmenistan developed and disseminated a set of guidelines aimed at raising the public’s awareness regarding the Aarhus Convention and relevant national legislation, and the I.R. of Iran providing a training course to public officials on the implementation and importance of the Aarhus, CITES and Espoo Conventions.

3. *“Current or future work plans”*

Draft Rules of Procedure

The Contracting Parties to the Tehran Convention have developed draft Rules of Procedure which are to be approved and adopted by the First Conference of the Parties, preliminary scheduled for March/April 2007. The draft RoP are providing procedural setting for the meetings of the Conference of the Parties to the Tehran Convention, and may also apply “mutates mutandis” to the meetings of other intergovernmental bodies that may be established under the Convention, such as expert meetings for the development of Protocols.

Since the Signatory States at the first Meeting expressed their wish that participation of observers is governed by the Rules of Procedure of the CEP Steering Committee, Rule 40 of the draft RoP – “Participation of Observers”, was formulate along the lines of the relevant provisions of the CEP SC rules. The draft Rule 40 stipulates that COP

may invite States not Parties to the Convention as well as intergovernmental and non-governmental organizations to be presented at its meetings as observers. The observers may participate, without the right to vote, in deliberations of the COP and its subsidiary bodies, upon the invitation of the Chairperson, on questions within their competence or scope of activities. Observers may, upon the invitation of the Chairperson, submit written statements that shall be circulated by the Secretariat. The Secretariat is expected to compile and regularly update the list of observers. Taking into account that the contemporary international practice calls for more active involvement of competent NGOs in COP deliberations and for improved transparency of COP meetings, it was proposed in the Explanatory Note to the draft RoP that the Chairperson should seek to allocate more time for NGOs interventions and encourage COP and its subsidiary bodies to limit the number of closed meetings to the minimum. The final wording of Art. 40 is still under negotiation.

Draft Protocols

Most of the draft Protocols currently under negotiations include provisions relevant to public access to environmental information and some of the protocols also cover provisions relevant to public participation in environmental matters. None to the Protocols, or the Tehran Convention itself, address the issue of access to justice in environmental matters.

More specifically the draft **Biodiversity Protocol** provides provisions for ensuring environmental education and public awareness relevant to biodiversity protection. It refers to the development of education and awareness programmes, and promoting public participation in measures necessary for the protection of Specially Protected Areas.

The draft **EIA in Transboundary Context Protocol** includes detailed provisions regarding public's access to relevant EIA information and provides provisions for public consultations. The draft Protocol also gives the public right to comment upon the proposed activities to the Competent authorities. Furthermore, the draft Protocol includes under its general provisions the obligation upon the concerned parties to ensure timely and effective public participation in the EIA procedures as well as obligation upon the competent authorities to provide public with assistance and advice to ensure that public participation is undertaken pursuant to this Protocol.

The draft **LBS Protocol** includes provisions related to both public access to relevant environmental information as well as enhancement of public participation in measures necessary for the protection of the marine environment and coastal areas of the Caspian Sea from land-based sources pollution. The final wording of those articles is still under negotiations in particular as far as access to information is concerned.

Proposal for improved data and information management

At the second meeting of the Signatories to the Tehran Convention (February 2006), the Caspian Government representatives agreed that there is a need to explore possible mechanisms for improved data and information management in the region.

This recommendation was taken in response to concerns raised at various regional meetings regarding the need for coordinated and harmonized approach for regional information management and data exchange. One option for addressing these challenges at regional level is the development of a regional agreement or a separate protocol to the Tehran Convention with the aim of setting up a institutional body linked to the Convention Secretariat entrusted with the responsibility of collecting and disseminating information on Caspian environmental issues and developing a centralized mechanisms for information sharing. Another option is to develop a set of voluntary guidelines addressing the key principles of the Aarhus Convention. The decision on most appropriate approach will be taken in due time by the Conference of the Parties.